

# Geopolitical Challenges and Legal Issues in the Caspian Sea Basin

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## 要　旨

ソ連崩壊後カスピ海地域でも多数の戦略的な問題が発生した。1991 年まではカスピ海に関係する国はソ連とイランだけであったが、ソ連崩壊後沿岸国がロシア、カザフスタン、トルクメニスタン、イラン、アゼルバイジャンの 5 力国に拡大した。こうして地域の新石油戦略に自然資源の管理、安全保障、石油・ガス輸出ルートの確保等の要素が含まれるのでカスピ海の法的地位という問題の解決も重要になった。

本論文で最も強調されるのはカスピ海における国境・水域・海底の分割、および、地下資源の開発・利用についての沿岸国の種々の議論である。最新の議論もふまえてこれらに関する法律および条約が論じられる。権限やカスピ海の経済的な管理に関する国際海洋法に基づくと新たな条約なしでは、エネルギー資源のポテンシャルを完全に利用することは不可能である。最後に、カスピ海沿岸の各国と地域に影響を与える他国の立場が分析される。

**Keywords:** Caspian Sea, oil and gas reserves, legal status, law

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## **Introduction**

As the Soviet Union collapsed in 1991, the Central Asian and Caucasian states have come forth to the world arena with their economic development problems, energy supplies and ethnic based conflicts. Moreover, the conflicting interests of regional and global powers heavily swayed the Caspian Sea Basin's security environment over the vast oil and gas reserves. The presence of regional problems around the Caspian Sea Basin invites extra-regional powers to interfere into the complicated affairs here.

There have been burning issues around the Caspian Sea Basin so far, which are the frozen ethnic conflicts, the legal status of the Caspian Sea, transportation routes issue and the geopolitical rivalry over dominance in the region. These issues especially legal problems bear such importance that without their proper solution the security of the region can at anytime be jeopardized. Therefore these issues require proper management and solution since significant amounts of capital have been invested there.

Energy has been the stimulating source of national economies and main precondition for the development of the countries. Throughout the history, countries have been trying to guarantee the continuous flow of energy into their countries through diversified, economic and secure ways in order to create prosperity. Therefore energy policies have come to occupy the main place in the agenda of national security policies. For this purpose scientific and research centers have been established to evaluate domestic energy supplies and demands. These policies have always been taken into consideration by states. They have been developed for at least several decades to ensure future security. This issue makes one also study the international and domestic politics as well as political economy within the framework of national security concerns. The concerns get more serious when the domestic supply falls short and makes imports unavoidable.

Particularly, since the early 90s, Caspian littoral states have been divided into two camps (one side supporting the condominium principle, the other the median line principle) over the issue of the legal status of the Caspian Sea. The legal status issue has also complicated oil and gas transport routes from the Caspian Sea to the world markets. Iran and Russia (though it shifted its position later) have been supporters of the condominium principle which meant agreeing to the joint development of the Caspian energy fields. On the other hand, the newly independent republics of Azerbaijan, Kazakhstan and Turkmenistan have been on the side of median line principle, which stipulates the division of the seabed of the Caspian on the basis of a median line giving each littoral state an exclusive offshore zone. The Russian position has shifted towards the support of the median line principle with a suggestion to use the Caspian's surface jointly. In spite of Russia's

shifting position towards cooperation in the Caspian Sea basin, the Iranian side has maintained firmly its former claims. Additionally, Tehran has been continuously criticizing the littoral states' arms race on the Caspian. For Tehran, the arms race in the Caspian Sea Basin means the interference of the US, an enemy of the Iranian regime. Recently, the United States has been very active in assisting littoral states to build their own fleets and bases on the Caspian Sea. Enjoying the advantage of the biggest fleet on the Caspian Sea the Russian Federation has not supported the Iranian position on this issue from the beginning of the developments regarding the arms race. Moscow sees its fleet as a guarantor of Russian interests in the Caspian region in the future. In addition, through the increasing involvement of the US, European and Asian countries, the situation has been further exacerbated around the Sea.

The legal status problem of the Caspian Sea has been a serious obstacle to full development of the hydrocarbon resources offshore of the littoral states. Since there is not any clear and specific legal way that could be used to settle the dispute among the littoral states, the parties have tried to apply different concepts, precedents and procedures under international law. Certainly each side has preferred to choose the concept or precedent that suits its interests best under given circumstances. While the Russian and Iranian side have been claiming that the legal status issue should be resolved according to the historical treaties of 1921 and 1940 between Persia/Iran and Russia/USSR, the newly independent republics have preferred sectoral division principle based on the 1982 UN Convention on the Law of the Sea. Iranian officials have never agreed with the sectoral division principle saying that they would agree to the sectoral partition of the Caspian only if it was divided into equal shares.

