The legal status of the Caspian Sea

Michal Ondrejčík

The legal status of the Caspian Sea hasn’t been clearly determined (there’s no legal norm referring to the Caspian region) by now and nor has been its geographical status (there isn’t even an agreement among experts whether it is a sea or a lake). Although its status isn’t precisely defined, we may say that it’s the largest water reservoir with tremendous mineral wealth (see map, see chart). If we don’t take into account convention on its legal status, approximately 60 per cent of which have been already finished (1), then the legal status of the sea was modified by a treaty system signed between tsar Russia and Persia and also Soviet-Iranian treaties from 1921 and 1940.

The system of Russo-Persian treaties

The Russo-Persian Peace Treaty, which was signed in St. Petersburg on 12th September, 1723, (2) presupposed the provision of military assistance for Iran. In return, Iranian Shah recognised Russian Empire’s claim to the towns of Derbent and Baku along with surrounds which belonged to these towns. More importantly, Shah ceded to Russia some Caspian provinces (3).

The Treaty of Rasht signed in the Iranian town of Resht on 21st January, 1732, conferred on Iran the claim to the return of Caspian provinces Gilian, Mazenderan and Astrabad, which Russia had gained from Iran on the basis of the First Russo-Persian Treaty from 1723. Nevertheless, Russia was granted the right to duty-free trade with Iran (4). The treaty amended the freedom of navigation on the rivers Araks and Kura. According to this treaty the Russian Navy was the only one to be allowed to stay in the Caspian Sea during war and peace (5).

The Treaty of Gulistan was signed on 24th October, 1813, after Russo-Iranian wars (6). Aside from other things, it granted Russia as the only country the right to have its navy in the Caspian Sea; the right of both contracting parties’ merchants to trade freely and finally, it amended the case of sea shipwreck (7). The treaty delimited for the first time the border between both countries on the basis of the status quo ad praesentium principle, which meant that the border was defined at the very moment of treaty conclusion. The border led between the estuaries of the rivers Tereka and Kura (8).

The Treaty of Turkmenchay was signed in the village of Turkmenchay on 10th February 1828 (9). According to the article eight of this treaty Russian and Iranian merchant ships had the right to sail freely in the Caspian Sea including its coast and also to anchor there. Apart from other things, it amended also shipwreck cases and confirmed the right of the Russian Empire as the only country to have its naval fleet in the Caspian Sea (10). The treaty presupposed that the mainland border between Russia and Persia ended near the Caspian Sea, which means that the sea wasn’t the subject matter of border definition that time (11). Such a condition lasted till the conclusion of the Russo-Persian Treaty of Friendship from 1921 (12).

Via the Peace Decree dated 26th October, 1917, Soviet Russia annulled all treaties concluded by tsar Russia before (13).
The system of Soviet-Iranian treaties

**Treaty between RSFSR and Persia** signed in Moscow on 26th February, 1921. Russian Soviet government declared all treaties aimed against Persian nation concluded between former tsar government and Persia null and void (14). This pertained also to the Turkmenchay Treaty from 1828 (15). Both sides at the same time agreed that from the moment of treaty conclusion, they would use free transport right under own flag (16) as well as border rivers and waters equally (17). There was no mention of border demarcation in the Caspian Sea in the mentioned treaty (18). After the dissolution of the USSR, Caspian Sea coast was shared by five states, namely the Russian Federation, the Islamic Republic of Iran, Kazakhstan and Azerbaijan. The last three countries said that this treaty had an archaic and formal character (19).

**The Treaty on Trade and Navigation between the USSR and Iran** signed in Teheran on 25th March, 1940 (20). The treaty confirmed factually the treaty between RSFSR and Persia from 1921. Both contracting parties provided each other with the right to sail near the coasts in their territorial waters as for the transport of passengers and cargos. It determined the right to fishing inside a 10 miles zone along their coastal border (sea division into “national fishing sectors” was carried out here). The treaty fixed the principle of sea closure to third states’ ships. In the final analysis, Iran and the USSR privatised the Caspian Sea. In this context, the sea is dubbed “Soviet and Iranian Sea” in official Soviet and Iranian diplomatic documents (21).

**The battle of terms: sea vs lake**

It’s most important to identify what the Caspian Sea actually is. At first glance it seems that it’s a lake because a lake is a water reservoir which isn’t connected with the world ocean (22). The Caspian Sea isn’t connected with the world ocean if we don’t take account of the Volga-Don Shipping Canal connecting the Don and the Volga (23) through which it’s possible to sail from the Caspian Sea to the Black Sea, which is an (indirect) part of the world ocean.

