

The Signing of the Convention on the Legal Status of the Caspian Sea and Its Implications

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The legal status of the Caspian Sea is a long-standing issue which has led to serious and protracted disputes among the Caspian littoral states. The distribution of relevant rights and interests has protracted the settlement of the issue for centuries. With the August 12, 2018 signing of the Convention on the Legal Status of the Caspian Sea by the five coastal states of Russia, Kazakhstan, Turkmenistan, Azerbaijan and Iran, the Caspian Sea was formally designated as “neither sea nor lake.” This designation will undoubtedly shape the future architecture of political, economic and security policy frameworks in the region. As these littoral states have all participated in China’s Belt and Road Initiative (BRI), a safe and stable Caspian Sea will help reduce the geopolitical risks that may emerge during the continued construction of the Belt and Road, and is also conducive to ensuring synergy between the major development projects in both the Caspian region and the Belt and Road Initiative.

Disputes over the Legal Status of the Caspian Sea

Positioned at a critical junction between Europe and Asia, with an area of 370,000 square kilometers, the Caspian Sea is a major waterway that serves the important geopolitical function of connecting Europe and Asia. Moreover, with its rich reserves of natural resources, the Caspian Sea has witnessed longstanding regional disputes over relevant rights and interests.

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About 300 years ago, the Caspian Sea was essentially under Persian control. However, With the defeat of Persia in the 1826-1828 Russo-Persian War, control over the waters fell into the hands of Russia. In the Soviet era, the Caspian Sea was defined as an inland body of water, jointly administered by the Soviet Union and Iran. Following the disintegration of the Soviet Union in 1991, with the independence of the three former Soviet republics of Kazakhstan, Turkmenistan and Azerbaijan, the number of Caspian littoral states increased from two to five.

Whether under the imperial control of Russia and Persia, or the subsequent administrative domain of the of Soviet Union and Iran, with the focus always hinging on the legal status of the Caspian Sea, the two sides have continuously engaged in sharp disputes over their respective Caspian Sea rights and interests. In their attempts to settle the issue, from the early 19th century to the Soviet collapse in 1991, Russia and Persia, or later the Soviet Union and Iran, have signed a series of successive treaties,¹ the most important of which were the 1921 Russia-Persia Treaty on Friendship and Cooperation, and the 1940 Soviet-Iran Treaty of Commerce and Navigation. The 1921 Russia-Persia treaty abrogated all previous treaties signed between Imperial Russia and Persia, recognized the two countries' equal rights of navigation in the Caspian Sea, and reiterated the principle of non-permission to third-party entry into the waters.² According to the 1940 Soviet-Iran treaty, the Caspian Sea was considered a "Soviet-Iran lake" and ships originating from any other country were banned from navigating in the waters. The basic principles on the legal status of the Caspian Sea, delineated by the above two treaties, may be summarized by the following two stipulations. First, the waters and all resources of the Caspian Sea are the common property of its coastal states, who may enjoy the full rights of its use. Second, non-coastal states have no right of access to either Caspian waters or relevant resources, while the right of fishing, trade and navigation by Caspian Sea

1 These treaties include the Treaty of Golestan of 1813, the Treaty of Turkomanchai of 1828, the Treaty on Friendship and Cooperation between the Russian Soviet Federative Socialist Republic and Persia in 1921, and the Treaty of Commerce and Navigation between the Union of Soviet Socialist Republics and Iran in 1940.

2 Rustam Mamedov, "The History of the Status of Caspian Sea in International Law," *Journal of Lanzhou University (Social Sciences)*, Vol.29, No.4, 2001, p.67.

coastal states remains regulated.³ Although the two treaties did not clearly stipulate such important issues as delimitation of Caspian waters, distribution of resources, ecological protection and military activities, their legal effects have continued to be recognized by littoral states even after Soviet dissolution. Thus, it may be said that to a great degree, these treaties have laid the foundation for the modern-day legal status of the Caspian Sea. These two treaties are not only seminal legal documents utilized in the settlement of regional issues which surround the legal status of the Caspian Sea, but are also instrumental in the management of regional affairs.

Kazakhstan, Turkmenistan and Azerbaijan, in the wake of Soviet disintegration, intended to break the status of the Caspian Sea as a condominium of Russia and Iran. However, Russia as the Soviet Union's legitimate successor, and Iran, have both strongly argued for the redistribution of the Caspian Sea and its seabed and subsoil resources. In order to settle the disputes which have arisen in the post-Cold War era over the delimitation of Caspian waters, distribution of resources and the route of pipelines, and to establish a new-type legal basis for managing regional affairs, the littoral states of the Caspian Sea have deemed the redefinition of the legal status of the Caspian Sea a primary concern. In 1996, with the purpose of formulating a convention on the legal status of the Caspian Sea, the coastal states set up a specific vice foreign ministerial working group. By the time of the formal signing of the Convention on the Legal Status of the Caspian Sea, more than 50 working meetings had been held. Furthermore, the coastal states had shown great concern for this issue throughout the four Caspian summits that were held between 2002 and 2014.⁴

3 Тюренкова Ксения Александровна. Этапы становления международно-правового регулирования статуса Каспийского моря. 2 Сентября 2015, <https://moluch.ru/archive/97/21727>.