Almost a decade has passed since the first international contracts were concluded over the development of the offshore oil fields on the Caspian Sea. Since that time, a dispute has gone over the legal status of the sea and still remains unresolved. Iran and Russia were previously contending that the Caspian is an inland lake and must be subject to joint use of all the littoral states where Azerbaijan claims that the Caspian is a sea which means should be divided into national sectors among littoral states. The other two coastal states of Kazakhstan and Turkmenistan along with small differences have more or less supported the Azeri position on the legal status of the Caspian Sea. Though both of the parties have legal arguments, the very essential problem in this issue after all is the geopolitical interest of the littoral states. The Iranian and Russian insistence that the ecosystem in the Caspian can only be protected if all the states have mutual claims over the sea is viewed as an attempt to impede huge amount of foreign, particularly Western, capital flowing into the newly independent states.<sup>1</sup> It is also an attempt to reduce the level of independence of Kazakhstan,

Turkmenistan and Azerbaijan so that they remain under the Russian sphere of influence. For the newly independent Caspian states, the legal dispute means absolute sovereignty over their offshore oil fields and a way of integration to Western and global world.

## **The Legal Status Dispute**

The Caspian Sea is the world's largest inland body of water having roughly the size of 370,000 square kilometers.<sup>2</sup> It is surrounded with five countries nowadays after the collapse of Soviet Union. Shortly after the USSR collapse one of the littoral states Azerbaijan concluded several contracts with international oil companies in 1994 on developing its offshore fields. This has raised different reactions and questions by other littoral states, particularly Russia and Iran, about the delimitation of the Caspian's legal status. Because for a long time in the history, the Caspian has been subject to Persia/Iran and Russia/USSR jurisdiction and they were the only powers having come into an agreement about the legal status of the sea. So just after the first international contracts concluded, the Russian Foreign Ministry claimed that it does not recognize the legality of the contracts despite the fact that Russian famous oil company Lukoil was also among negotiators.<sup>3</sup> Russian officials put forward the argument that the Caspian Sea is an inland lake having no direct outlet to the ocean which means it should be subject to international rules regarding lakes. According to these rules all the littoral states have an equal right to develop the sea's resources upon an agreement among themselves and no one of them can claim an exclusive zone within the Caspian. The opposite side and especially Azerbaijan and later Kazakhstan held the view that based on the median line principle the fields that they opened for international contracts resided within their exclusive sector of the sea. Hence, since that time the status issue became a subject of interpretation of international treaty laws and precedents regarding the Caspian Sea.

## **Regulations in International Treaty Laws**

Russian and Iranian officials previously were basing their argument on the historical treaties made between Russia/USSR and Persia/Iran and claiming that no littoral state can divide the Caspian because of the treaties below:

1. The treaty of Turkmenchay, concluded on February 21, 1828, after a long Russian Persian war stipulated that the border between two ended at the Caspian Sea implying that the sea was not divided at the

time and left for jurisdiction of both sides. At the same time the merchant vessels of both sides had freedom of navigation according to Article 8 of the treaty. The same article also recognizes the right of deploying warships to Russian side since Tsarist Russia was the winner of the war.<sup>4</sup>

2. February 26, 1921 the treaty of Soviet-Persian Friendship established the freedom of navigation for all Soviet and Persian ships on the Caspian.<sup>5</sup>

3. March 25, 1940 the treaty of Trade and Navigation on the Caspian Sea between Soviet Union and Iran has basically repeated the 1921 treaty and again gave the freedom of navigation rights to parties, this time along with recognition of a 10 NM (nautical mile) offshore fishing zone for both sides.<sup>6</sup>

Russian and Iranian officials since 1994 have repeated on different occasions that these treaties are still in force since they never have been annulled. But what is interesting here is that Azerbaijan, Kazakhstan and Turkmenistan have never signed these treaties, but at the same time they all are parties to the Alma Ata Declaration constituting Commonwealth of Independent States in December 1991, which includes provisions recognizing the validity of all treaties signed by Soviet Union. Therefore based on these legal arguments Russian side has insisted that the sea should be subject to joint jurisdiction of all littoral states.