At first sight it really may seem that the Caspian Sea isn’t a sea but a lake if we take into consideration that the mentioned interpretation is founded on the argument mentioned above. From the legal point of view, there is the UN Convention on Naval Right dated 1982, which doesn’t define the status of the Caspian Sea. It means that international law norms pertaining to seas cannot be applied to the Caspian Sea, which needs a specific legal regulation because it’s unique - it’s neither a sea nor a lake (24).

The Caspian Sea is neither a sea nor a lake, but a closed water reservoir controlled by coastal states. Iran has no objections against this definition of Russian experts. This, however, is rejected by Azerbaijan (25). According to Iran and Russia the Caspian Sea is a special landlocked sea without any natural connection with the world ocean (26). It’s interesting that in the Treaty between RSFSR and Persia and in the Treaty on Trade and Navigation between the USSR and Iran the Caspian Sea is dubbed water reservoir (27). It’s said to be a kind of compromise between a sea and a lake. In official Soviet publications, the Caspian Sea is classified among lakes and its status hasn’t been agreed on in expert circles so far. Even the term sea-lake appears (28). Russian terminology uses two different terms for labelling the Caspian Sea: Каспийское море (the Caspian Sea) but also Каспийский бассейн (the Caspian Reservoir), which highlights Russian and Iranian concept of a landlocked sea, or rather, lake.
If the Caspian Sea was recognised as a lake, there would be a precedent for dividing it. Similar regime has been here since 1970. During the existence of the USSR, the Soviet part of the sea was divided among individual union states as an international lake on the grounds of a central line (29). Nevertheless, the only proprietor of the soviet part of the sea was the union state (the USSR) (30).

There isn’t any convention modifying the definition of international lake borders. The practice shows that lakes are usually divided into national sectors in which every state has an exclusive sovereignty over natural sources, water area and fishing. There are three principles of international lakes division:

- the Thalweg principle: is used for border demarcation as regards rivers and partially also international lakes (according to the line of the deepest spot – (31));
- the coastline principle: it was used in the colonisation era in tropical countries and later it was often replaced by the central line principle;
- the central line principle (32)

The stances of individual states on solution to the legal status of the Caspian Sea

The stances of Iran

Officially, the USSR and Iran have never dealt with the question of Caspian Sea territorial waters. The note of Iranian Foreign Affairs Ministry sent to USSR Embassy in Teheran in 1976 attests to this. It was written there: “There’s no contract, agreement or order in relation to naval borders between Iran and the Union of Soviet Socialist Republics in the Caspian Sea does.” (33) Nonetheless, the line between the towns of Gasankuli (in Turkmenistan) and Astara (in Azerbaijan) was adopted as foreign line as early as 1935 (34). Obviously, this border hadn’t any official character, it was de facto a border accepted by the USSR as well as Iran equally (35).

The President of the Islamic Republic of Iran Said Mohammad Khatami said that Teheran abided by the position according to which the Caspian Sea was a lake that should have been used jointly (36). This means that Iran adhered to the principle of a condominium (37). According to the former Iranian Foreign Affairs Minister Kamal Kharazi the legal status of the Caspian Sea must be based on Soviet-Iranian treaties signed in 1921 and 1940. These treaties are supposed to serve as the basis for determining the future status of the Caspian Sea (38).

Murtaza Saffari, the special envoy of Iran in the Republic of Kazakhstan, said that Iran counted on 20 per cent of Caspian Sea water area (39), which amounted to a division into five equal parts irrespective of the length of coastal line, thus every country would have got one fifth of the seabed (40).

One of Iran’s stances was expressed by its Ambassador in the Russian Federation Mehdi Safari who said that time: “Every country in the region must have the right to free access to oil and gas processing and gas and oil pipelines in the neighbouring countries of the Caspian Sea and, more importantly, this principle must be founded on the new basis of the status of the Caspian Sea and its sources (41).”

Iran is convinced that the question of Caspian Sea legal status must be solved on the basis of negotiations with Russia as the USSR successor country. Iranian press brought the information that
Iran owned a 50 per cent share of the Caspian Sea in the past. Iranian Foreign Affairs Minister Mottaki said to journalists that this information didn’t correspond to reality adding that Iranian share of the Caspian Sea didn’t exceed 11.3 per cent. According to his deputy Iranian share accounts for 20 per cent and Iran doesn’t intend to make any concessions to anyone. (According to the latest estimates oil reserves in the southern part of the Caspian Sea account only for 32 billion barrels.) The problem consists in Iran not having delimited sea borders with Azerbaijan and Turkmenistan (42).