4 The first Caspian Summit was held in Ashgabat in April 2002 with a focus on the delimitation of Caspian waters. The second Caspian Summit held in Tehran in October 2007 emphatically discussed the legal status of Caspian waters, and defined the border of coastal states in advance under a framework of waters delimitation. The third Caspian Summit in Baku in November 2010 witnessed the signing of an agreement to expand the coastal states' security cooperation. In September 2014, heads of state of the five countries signed a statement at the fourth Caspian Summit in Astrakhan that stipulated the privilege of coastal states to deploy military forces in the Caspian Sea. For more, see Людмила Фролова. Прикаспийские государства: границы, карта. Какие страны омывает Каспийское море? 31 Июля 2015, <http://fb.ru/article/197731/prikaspiyskie-gosudarstva-granitsyi-karta-kakie-stranyi-omyivaet-kaspiyskoe-more>.

The root cause of the recurrence of protracted disputes lies in the absence of a unified and generally recognized document which concretizes the legal status of the Caspian Sea while effectively distributing resources that satisfy the respective interests of the five littoral states. Due to diverging strategic considerations, the coastal states remain in constant and serious dispute over the legal status of the Caspian Sea, with the foremost question being whether it is in fact a sea or a lake. The definition of a sea or a lake directly affects the share of interests to be distributed between the five littoral states. According to the United Nations Convention on the Law of the Sea (UNCLOS) and other relevant international laws on cross-border lakes, the criteria for and thus the distribution of sea and lake interests are different. For example, if the Caspian Sea is defined as a sea, then the littoral states' interests on the body of water and the seabed and subsoil would be distributed according to the coastline length of each country. If the Caspian Sea is defined as a lake, then it would become the common property of all coastal states, and its development and utilization would be subject to the unanimous consent of all littoral states. The five nations would be entitled to an equal share of both the body of water and all underwater resources.

Due to historical and geological factors, the length of each Caspian state's coastline is different, and the distribution of oil and gas resources belonging to the waters that fall under each country's jurisdiction is quite unbalanced. Thus, each state has tried to define the legal status of the Caspian Sea according to international legal criteria that are most favorable to themselves. This jockeying for resources between littoral states represents the crux of why the settlement of the Caspian Sea issue has been prolonged for such a lengthy period of time. After Soviet dissolution, regarding the legal status of the Caspian Sea, the position of five littoral states can be subsumed within the following three aspects. First, the status should be established according to UNCLOS. Second, the legal status of the Caspian Sea should be defined as a cross-border lake. Third, the body of water should be jointly administered by the littoral states and the seabed should be distributed according to a revised median line.⁵ Russia and

5 Икаев Дмитрий Георгиевич. Проблемы определения международно-правового статуса Каспийского моря. Автореферат Диссертации. 8 Августа 2006, <http://www.dslib.net/pravo-evropy/problemy-opredelenija-mezhdunarodno-pravovogo-statusa-kaspijskogo-morja.html>.

Iran, both with shorter coastlines, initially insisted that the Caspian Sea should be the common property of all littoral states and thus be jointly administered. However, as the situation developed, both countries began to change their official positions on the matter. Since 1998, Russia has shifted its stance, proposing that the Caspian Sea should be divided along the seabed based on a previous median line division of underwater resources in the northern part of the Caspian Sea, signing agreements with Kazakhstan and Azerbaijan in 1998 and 2002 respectively. In May 2003, the three countries of Russia, Kazakhstan and Azerbaijan agreed to divide the Caspian seabed and adjacent waters according to the median line.⁶ The agreement was met with strong opposition from Iran, who, until the signing of the Convention on the Legal Status of the Caspian Sea, had consistently argued that the Caspian Sea was a lake and that each state should be entitled to a 1/5th share of the whole Caspian Sea. On the contrary, Kazakhstan and Azerbaijan had previously asserted that the Caspian Sea was in fact a sea, proposing that any division of the waters should occur under the UNCLOS framework. In particular, Azerbaijan was the only country that declared its Caspian territorial waters by constitution. Turkmenistan's official stance on the legal standing of the Caspian Sea has been marked with vacillation: at first it defined the Caspian Sea as a lake, but later it followed Russia's advice and claimed that each littoral state should possess a 45 nautical mile-wide claim to waters under their respective national jurisdictions, with the remaining waters being kept neutral.

Looking back on the history of Caspian Sea disputes, one can see clearly that the struggle for interests underlies the struggle for legal status. As pointed out by Rustam Mamedov, an expert on Caspian studies, the division of the Caspian Sea is in fact an energy competition which would bring about transformation of regional power structure.⁷ With the major geopolitical restructuring that took place following the collapse of the Soviet Union, namely,

6 As per the agreement, the shares of Caspian seabed for Russia, Kazakhstan and Azerbaijan are 19%, 29% and 20% respectively. Артур Громов. Страны Каспия придумали, как поделить море. Они не могли договориться 22 года. 10 Августа 2018, <http://tass.ru/mezhdunarodnaya-panorama/3450294>.