On the other hand the opposite side especially Azeri officials are holding the view that the regulations of 1982 UN Convention on the Law of the Sea should be applied to the case of the Caspian Sea. Among the regulations of the Convention which are related to the case of Caspian are:

States are given the right of claiming up to 12 NM territorial sea and depending on the configuration of the continental margin are given between 200-350 NM of continental shelf along with a 200 NM exclusive economic zone.

According to the provisions of the Convention when claims to continental shelf and exclusive economic zone do overlap as in the case of the Caspian Sea then in order to achieve an equitable solution the continental shelf shall be divided on the basis of international law.<sup>7</sup>

As it is seen above, both sides have legal justifications for their arguments. While the Russian side based their arguments on historical treaties, the Azeri side prefers to resort to recent laws regulating the status issue of the seas. But here one thing is clear that although Russian and Iranian officials have drawn attention to above treaties it is nowhere in the treaties underlined that the Caspian is divided between two of them or it is a common body of water which requires joint administration by littoral states. This point makes their argument weak and gives the Azeri, Kazakh and Turkmen sides a means to justify their arguments on the

basis of recent and global conventions like the Law of the Sea. Both sides have also gone forward by resorting to historical precedents related to the legal issue of the Caspian to support their arguments based on joint sovereignty or sectoral division principle.

## **Historical Precedents**

In international law there is only one well-known major precedent for joint control or condominium regime regulating the status of enclosed body of water like Caspian Sea. The Gulf of Fonseca, which previously belonged to Spain, has been given to the joint control of Nicaragua, Honduras and El Salvador after they got their independence.<sup>8</sup> This is very similar to the situation created around the Caspian Sea today after the Soviet collapse but with one difference that previously the gulf entirely belonged to Spain while the Caspian was never wholly Soviet property in the past. Russian officials previously, when they hadn't changed their position yet, were putting this precedent forward to demand the same result in the Caspian Sea issue.

On the other hand, the Azeri side is insisting that each country has sole sovereignty over its territorial sector of the Caspian. Official Baku does not recognize Russian claim that the Caspian should be treated as an inland lake like in the case of the Gulf of Fonseca. Even if it did recognize the Caspian as a lake then there were many precedents when the lakes were divided between littoral states. Therefore Azeri side supported the "border lake" principle in this case for which there were enough number of precedents.<sup>9</sup> These precedents are the cases of the Great Lakes of North America (between Canada and US), the Lake of Geneva (between France and Switzerland), Lake Titicaca (between Bolivia and Peru) Lake Malawi (between Malawi and Mozambique) and Lake Victoria (among Kenya, Tanzania and Uganda).<sup>10</sup> But the Russian side preferred in these cases to draw attention to the condominium principle of division where a regime of shared sovereignty was exercised. Such an attempt by Russia with Iranian support has been assessed as an ambition to keep other three littoral states under their own sphere of influence.

Azerbaijan has also an argument that Russia itself has divided the Caspian into sectors even during the Soviet Union time. In fact, though Russia was claiming in the mid 90s that the Caspian couldn't be divided into sectors, the Soviet government divided it based on sectoral division principle in early 1950s. Even after the Soviet collapse in early 1992 there was a directive issued by the Ministry of Petroleum Industry of Russia that the Caspian oil fields should be evenly divided by newly emerged states. Thus

Azerbaijan and Kazakhstan, Turkmenistan as well have been extracting hydrocarbon resources based on sectoral division provided by Soviet authorities since 1950s.<sup>11</sup> And accordingly, these states have opened offshore reserves in their sectoral division to international consortiums after the Soviet collapse.

It is obvious from above that the legal status issue of the Caspian always was overshadowed by geopolitical ambitions of coastal states. Because the newly independent countries are parties to the Soviet-Iranian treaties and the Russian, and Iranian governments have signed UN Convention on the Law of Sea, they attempted to emphasize the legal documents which correspond to their own geopolitical agendas. As a result of it when the Russian authorities made a considerable shift in their position in late 90s and came to agreement later on with Kazakhstan and Azerbaijan no one got very much surprised except Iran which harshly protested this move of Russia.<sup>12</sup>