Iran has never recognised the legitimacy of sea border with Azerbaijan on the line Gasankuli - Astara because this line didn’t officially exist according to Iranian party and the USSR imposed it on the grounds of the right of the stronger (43). In 2002, a sea conflict broke out between Azerbaijan and Iran. Azerbaijani reconnaissance ship sailed into the southern part of Azerbaijani Caspian Sea sector owing to the research of three deposits (Araz, Alov and Sharg). Iranian warships prevented it from conducting works and forced it to abandon the disputed part of the sea (44). Azerbaijan also accused Iran of letting its aircrafts flying over Azerbaijani ships (45). Besides Azerbaijan, Iran is in dispute over deposits in the Caspian Sea also with Turkmenistan (46).

The state oil company of the Republic of Azerbaijan declares that as for the research and development of deposits in the Caspian Sea, it has always respected the sector division of the Caspian Sea realised by the Oil Industry Ministry of the USSR and that it has never crossed the borders of the sector which was intended for Azerbaijan that time (47), however, the Iranian-Azerbaijani incident from 2002 mentioned above was caused by the ship of the company British Petroleum – Amoco operating in Azerbaijani sector (48). Iran demands that no country of the Caspian region conduct projects pertaining to the Caspian Sea without the consent of all coastal states till the determination of the ultimate status of the Caspian Sea (49).

**Russia’s stances**

At the beginning, the Russian Federation abided by the regime fixed by Soviet-Iranian treaties from 1921 and 1940. At this stage, it was supported by Turkmenistan and Iran (50). The status determined by Soviet-Iranian treaties makes of the Caspian Sea a “water tank in closed regime”. This means that every country has a claim to a ten mile zone and all countries are at the same time on equal terms as for the utilisation of water area beyond the ten mile zone (51). Interestingly, in this condition the Caspian Sea is unavailable for third countries and their companies and organisations (52).

In 1992, the Foreign Affairs Ministry of the Russian Federation declared that the Caspian Sea was a closed sea with a 12 mile zone of territorial waters belonging to individual coastal states. After some time, Russia gave its consent to involve third parties (oil companies from the West) as regards natural sources utilisation in the Caspian Sea under conditions endorsed by all coastal states (53).

In 1995, Russia launched an initiative to earmark a 20 mile zone of territorial waters and equal rights of coastal states to extraction in deposits situated in the central part of the sea (54).

In November 1996, Russia proposed to divide the Caspian Sea into national zones reaching 45 miles off the coast and declare the central part to be a condominium (55).
Afterwards, Russia backed Iranian version of Caspian Sea division anticipating the provision of the right to the sovereign utilisation of the 20 mile zone of territorial waters plus a 20 mile economic strip (56) for every coastal state. Territorial waters zone would have been enclosed by state frontiers (which held true also for the seabed and airspace over territorial waters). In their economic strip, the states would have had sovereign right to research and the preservation of biological and mineral sources as well as the right to sailing and fights (57). The remaining part of the Caspian Sea beyond the 40 mile zone (territorial + economic one) would have been common ownership of all coastal states, the so-called condominium, i.e. a territory administered by more states simultaneously (58).

A new stage of the formation of the new international and legal status of the Caspian Sea started that in 2000. It was linked with the activation of the interests of the Russian Federation, which submitted following proposals:

1) Russia suggests solving the Caspian Sea issue gradually, which encompasses solution to such problems like sailing, ecology, biological sources utilisation and border line determination;
2) It’s necessary to focus attention to the problem of disputed oil deposits. In case the central line crosses the deposit, this deposit should be used evenly by both countries, i.e. each country should have a 50 per cent share in the deposit (59);
3) The Caspian Sea is divided into national sectors, but water area is used commonly. Only the seabed is divided into national sectors;
4) The establishment of a united platform, which would pertain to the questions of the future international and legal status of the Caspian Sea, is needed;
5) The inception of a strategic centre based in Baku, which would handle the problems of the Caspian Sea, is desirable. Among the centre’s tasks would be: Caspian Sea monitoring (from cosmic space too), geoinformation analysis, the examination of pollution causes, the coordination of activities aimed at nature conservation, sailing and fishing;
6) The determination of Caspian Sea status is the affair of Caspian region states (60).