7 Yang Jin, "Caspian Issue: Energy Competition and Regional Structural Transformation," *World Affairs*, No.22, 2014, p.33.

the subsequent increase in number of coastal states, disputes re-emerged over Caspian rights and interests. In particular, the discovery of significant oil and gas resources in the Caspian, which has now been dubbed “the second Persian Gulf,” intensified the competition among littoral states over who would claim the rights to these resources. According to data from the US Energy Information Administration (EIA), the proven oil reserves in the Caspian Sea are estimated at 48 billion barrels, and the proven natural gas reserves are estimated at 292 trillion cubic feet.⁸ Energy resources are well known to constitute a strategically important resource for countries undergoing economic transitions, reflecting a much needed tool for littoral states aiming to revitalize their economy. In Azerbaijan, Kazakhstan and Turkmenistan respectively, oil and gas resources account for 73%, 42%, and 37% of the total industrial output.⁹ Since the end of the Cold War, Caspian countries have been trapped in a continuous struggle for oil and gas resources that has frequently erupted into fierce regional conflicts. In 2001, Iran and Azerbaijan were engaged in a dispute over an oilfield that almost ended in the mutual declaration of war after tensions escalated to the point that warplanes from the two sides exchanged fire in mid-air. Due to a dispute over the Kapaz-Serdar oil and gas field, Turkmenistan and Azerbaijan both went so far as to recall their respective ambassadors and close their respective embassies in the other country. At the first Caspian summit in 2002, then Presidents of Turkmen and Azerbaijan, Saparmurat Niyazov and Heydar Aliyev respectively, came into conflict, when Niyazov threw in the direction of Aliyev: “Blood may be shed in the Caspian Sea,” referring to the unresolved conflict over the fields.¹⁰

After 22 years of marathon negotiations, the Convention on the Legal Status of the Caspian Sea was finally signed at the fifth Caspian Summit in Aktau, which gave the Caspian Sea a special legal status of “neither a sea nor a

8 “Overview of Oil and Natural Gas in the Caspian Sea Region,” Energy Information Administration, August 26, 2013, <https://www.eia.gov/beta/international/regions-topics.php?RegionTopicID=CSR>.

9 Е.С.Анянова. Проблемы Каспийского моря в современном международном праве. Автореферат Диссертации, <http://www.law.edu.ru/book/book.asp?bookID=1420123>.

10 Аркадий Дубнов. Дораспад СССР. Что изменит раздел Каспия. 15 Августа 2018, <http://carnegie.ru/commentary/77042>.

lake.” According to the Convention, the Caspian Sea is divided into territorial waters, fishery zones, and common maritime space. Specifically, the coastal states are each entitled to a 15 nautical mile-wide zone of territorial waters and a 10 nautical mile-wide fishery zone adjacent to those territorial waters. Outside the fishery zones is the common maritime space, which is open to use by all littoral states but off limits to ships from external countries. Non-Caspian states are not allowed to station troops in the region, and no Caspian state shall provide its territory for third parties to commit aggression and undertake other military actions against any other Caspian nation.¹¹

Reasons for Signing of the Convention

Despite the presence of substantive differences in national condition, as well as the existence of deep-rooted disputes, the Convention was finally signed, far exceeding the expectations of many international observers. The international community took a wait-and-see attitude, up to and including the day the Aktau Caspian summit was held, casting doubt upon the chances for a successful signing of the Convention. In general, several factors contributed to the successful signing of the Convention.

Major changes in Iran’s position

As a regional power and an important stakeholder of Caspian affairs, Iran played a critical role in the eventual settlement of the Caspian issue. Some experts even believe that Iran’s intractable stance was the main factor which led to the long-standing nature of the dispute over the Caspian Sea’s legal status.¹² Due to historical pride, i.e., the fact that it once controlled virtually the entire Caspian Sea, Iran, which has the shortest Caspian coastline, was strongly opposed to any alternative proposals which resulted in the Caspian Sea being divided along the median line. Rather, it consistently pushed for an equal

11 “Convention on the Legal Status of the Caspian Sea,” Presidential Executive Office of Russia, August 12, 2018, <http://www.en.kremlin.ru/supplement/5328>.

12 Политолог рассказал о значении конвенции о статусе Каспийского моря. 11 Августа 2018, <https://ria.ru/world/20180811/1526378872.html>.

division, which would see to it that each state would receive a 1/5th share of the whole Caspian Sea.

The rapid deterioration of external environment became an important driver for Iran's change of attitude towards the settlement of the Caspian Sea's legal status. In May 2018, President Donald Trump announced a withdrawal of the United States from the Iran nuclear deal, officially known as the Joint Comprehensive Plan of Action (JCPOA), re-imposing the sanctions on Iran that had been previously lifted or waived under the JCPOA. According to Alexey Malashenko, a Russian expert on Central Asia, "If something could happen at this summit, one reason for the signing of the Convention must be American sanctions against Iran."¹³ Another scholar also indicated that "Tehran most likely would have refused to sign the agreement ... if Trump had not unilaterally left the Iran nuclear deal and Iran on May 8, and the first round of US sanctions did not come into force on August 7."¹⁴

The Strait of Hormuz region has become a major battleground of US-Iran confrontation. As the US continues to find itself embroiled in the Middle East, through the Iraqi and Syrian wars, as well as through the provision of substantial support for Kurdish forces, Iran has increasingly felt tremendous pressure on its southern border. The abandonment by Trump of Obama's conciliatory approach to Iran, combined with his strengthened support for Israel and Saudi Arabia after taking office, has caused the further deterioration of Tehran's geopolitical security environment. The withdrawal of the United States from the JCPOA, and the re-imposition of sanctions on all countries trading in Iranian oil, not only brought Iran under the risk of international isolation, but also seriously damaged its economy and imperiled President Hassan Rouhani's legitimacy. Iran signed the Convention on the Legal Status of the Caspian Sea out of a dual concern for security and economic viability. Namely, by signing the Convention, Iran hopes to win the support and cooperation of other littoral states; in particular, it hopes to secure a Russian endorsement for both security

13 Шахрудин Халидов. Новая «конституция» Каспия. 18 Августа 2018, <https://ndelo.ru/detail/novaya-konstituciya-kaspiya>.

14 Андрей Тамиранов. Каспий получил «конституцию»: что стоит за Конвенцией о правовом статусе. 17 Августа 2018, <https://tamiranov.livejournal.com/1595626.html>.

and economic support. Establishing amicable ties with regional countries is of great significance to Iran's northern security. To a great extent, the prohibition of foreign military access to the Caspian Sea, as stipulated in the Convention, has satisfied Iran's national security interests. In addition, the second round of sanctions, which banned the purchase of Iranian oil, came into effect in early November 2018. This fact has led some observers to believe that Iran signed the Convention in exchange for promises made by the other signatories to not follow US sanctions. Case in point, immediately after signing the agreement, Russian President Vladimir Putin expressed his willingness to continue buying Iranian oil.¹⁵

Continuous deterioration of Russia-US relations

The Caspian Sea serves as both a security barrier for Russia's southern border and a critical base for Moscow to implement its Middle East strategy. Since the era of Peter the Great, a principle of vital importance for Russian foreign policy has been to deny foreign access to the Caspian Sea. "Our interests do not at all allow any other power, no matter who it may be, to establish itself in the Caspian Sea."¹⁶ This principle, which has been a key facet of Russian foreign policy, has not changed to this day. The Caspian Sea is situated close to the Middle East, the site of rampant international terrorist activities. These terrorist acts continue to pose tremendous threats to security in southern Russia, and as a result, security remains the top concern of Moscow's Caspian Sea policy. In particular, since the onset of the Ukraine crisis in 2014, Russia's relations with the United States have witnessed a continuous deterioration. The US has continued to strengthen its sanctions, and has stepped up its confrontational stance against Russia in the Middle East. The Syrian war is a precise reflection of how the Russia-US geopolitical rivalry has played

15 Сергей Мануков. Каспий получил «конституцию»: что стоит за Конвенцией о правовом статусе. 15 Августа 2018, <http://nk.org.ua/geopolitika/kaspiy-poluchil-konstitutsiyu-chto-stoit-za-konventsiey-o-pravovom-statuse-157927>.

16 Жанар Тулиндинова. Море нашей надежды: в Актау подписана Конвенция о правовом статусе Каспия. 13 Августа 2018, <http://press-unity.com/analitika-stati/11441.html>.

out in the region. Since the Caspian Sea is no more than 600 kilometers from Syria, it now serves as the advance position for Russia's Caspian Flotilla, which stands ready to strike extremist organizations in Syria with its missiles. For this reason, Russia has shown major concern regarding potential US or US-led NATO's military presence in the Caspian Sea. In April 2018, it was reported that Kazakhstan intended to open-up the two Caspian ports of Aktau and Kuryk to the United States who wished to use it as a base of transfer for its non-military goods, allowing the US to create a logistical transport route into Afghanistan that bypasses Russia.¹⁷ Even though Kazakh Foreign Minister Kairat Abdrakhmanov indicated before the August 2018 Caspian summit that Kazakhstan would not host a US military base in the region,¹⁸ Russia was still deeply concerned.

Previously, out of concern for its own gas exports to the European market, Russia was strongly opposed to laying gas pipelines across the Caspian Sea. This has triggered dissatisfaction from Kazakhstan, Turkmenistan and Azerbaijan, and to some extent has hindered the signing of the Convention. Since the eruption of the Ukraine crisis, in the face of a continuously worsening geopolitical and security environment in its neighborhood, Russia has softened its position on the Caspian issue, no longer voicing its opposition to the building of pipelines on the Caspian seabed. While some analysts argued that Russia made the compromise to compete with the Chinese Silk Road Economic Belt initiative because other Caspian states have begun to bypass Russia en route to transporting oil and gas resources to Asia,¹⁹ the primary purpose of Russia's concession, i.e., of giving the green light to building trans-Caspian pipelines, is to win understanding and support from other coastal states to jointly guard against US military presence in the Caspian Sea. As pointed out by Marina Lapenko, Director of the Eurasia-Volga Region Information and Analytical

17 Жанар Тулиндинова. Море нашей надежды: в Актау подписана Конвенция о правовом статусе Каспия.