The special representative of the Russian President in the Caspian region Viktor Kalyuzhniy said that the final modification of the legal status of the Caspian Sea would be achieved via bilateral and trilateral agreements by dividing the seabed into five zones (61). Iran was of opposite opinion regarding bilateral and trilateral agreements as aimless (62).

Nonetheless, there are interests of new countries which originated after the disintegration of the USSR, i.e. Azerbaijan, Turkmenistan and Kazakhstan. After the dissolution of the USSR, all coastal states expressed their conviction that the system of treaties between Russia and Iran, which hadn’t suited their economic, energy and political interests, had to be investigated (63). Russia offered the complex of Soviet-Iranian treaties as the groundwork for solution to the legal status of the Caspian Sea – by modifying them, it would be conceivable to integrate new states into the system of existent treaties (64).

The stances of Azerbaijan

According to Azerbaijan, the Caspian Sea should be divided into particular sectors in terms of which coastal states would exercise their sovereign rights and own jurisdiction. The division itself should be realised considering the central line principle according to Azerbaijan. The future status of the Caspian Sea should be enshrined in a joint document which would contain untouchable sovereign rights of coastal states in their sectors. Unless a new legal status of the Caspian Sea is determined,
the states should exercise their sovereign rights on the basis of standard practice (65).

Azerbaijan declares the Caspian Sea to be a landlocked one (66) in accordance with part IX of the UN Convention on the Law of the Sea from 1982 dealing with landlocked and semi-landlocked seas (according to Azerbaijan the fact that this sea is surrounded by mainland doesn’t mean that it isn’t a sea). On the grounds of this affirmation it proclaims that it’s necessary to divide it into national sectors within which individual parties will exercise their sovereignty. Azerbaijan even included its claims in the constitution. According to the article 2 of the act on economic dependence soil along with its mineral wealth, inland and territorial waters, continental shelf, flora and airspace over Azerbaijani territory are the exclusive ownership of the republic (67). Azerbaijan supports the idea of lengthening mainland frontiers up to the central sea line. The fact that Soviet-Iranian treaties don’t handle the questions of seabed division serves as an argument for Azerbaijan by means of which it declines Russian proposal concerning the working out of Soviet-Iranian treaties (68).

Relations between Azerbaijan and Russia in view of the Caspian Sea problem have been changed in Baku on 9th January, 2001, when Vladimir Putin and Ilham Aliyev signed the Common Declaration of the Russian Federation and the Republic of Azerbaijan on the Principles of Cooperation in the Caspian Sea. Aside from other things, this declaration contains following matters: common solution to the legal issue of the Caspian Sea; readiness to adopt the Convention on the Status of the Caspian Sea; fishing, environment protection, draft division of the Caspian Sea seabed among particular states into sectors, i.e. zones, on the basis of the central line method with respect to modifications agreed on by individual countries and with respect to generally accepted principles of international law and the complexity of the practice of the Caspian Sea problem (69). Later, another bilateral Agreement between the Republic of Kazakhstan and the Republic of Azerbaijan on the Division of the Caspian Sea Seabed was signed on 29th November, 2001 (with protocol dated 27th February, 2003). In the agreement is written that the Caspian Sea seabed and its mineral wealth are divided between parties in accordance with the central line principle and the agreement contains point coordinates which form the frontier between Azerbaijani and Kazakh sea sector (70).

The pushing through of the concept of landlocked, or rather, semi-landlocked sea isn’t very appropriate in the case of the Caspian Sea. The Convention on the Law of the Sea from 1982 itself offers the legal definition of landlocked, or rather, semi-landlocked seas (Article 122):

“For the purposes of this convention, landlocked or semi-landlocked sea is a bay, a water reservoir or a sea surrounded by two or more states and connected with some other sea or ocean via a narrow canal...” (71)

As it has been mentioned before, the Caspian Sea is linked with the Black Sea through the connecting line Volga – Volga-Don Canal – Don. The construction works stared in 1697 (72). From this emerges that the canal is of unnatural, or rather, artificial character and moreover the rivers and artificial canals aren’t subjects of the international naval law (73). These canals remain under the sovereignty of the state in the territory of which they are situated. The more frequent use of these canals by foreign ships is an exclusive affair of the particular territorial sovereign. Possible international and legal commitments originate on the basis of an agreement on canal internationalisation (74). In this context, Washington proposes to internationalise the Volga-Don Canal, i.e. to open it to ships with any flag (75).
The stances of Kazakhstan