18 Александр Бовдунов. Как изменится обстановка в регионе после подписания Конвенции о правовом статусе Каспия. 12 Августа 2018, <http://www.zakon.kz/4932312-kak-izmenitsya-obstanovka-v-regione.html>.

19 Новая «конституция» Каспия. 18 Августа 2018, <https://ndelo.ru/detail/novaya-konstituciya-kaspiya>.

Center, "... security issues influenced Russia's position and prompted an accelerated settlement on the legal status of the Caspian Sea."²⁰ The opinion was shared by Kazakh scholar Dosym Satpayev, "... the geopolitical situation has changed ... (Russia felt) it was necessary to quickly conclude the Convention in exchange for guarantees from other Caspian countries that, with their assistance, no third countries would actively participate in the Caspian Sea."²¹ There is also the expert view that the signing of the Convention is the result of a constant application of political pressure by Russia towards the other coastal states, combined with its continuous search for ways to deepen cooperation with Iran.²² In summary, a safe Caspian environment is not only conducive to strengthening Russia-Iran cooperation in their efforts to counter extremist and terrorist forces in the Middle East, but the agreement also helps consolidate Central Asian security while sparing Russia the cost of additional military input in its southern area.

Special legal status satisfying coastal states' interests

The eventual signing of the Convention on the Legal Status of the Caspian Sea is the result of joint efforts and mutual compromises made by all the Caspian littoral states. As mentioned above, the uncertainty over the Caspian Sea's legal status is rooted in serious disputes between coastal countries over their relevant Caspian Sea interests. With such differing positions and conceptualizations held by each nation towards just what the Caspian Sea is or should legally become, it has been, quite simply, very difficult to reach consensus. "For Kazakhstan and Azerbaijan, the Caspian Sea concerns their economic and energy security strategies. Turkmenistan wants to resolve oilfield controversies, and with future help from the document, would like to transport its gas resources across the bottom of the Caspian Sea. As for Russia and Iran,

20 Жанар Тулиндинова. Море нашей надежды: в Актау подписана Конвенция о правовом статусе Каспия. 13 Августа 2018, <http://press-unity.com/analitika-stati/11441.html>.

21 Почему Конвенцию о статусе Каспия подписали лишь с пятого раза. 13 Августа 2018, <https://tip.by/pochemu-konvenciju-o-statuse-kaspija-podpisali-lish-s-pjatogo-raza>.

22 Стивен Бланк. Конвенция о правовом статусе Каспийского моря готова. 21 Февраля 2018, <http://casp-geo.ru/konventsija-o-pravovom-statuse-kaspijs>.

their first concern is geopolitical security and third-country military presence in the Caspian region.”²³

Manifesting comprehensive considerations in terms of geopolitics, geoeconomics and regional security, the Caspian states have abandoned their initial positions, and exhibited a marked progression towards mutual understanding. The solution is essentially guided by a mixed principle under which the body of water is shared, while the seabed is subject to delimitation by relevant parties.²⁴ In other words, the Caspian Sea is treated as a sea when its body of water is shared, and as a lake when its seabed and subsoil is delimited.²⁵ With regard to the distribution of resources, the Convention stipulates that the Caspian Sea and its seabed and subsoil, as well as any resources found therein, shall be delimited by agreement between states with adjacent and opposite coasts. Moreover, on the condition that their projects comply with environmental standards and requirements, coastal states may lay submarine cables and pipelines on the bed of the Caspian Sea, whose routes shall be determined by agreement with the state the seabed sector of which is to be crossed, instead of by unanimous consent of the five countries.²⁶

Conferring a special legal status of “neither a sea nor a lake” on the Caspian Sea takes into account, and thus satisfies the interests of all littoral states. President Putin described the Convention as “a modern and balanced international treaty.”²⁷ President Rouhani was more outspoken, saying that “the document would not be easily signed should it not take into account the interests of all Caspian states.”²⁸ Undoubtedly, the signing of the Convention is

23 Владимир Радионов. Конвенция о статусе Каспия — это «заявление о намерениях», которые могут соблюдаться, а могут и нет. 13 Августа 2018, <https://zonakz.net/2018/08/13/konvenciya-o-statuse-kaspiya-eto-zayavlenie-o-namereniyah-kotorye-mogut-soblyudatsya-a-mogut-i-net>.

24 Путин в Ашхабаде: “Делим дно, вода общая”. 23 Апреля 2002, <https://lenta.ru/news/2002/04/23/caspian>.

25 Кому на самом деле принадлежит Каспийское море. 14 Августа 2018, <http://russian7.ru/post/komu-na-samom-dele-prinadlezhit-kaspiy>.

26 “Convention on the Legal Status of the Caspian Sea.”