According to Kazakhstan Soviet-Iranian agreements from 1921 and 1940, they don’t solve the most serious problems of the Caspian Sea, namely the questions of mineral source extraction in the Caspian Sea. As for the Kazakh vision of Caspian Sea division, the country gives preference to its division into national sectors based on the central line principle and the definition of coastal and fishing zones. Like in the case of a territorial sea, coastal zones will be the sovereign territory of a state according to naval law (76). We may say that Kazakhstan and Azerbaijan have the same approach to the issue, they even concur that the Caspian Sea is a sea which is connected with the world ocean via the Volga-Don Canal (77).

As early as 1994, the Geology and Mineral Wealth Minister Serik Bekdaykeev said that Kazakhstan insisted on a precise definition of border in terms of which every coastal state may use hydrocarbon sources (78).

From the viewpoint of Kazakhstan, it’s necessary to solve questions pertaining to the territory, where unlimited state sovereignty will be exercised, the demarcation of sea state borders and the definition of some sovereign rights which may be applied beyond a sovereign state territory. It pertains particularly to the right to seabed (with the aim of exploiting its mineral sources), the right to gas and oil pipelines construction and other rights (79).

In this case, Kazakh interests are backed also by the Agreement on the Division of the Northern Part of the Caspian Sea Seabed concluded for the purpose of realising sovereign rights to mineral wealth utilisation, which was signed by Kazakhstan and Russia on 6th July, 1998 (80). Later on 13th May, 2002, a protocol was signed in Moscow which was a supplement to the agreement. It contained the coordinates of modified central line and the conditions of the inception of joint Kazakh-Russian companies that would extract mineral wealth in the immediate vicinity of the central line (81). The agreement imposed double legal status: sources situated over the seabed would be used commonly and deposits situated under the seabed would be divided (82). The seabed was divided and simultaneously the common water area utilisation including the guarantee of the freedom of sailing and fishing was maintained (83). Similar contract was signed also between Azerbaijan and Kazakhstan on 29th November, 2001 (84). Nursultan Nazarbayev as well as Boris Yeltsin didn’t inform their partners from Caspian region of agreement conclusion. For this reason various misinterpretations of this contract appeared (85).

In common Kazakh-Turkmen declaration on questions pertaining to the Caspian Sea dated 27th February, 1997, the parties agreed that they would abide by the delimitation of administrative and territorial borders according to the central line principle (from 1970). Nowadays, common Kazakh-Turkmen agreement on the Caspian Sea demarcation is being worked on. In the case of a successful agreement on seabed and mineral sources division, according to Kazakhstan Kazakh sector will account for 30 per cent, Azerbaijani one 21 per cent, Turkmen one 20 per cent, Russian one 17 per cent and Iranian one 12 per cent of Caspian Sea area (86).

There’s also the trilateral Agreement among the Russian Federation, the Republic of Azerbaijan and the Republic of Kazakhstan on Border Line signed in Alma-Ata on 14th May, 2003. In the agreement is written that in accordance with the protocol and agreement between Russia and Kazakhstan, the agreement and protocol between Russia and Azerbaijan and the
agreement between Azerbaijan and Kazakhstan (we have already dealt with them) the contact coordinates of Russian, Azerbaijani and Kazakh sector were fixed (87).

The stances of Turkmenistan
In December 2001, Saparmurat Niyazov, the then Turkmen President, expressed the stance of his country as following: “Turkmenistan, like Kazakhstan and Russia, proposes to divide the seabed according to the central line principle, but it at the same time insists on determining a 47 mile zone of coastal states’ economic interests, and it suggests to use the rest of water area (beyond this zone) in accordance with the interest of all five states (88).”

Turkmenistan has always been interested not only in the development of its deposits, but also in the export of its energy sources to western markets through the Caspian Sea. For this reason it’s needed that Turkmenistan and Azerbaijan agree on the definition of the central line that will divide the Caspian Sea into national sectors (89). According to the act on Turkmen frontiers Turkmenistan has monopoly ownership right in a 12 mile zone on Caspian Sea coast (90). Relations between Azerbaijan and Turkmenistan didn’t use to be always the best. Conflicts between the countries were triggered by the cutoff of gas supplies from Turkmenistan to Azerbaijan and continued in the dispute over a deposit on the borders of these states. In 1997, Azerbaijan signed an agreement with Russian companies LUKOJL and ROSNEFT on the establishment of a consortium which would use the disputed deposit. This consortium wasn’t established owing to Turkmen intervention. Nonetheless, Turkmenistan signed a contract with the company MOBIL, but this company wasn’t able to launch activities for an unknown reason (91).

At present, relations between Turkmenistan and Azerbaijan have started to thaw, mainly after new Turkmen President Gurbanguly Berdymuhamedov assumed his office. Meetings of intergovernmental committees, set up for the purpose of reaching an agreement on paying off Azerbaijani debt to Turkmenistan for consumed gas, were held (92). Turkmenistan also finds unilateral actions in the Caspian Sea unacceptable, particularly the conduction of oil projects which lacked satisfactory consultation with parties involved (93).

All in all, if we divided the Caspian Sea seabed on the basis of coastal line length, Kazakh share would be 38 per cent, Russian one 18 – 19 per cent, Turkmen one 19 per cent, Azerbaijani one 21 per cent and Iranian one around 11 -14 per cent (94). Anyway, the seabed was divided according to the Agreement between Russia and Kazakhstan, Russia and Azerbaijan and Kazakhstan and Azerbaijan. Kazakhstan has got 27 per cent of the Caspian Sea, Russia 19 per cent and Azerbaijan 18 per cent (95). A 64 per cent share of the sea was thus divided in total. A 36 per cent share remained undivided. This should be divided between Turkmenistan and Iran (96). Sea division into national sectors would be unfavourable for Russia, which would lose access to deposits in Azerbaijani and Kazakh sector (97) (see map).

If Caspian Sea countries fail to agree on its division, there’s the possibility of international arbitration, i.e. the addressing of International Court of Justice like in the case of the North Sea (98). Nowadays, neither Romania nor Ukraine have demarked their joint naval borders. At the beginning of this year’s September, Romania addressed the International Court of Justice to determine naval borders between it and Ukraine and divided fairly around 100 billions cubic metres of gas and oil (99). As for the Caspian Sea problem, Turkmenistan isn’t able to reach agreement with Azerbaijan.
on controversial deposits and therefore suggests involving the international court as well as the UN (100).

The conferences of Caspian Sea states

The Ashgabat Conference of Caspian Sea states
The conference was the first meeting of five heads of Caspian Sea states. It was held on 23rd - 24th April, 2002, in Ashgabat, the capital of Turkmenistan. Not even a declaration was made here. In general, it was evaluated as unsuccessful by analysts, observers as well as participants themselves (101). Although there were some proposals to sign a declaration, the conference’s host (Turkmen President) labelled them as not concrete and empty (102). Nursultan Nazarbayev stated: “The problem is bigger than we have expected.” Saparmurad Niyazov supported him: “Nobody of us could take responsibility and sign the declaration”, or “Yesterday, something was discussed, but today, something completely different is on the paper”. The conference’s host also proclaimed: “If Caspian Sea questions aren’t solved in a peaceful way, the Caspian Sea may stink of blood.” On the contrary, Iranian Foreign Affairs Minister and Azerbaijani President were less sceptical (103). “I’d propose establishing a 15 mile coastal strip and a 25 mile economic strip where the sea will be fished in accordance with international rules,” announced Niyazov, but Putin said that fishermen wouldn’t allow him return home with 25 kilometres (104). According to Turkmen President Russia’s position on the Caspian problem isn’t clear. Subsequently, Vladimir Putin presented Russia’s position at conference opening: “We are dividing the seabed, the water is common” (105). Nevertheless, the Ashgabat Conference meant success to a certain extent because it was the first time when coastal state leaders met in the format of five. Another success was the decision that similar meetings would have regular character and also the date of next meeting was fixed for 2003. However, the meeting was postponed annually because the parties weren’t capable of agreeing on the modification of such activities like sailing, fishing and border collaboration (106).

The conference was accompanied also by a scandal when the Iranian President abandoned the negotiation room and refused to take part in ceremonial lunch arranged by Saparmurad Niyazov. Iranian and Turkmen representatives tried to mitigate the bad impression resulting from this incident - the absence from the lunch was talked about as a planned one. Iran came off best at the conference. It’s interested in blocking (107) the definition of the ultimate legal status of the Caspian Sea because it would get the smallest part after the division. That’s why it pushes through its objectives, which we have already discussed, so fiercely.