27 Андрей Уваров. Могут ли быть острые углы у Каспийского моря? 1 Ноября 2018, <https://citin.ru/politika/8617-mogut-li-byt-ostrye-ugly-u-kaspijskogo-morya.html>.

28 Ирина Федорова. важно понять причины уступок Ирана в вопросе Каспия. 13 Августа 2018, <https://ru.armeniasputnik.am/radio/20180813/13835174/irina-fedorova-vazhno-ponyat-prichiny-ustupok-irana-v-voprose-kaspiya.html>.

a mutually beneficial outcome which represents a common diplomatic victory for all of the five littoral countries.

Implications of the Convention

The Convention will serve as the primary legal document to be addressed in the settlement of current and future Caspian disputes, while also representing a framework for the establishment of a new regional order. In this regard, the Convention on the Legal Status of the Caspian Sea has been spoken highly of by the respective leaders of the Caspian Sea littoral states. Putin called it “epochal,” Rouhani viewed it as “an important step towards regional security,” while Kazakh President Nursultan Nazarbayev considered it as the “constitution of the Caspian Sea.”²⁹ The signing of the Convention has also received broad attention from policy experts within the international community. “This is practically a revolution and a huge contribution to international law,” said Russian scholar Andrei Suzdaltsev.³⁰ Secretary-General of the United Nations António Guterres also welcomed the breakthrough as an essential step towards the mitigation of regional tensions that would facilitate peaceful regional cooperation. The greatest significance of the Convention lies in the establishment of a new legal foundation for the sensible yet comprehensive settlement and management of Caspian issues and other complicated regional affairs. This compact will have a profound influence on regional geopolitical and economic structure, and even pave the way for coastal states to develop among themselves new forms of cooperative relations.

Maintaining regional stability and enhancing mutual political trust

Security has been the core driving factor for the signing of the Convention.

29 Сергей Шакарянц. Каспийская конвенция – «с трудом завоёванная дипломатическая победа Ирана». 17 Августа 2018, <https://regnum.ru/news/polit/2465967.html>; Песков прокомментировал саммит «Каспийской пятёрки». 13 Августа 2018, <https://ria.ru/world/20180813/1526437868.html>.

30 «Практически революция». Эксперт оценил подписание конвенции по Каспию. 13 Августа 2018, <https://ria.ru/economy/20180813/1526422983.html>.

The denial of foreign military access to the Caspian, as stipulated by the Convention, makes the Caspian Sea a truly inland sea, which helps to lower the political risks that would otherwise plague the region. The signing of agreements aimed at combating terrorism and preventing maritime incidents at the Aktau summit, which were presented as supplemental legal documents to the Convention, will have positive effects on the maintenance of regional security and stability. As President Rouhani said at the summit, "... we have taken an important step towards ensuring regional security and the improvement of relations between our countries. It is clearly stated that the Caspian Sea belongs to the littoral states and its security is exclusively in the hands of the five countries. This is necessary to strengthen regional stability."³¹ Azerbaijani President Ilham Aliyev also indicated that "The signing of the Convention is a historic event, as Caspian security is thus guaranteed."³² Moreover, the signing, which took place after more than two decades of communication and cooperation among the five countries, will play a positive role in enhancing mutual political trust, friendship and solidarity, and further promote regional cooperation among the respective states. As Azerbaijani Foreign Minister Elmar Mammadyarov indicated, "the document proclaims that the Caspian Sea is a zone of peace, good-neighborliness, friendship and cooperation."³³ In general, the security guarantee provided by the Convention, and the positive interactions that its signing has thus far elicited among the coastal countries, will have major implications for creating a brand new landscape of regional prosperity, stability and friendly cooperation.

Facilitating energy structural transformation and export diversification

Uncertainty over the legal status of the Caspian Sea was once a major

31 Ирина Федорова. важно понять причины уступок Ирана в вопросе Каспия. 13 Августа 2018, <https://ru.armeniasputnik.am/radio/20180813/13835174/irina-fedorova-vazhno-ponyat-prichiny-ustupok-irana-v-voprose-kaspiya.html>.

32 Алиев назвал конвенцию о правовом статусе Каспия исторической. 12 Августа 2018, <https://ria.ru/world/20180812/1526399832.html>.

33 Конвенция по Каспию открывает широкие возможности для Баку, считает эксперт. 12 Августа 2018, <https://ria.ru/world/20180812/1526402751.html>.