The Teheran Conference of Caspian Sea States
The second conference of Caspian Sea states took place in Teheran on 16th October, 2007. As for the conference’s contribution, nobody expected ultimate solution to the problem (108). At the conference, the 25 article Framework Declaration of the Teheran Conference of Caspian Sea States was adopted. It encompassed provisions concerning the future legal status of the Caspian Sea against which participating countries had no objections. Provisions objected against will become the subject matter of future negotiations. According to Sergey Lavrov military activity in the Caspian Sea as well as water area division are among problems to be discussed. The declaration contains provisions on assistance with the construction of an international transport corridor; on the right to sailing solely for vessels with the flag of one of Caspian Sea states; on peaceful sea utilisation, on refraining from using force against other coastal states and a provision that no party will allow to
use its territory for conducting military operations against other coastal states (109). This would prevent possible US invasion into Iran from the territory of some Caspian Sea states.

With respect to Russian position, Vladimir Putin commented the use of sources in the Caspian Sea: “We strive frankly so that the Caspian Sea doesn’t divide but unite all of us and we’re convinced that the entire Caspian Sea cannot be covered by state borders, sectors and exclusive zones. The smaller the covered part of the sea and the larger the part of water area in common use, the better.” (110) The Russian proposal submits two individual statuses, namely the seabed status and the water area status. The seabed status deals with the division of the condominium and the water area status deals with the condition of the condominium. Kazakhstan, Turkmenistan and Azerbaijan agree with Russia that it’s necessary to develop an individual status of the seabed and of the water area (111). If the Caspian Sea water area was divided into national sectors, Russia would suffer massive loss predominantly as regards fishing because there are hardly any fishes in Russian sector. More importantly, the Caspian Sea division will facilitate the construction of gas and oil pipelines on its bed and thus also oil and earth gas export from Turkmenistan and Kazakhstan to Europe. If the sea was divided, coastal states could open their sectors to the navy of non-Caspian states, NATO members in particular, which is unacceptable for Russia (112). Russia is of the opinion that every country should have its zone in which it would exercise its jurisdiction up to 15 miles, i.e. the territory where the country may execute border, customs, sanitary and other types of control and have the exclusive right to fishing. Moscow is opposed by Kazakhstan, which would extend this zone up to 30 miles and Azerbaijan would welcome an equal Caspian Sea division (113).

The Teheran Conference has shown that Kazakhstan, Turkmenistan and Azerbaijan demand vigorously the complete and ultimate division of the Caspian Sea into national sectors and that Teheran defends determinedly its interests, which have been already presented here. The northern part of the Caspian Sea seabed has been already divided among Russia, Kazakhstan and Azerbaijan. At the conference, Putin expressed the hope that also in the case of the southern part of the Caspian Sea, the states would attain a mutually satisfactory solution. The solution is probably out of sight yet because Azerbaijan has been using its part of the seabed for many years and Turkmenistan accused Azerbaijan of slicing off its part of the seabed, or rather, the part which Ashgabat has been laying claim to (114). Nursultan Nazarbayev accused (also on behalf of Azerbaijan and Turkmenistan) Moscow and Teheran of possessing huge quotas on sturgeon fishing while the others were left empty-handed (115).

**Conclusion**

The problem of the status of the Caspian Sea cannot be looked at just from the viewpoint of a local border conflict among five coastal states. The problem must be perceived also from the geopolitical point of view. Interesting is the position of the Caspian Sea, which separates Central Asia from Caucasian region. The Caspian Sea and South Caucasus in particular are very crucial from the point of view of their importance as transit corridors for hydrocarbon from Central Asia (see map). Central Asia is momentous also from the viewpoint of hydrocarbon export to east and south (see map).

It’s time to ask a fundamental question: Why is it so important to define the new legal status of the Caspian Sea? From the point of view of hydrocarbon export to Europe, it’s important for Turkmenistan and Kazakhstan (Uzbekistan as well) to determine the legal status that would help to
attract foreign investors to this region, which would provide them with financial as well as technological assistance in the course of the construction of pipelines necessary for hydrocarbon export. The seabed status of the northern Caspian Sea is more or less determined. The conduction of convention on the Caspian Sea would bear legal security, which would attract investors that would participate in deposit utilisation also in disputed areas of the Caspian Sea (for instance, in dealing with the controversial deposits Araz, Alov and Sharg). Similar scenario would be suitable not only for Central Asian republics and Azerbaijan, but also for the Russian Federation itself, which could make profit from transit charges but for efforts to avoid and diversify transit countries and decrease the dependence on Russia (this applies to the European Union as well as Central Asian states).