obstacle for the development of regional energy industries. The signing of the Convention, which provides a legal foundation for the distribution of seabed oil and gas resources, as well as the future construction of trans-Caspian pipelines, is of practical significance to the transformation of regional energy infrastructure and the diversification of energy exports. Traditionally, the Caspian countries export oil and gas to Europe by way of Russia and Turkey. Because of the uncertainty over the legal status of the Caspian Sea, which caused the suspension of the seabed gas pipeline project from Turkmenistan to Azerbaijan, it is calculated that the two countries have been forced to transport 100 billion cubic meters of their natural gas to Europe through Gazprom every year. This quantity amounts to 1/4th of the natural gas imported by Europe.³⁴ In fact, Kazakhstan, Turkmenistan and Azerbaijan have been seeking to build a trans-Caspian pipeline to transport their oil and gas to Europe, and the European Union has also paid great attention to trans-Caspian pipelines because of the implementation of the Southern Gas Corridor initiative. Early on, in the mid-1990s, the United States and Europe had actively supported and considered transporting natural gas found within Turkmenistan to Europe, but progress was halted due to staunch Russian and Iranian opposition. Currently, the EU is negotiating with representatives from Turkmenistan on an investment project which would realize the construction of a trans-Caspian pipeline. The leader of Turkmenistan has indicated that, through this agreement, the country would provide 30 billion cubic meters of natural gas to the European market for a period of no less than 30 years.³⁵ Construction of a trans-Caspian pipeline would not only facilitate the diversification of energy export channels for Turkmenistan and Kazakhstan, but its construction would also serve to expand the energy transit potential of the Caucasus and Turkey. Moreover, it should be noted that as more investors participate in regional energy construction, a new round of energy competition in the Caspian region is bound to intensify, which would

34 BBC: прекращены споры о статусе Каспийского моря. 12 Августа 2018, <https://aze.az/bbc-prekrasheni-spori-o-statuse-kaspiyskogo.html>.

35 Транскаспийский газопровод не в интересах США. 31 Октября 2018, http://www.advis.ru/php/print_news.php?id=3792D9B6-5783-D440-B83B-D6B0D98D8F07.

somewhat impact geopolitical stability.

Injecting momentum in national development and regional cooperation

Besides enhancing mutual political trust and security, the Convention will inject fresh momentum into the strengthening of regional trade ties and the deepening of regional economic cooperation. The Convention, and its concomitant summit meetings, also serve as a basic framework for regional cooperation. For instance, signaling the opening of a new chapter for regional interstate cooperation, the latest Aktau Caspian summit witnessed the release of a Caspian development strategy and the signing of multiple cooperation agreements concerning economics and trade and transportation. President Nazarbayev pointed out that the Convention should be perceived as the start of cooperation between littoral countries on new conditions,³⁶ while President Putin said that the settlement of the legal status of the Caspian Sea “creates conditions for establishing cooperation between the countries at a qualitatively new level of partnership, and developing close cooperation in different directions.”³⁷ In general, by increasing energy exploitation, enhancing trade levels, accelerating transport infrastructure construction, and attracting foreign investment and tourists, the Convention will serve to promote overall regional economic development. In 2017, the trade turnover between Russia and the other Caspian countries increased by more than 20% which amounted to US\$22 billion. In only five months’ time, from January to May 2018, the figure grew by more than 10%.³⁸ With the signing of the Convention, Caspian countries have successively indicated they would set out development plans for various other major regional projects. For example, Russia stated that it will implement a 2030 strategy for the future development of Caspian Sea

36 Назарбаев: конвенцию о статусе Каспия надо воспринимать как начало сотрудничества в новых условиях. 12 Августа 2018, <http://www.finmarket.ru/database/news/4828952>.

37 Каспий обрел правовой статус спустя 22 года. 12 Августа 2018, <https://sng.today/ashkhabad/7691-kaspiyskaya-konvenciya-otkryla-turkmenistanu-realnye-perspektivy-po-diversifikacii-gazovyh-postavok.html>.

38 Путин рассказал о росте торгового оборота с прикаспийскими государствами. 12 Августа 2018, <https://ria.ru/economy/20180812/1526399341.html>.

ports, and build a new deep-water port by 2025 which will be able to receive heavy vessels with a payload of 15 to 25 thousand tons.³⁹ Turkmenistan is also planning to accelerate the building of a modern international Caspian port. With the planned construction and development of a regional tourism infrastructure, it is estimated that the resorts of the Caspian Sea will potentially be ready to receive more than one million tourists annually.⁴⁰ The advancement and development of energy and tourism infrastructure is bound to bring about huge business opportunities for foreign investors while stimulating regional economic growth.

Synergizing the Trans-Caspian Corridor with the Belt and Road Initiative

By maintaining a peaceful atmosphere for future regional development, the Convention objectively provides a safe and stable environment for the advancement of the Belt and Road Initiative in the region. At the fifth Caspian summit, the five heads of state agreed to mutually capitalize on the strategic location of the Caspian Sea. Specifically, they decided to develop the Caspian Sea into a modernized hub of international transport and logistics. This is highly consistent with the embedded BRI concept of building convenient transport and logistical channels. With the opening of the Baku–Tbilisi–Kars cross-border railway in October 2017, the Trans-Caspian Trade and Transit Corridor is becoming a critical conduit between the two major global economies of China and Europe, facilitating the transportation of Chinese goods to Europe by way of Central Asia, the Caspian Sea, the Caucasus and Turkey.⁴¹ Moreover, the transit corridor will benefit Central Asian and Caucasian countries. There were only 1,700 tons of goods transported through Azerbaijan in 2017, but in the first seven months of 2018 alone, the volume of transit goods in the country had reached

39 РФ призвала разработать соглашение каспийских стран по морскому транспорту. 12 Августа 2018, <https://ria.ru/economy/20180812/1526398940.html>.