Following Kazakh projects have this character:

**Transcaspian oil pipeline:** this planned oil pipeline would connect the field Kashagan (see map) with Baku in Azerbaijan where it would be attached to BTC oil pipelines. If opened in 2010, it’s estimated that approximately one third of Kazakh oil production will be exported via this oil pipeline in the course of next decade (116).

**Transcaspian gas pipeline:** the gas pipeline would pass through five countries (Kazakhstan, Turkmenistan, Azerbaijan, Georgia and Turkey) and across the Caspian Sea seabed in the line Aktau – Baku. This project is endangered by the initiative of a three state group, namely Russia, Kazakhstan and Turkmenistan, which plan to build a gas pipeline along the Caspian Sea coast passing through Turkmenistan, Kazakhstan and Russia, where it would be connected to Russian transport structure. Nevertheless, Turkmenistan didn’t reject this project and speaks of it as a means of transport routes diversification. Therefore it shouldn’t be removed from Turkmen agenda (117).

The August Russian and Georgian skirmish shuffled the cards. It has shown that the Caucasian transport corridor isn’t very safe. A high Kazakh representative said that they could have weighed up decisions on the export of Kazakh oil to global market adding that the change of export route was topical (118). Also the explosion of an Azerbaijani train transporting oil across Georgia (see video) attests to the dangerousness of this energy corridor. Georgia is a poor country which isn’t rich in minerals. However, thanks to its position between Europe and Central Asia, it can improve its financial situation by means of transit charges. Georgian Prime Minster Lado Gurgenidze said that the railway was vital not only to Georgian economy, but also to the economies of neighbouring states (119).

During the recent visit of US Vice President Dick Cheney to Azerbaijan, Azerbaijani President Ilham Aliyev declared that Azerbaijan wouldn’t support the idea of redirecting energy flows that would have bypassed Russia (120). Like Georgia, Azerbaijan is a member of the organisation GUAM. Shortly after the origin of this organisation, it was clear that it united states with pro-western course and created (or rather, should have created) a kind of counterbalance to organisations in post-Soviet room dominated by Russia. All member countries, except for Azerbaijan, i.e. Georgia, Ukraine and Moldova, are dependent on Russia as for economy and energy (121). In 2005, Mikheil Saakashvili and Viktor Yushchenko called for the establishment of an association of free choice, i.e. a strip stretching from the Caspian Sea to Baltic countries, which would have detached free Europe from non-democratic eastern states (122). In other words, the corridor would include GUAM states, Poland, Estonia, Lithuania and Latvia. However, in order to make such a project feasible, economic independence of the states in question as well as the corridor’s energy independence would have to be secured by means of Azerbaijani mineral wealth.
Though not a Caspian state, Uzbekistan is a very important country from the viewpoint of hydrocarbon export to the East as well as the West. A contract on the construction of a new gas pipeline was concluded between Putin and Uzbek President Islam Karimov. This gas pipeline would pump Uzbek and Turkmen gas through Uzbekistan directly into Russian network from which it would be subsequently exported to Europe (123). All in all, for Central Asian republics it’s more advantageous to sell their production to Russia, which offered them European prices (124), and it’s a matter of future whether Europe manages to break Russian monopoly on hydrocarbon export to the West.

The legal status of the Caspian Sea has a security dimension too. In October 2005, Russia introduced the idea of establishing joint naval forces in the Caspian Sea, the so-called KasFor. According to this proposal five coastal states would join their forces for the purpose of protecting themselves against terrorism and the smuggling of weapons, narcotics and weapons of mass destruction in the Caspian Sea (125). There is substance in Russian motto “we divide the seabed, the water area remains common”. If the water area, on which individual states exercise their sovereignty, was divided, it could happen that some countries would invite the navy of a non-Caspian state to their sector. It is the joint naval forces project which should prevent this. Azerbaijan declines to accept Russian proposal and the principle of Caspian Sea closure to ships from non-Caspian countries. On the contrary, it shows interest in US program Caspian Guard (126). However, Russia is backed by Iran. The problem is that Iranian side is having certain doubts that if the sea is divided, Iran won’t share common border with Russia and thus the project may lose its importance for it (127).

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