40 Галина Мисливская. Путин оценил туристический потенциал Каспийского моря. 12 Августа 2018, <https://rg.ru/2018/08/12/putin-ocenil-turisticheskij-potencial-kaspijskogo-moria.html>.

41 It takes only 12-14 days to complete the whole rail journey on the transit corridor, while it takes 40-62 days for Chinese goods to reach Europe by sea. See “Trans-Caspian Trade and Transit Corridor Synergizes with Belt and Road,” *China Trade News*, February 13, 2018, p.7.

as high as 175,000 tons.⁴² The five Caspian countries, all BRI participants, have shown great interest in synergizing the Trans-Caspian Trade and Transit Corridor and the BRI, in the hope of realizing mutually beneficial win-win outcomes as well as common economic development. According to the Central Asian political scientist Satpayev, the Convention, in a certain way, plays into the interests of China. “China is happy that the summit includes the discussion of trans-Caspian trade, because it is actively trying to implement major projects within the Trans-Caspian Transit Corridor as part of its Belt and Road strategy.”⁴³ Of course, besides creating enhanced synergy with the trans-Caspian international corridor, the cooperation prospects in the Caspian region also offer rare opportunities for the BRI to become involved in major regional construction.

Despite having brought about tremendous opportunities for regional security and stability, as well as economic cooperation among coastal states, uncertainties still remain concerning future implementation of the Convention. According to international legal practice, the Convention formally takes effect after ratification by the five countries’ respective legislatures. To facilitate early entry into force of the Convention, the five littoral states decided to launch a foreign ministerial coordinating mechanism, which will take effect no later than six months from the day of the signing of the Convention. So far, Turkmenistan and Kazakhstan have formally ratified the Convention, while Russia and Azerbaijan are actively initiating ratification procedures. Due to domestic opposition, the process of ratification in Iran remains uncertain. Moreover, given the deep-rooted conflict of interests which continues to prevail among Caspian countries, a framework agreement like the Convention is no panacea for all the currently existing problems. As President Rouhani pointed out, only 30% of the problems of the Caspian Sea have been solved by the Convention, and there remains much work to be done through joint efforts.⁴⁴

42 Каспий – море сотрудничества, а не конкуренции. 14 Августа 2018, <http://ru.valdaiclub.com/a/highlights/kaspiy-more-sotrudnichestva>.

43 Владимир Радионов. Конвенция о статусе Каспия — это «заявление о намерениях», которые могут соблюдаться, а могут и нет. 13 Августа 2018, <https://zonakz.net/2018/08/13/konvenciya-o-statuse-kaspiya-eto-zayavlenie-o-namereniyah-kotorye-mogut-soblyudatsya-a-mogut-i-net>.

44 Сергей Шакарянц. Каспийская конвенция – «с трудом завоёванная дипломатическая победа Ирана». 17 Августа 2018, <https://regnum.ru/news/polit/2465967.html>.

“The Convention is not the result, but the basis for further discussions on a range of issues,” said Andrei Syzranov, head of the Caspian-Eurasia Center for International and Socio-Political Studies.⁴⁵ Though the Convention allows for the delimitation into sectors of the seabed and subsoil of the Caspian Sea, as agreed upon between states with adjacent and opposite coasts, disputes remain between Turkmenistan, Azerbaijan and Iran over how to locate the relevant median lines and points of delimitation. Laying trans-Caspian gas pipelines is permissible under the Convention, but in the name of ecological protection, Russia is still likely to exert influence on other states. As for Iran, even though it has formally signed the Convention, “from the day of its signing, President Hassan Rouhani has been subject to harsh criticism from conservatives in the Parliament and the religious community.”⁴⁶ Whether Tehran would ratify the Convention largely depends on the outcome of fierce competition and compromise among and between its various domestic political forces.

Conclusion

The legal status of the Caspian Sea involves both complicated geopolitical issue which concern the interests of all Caspian littoral states, and the overall peace and tranquility of the Eurasian continent. The signing of the Convention on the Legal Status of the Caspian Sea, in light of the special context presented by the US-Iran confrontation and US-Russia competition, is of positive significance to maintaining security, stability and cooperation in the Caspian region. However, in the face of complex regional issues, it still has limitations, and as the international situation continues to develop, its prospects remain uncertain. Therefore, the future direction of the Caspian landscape remains open to careful observation and further study. 🇷🇺

45 Теги.Какие вопросы остались после подписания конвенции о статусе Каспия. 13 Августа 2018, <https://ia-centr.ru/publications/kakie-voprosy-ostalis-posle-podpisaniya-konventsii-o-statuse-kaspiya>.

46 Процесс ратификации Конвенции о правовом статусе Каспия в Иране обещает быть сложным. 26 Августа 2018, <http://casp-geo.ru/protsess-ratifikatsii-konventsii-o-pravovom-statuse-kaspiya-v-irane-obeshhaet-byt-slozhnym>.