### **The Geopolitical Calculations of Russia and Iran**

Since the collapse of the Soviet Union the Caspian region has witnessed the formation of different regional organizations and groupings such as the Commonwealth of Independent States (CIS), NATO's Partnership for Peace Program, the Black Sea Economic Cooperation Pact, Shanghai Cooperation Organization, GUUAM Group (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova), unofficial Russia-Armenia-Iran Axis and the US-Turkey-Azerbaijan Axis. These organizations have been grouped basically in two camps, namely Western and Russian-backed clubs. While the Western world has tried to access the region for the diversification of future energy supplies the Russian side together with Iran and China has strived to prevent a massive Western, specifically American, presence in the region. For many years, Moscow has been a solitary player in the Caspian region, the fact that makes policymakers in the Kremlin to perceive the region as the 'backyard' of Russia. For Western policymakers the democratization and integration of the newly independent countries around the Caspian Basin has been a basic priority since these states became independent from Moscow. To assist the reform of their planned economies, Western governments and companies have been involved in a fierce competition over dominance of the region with regional powers such as Russia, Iran and China. Therefore, this issue has become one of the most important issues. The world media has frequently shed light on the problems around the Caspian region since 90s.

Led by the "near abroad" policy the Russian leadership has never neglected the importance of the Caspian region. Besides its considerable energy interests here, Russia also has several other reasons to keep

the region under control. For instance, the absence of fully protected borders with the region has increased Russian security concerns. After the war in Chechnya, Russia has perceived insecurity for its large Muslim population on the south around the Caspian region. Especially, Moscow has felt uncomfortable with the fact that the flow of religious extremism has been spreading in Central Asia since early 1990s. A large Russian population living in the newly independent republics of the Caspian region has been another factor for Moscow to watch the developments in the region. The Kremlin's prior emphasis has been the protection of the rights of Russian population and the preservation of Russian language and culture as one of the most influential and widely practiced in the region. Particularly, Russian opposition has been criticizing the governments in Kremlin in the last years for not watching the rights of Russian population in the Caucasus and Central Asia. Therefore, this region has always been in the center of attention for Moscow, also because of the fact that Russian economy considerably depends on the raw materials (cotton, natural gas and petroleum) from the Caspian states.

Russia will for a long time remain a great but "normal power" in the Caspian region. Because of her historical ties and military establishment in the region Russia has more leverage than any other Western country. Moreover, Russia can any time constrain the geopolitical situation here using its military and intelligence means. Taking into consideration that the newly independent countries of the Caspian Sea Basin desperately need Western investment and development of their economies, they will try to keep a good relationship with Moscow. This means that the Caspian states will compromise and make concessions in case of deadlocks over the energy resources in negotiations with Kremlin. However, being in full awareness of the recent developments around the Sea, the Russian policymakers fully understand the fact that Western intervention and investment to this region is unavoidable. Therefore, after Putin came to power in Kremlin the Russians chose a constructive approach rather than obstructive policies, and consequentially started to cooperate with foreign oil companies in the Caspian Sea. At the present, the Russian industrial complex with all of its institutions is closely cooperating with American and other foreign oil companies in the Caspian Sea. Nevertheless it will not make Moscow a sole power in the region as during the Soviet Union's time.

Though the Russian position changed significantly in the late 90s, the Russian Foreign Ministry previously together with Iran was claiming that individual development of offshore resources of the Caspian would damage the ecosystem and result in huge pollution problems for all littoral states. Concerned about fishing zones on which Russian southern economic region depends on, Russia was claiming only joint sovereignty could prevent Caspian ecosystem to run into disaster. Iranian experts' view still is that without

coordinated approach to the development of the Caspian resources excessive and unregulated fishing, tapping and use of other industrial centers in the Caspian could bring the whole ecosystem around the basin to the brink of disaster.<sup>13</sup>

Iranian opposition against the sectoral division from the beginning had the motive of getting Russian support in its strategic objectives and in the Persian Gulf region as well. Being in a need for such support in the international arena Iran has never shown a single change in its position. The Iranian regime did not like the sectoral division method also because there are not as many rich resources on its part of the Caspian as in the newly independent countries' part. Iran would get much more economic benefits from the Caspian if the condominium principle is exercised.<sup>14</sup>

Furthermore, Iran, like Russia does not desire increased Western influence, especially American, on its northern neighborhood. Indeed, Iranian clerics are considerably concerned about US political, economical and military existence in Caucasus and Central Asia.<sup>15</sup> Although they have serious concerns about the matter, the Iranian side has come to understand that there is nothing much to do, especially after US led operation on the Iranian eastern and western neighborhood in Afghanistan and Iraq. Russia as well could not prevent US access to the bases in its former vassals in Central Asia and nowadays there are prospective plans for US troops in Azerbaijan and Georgia to provide the security of pipelines carrying Caspian oil to Western markets.

Having American military presence nearby, on its eastern neighborhood in Afghanistan and on its west in Iraq and possibly in future on its north, in Caucasus, makes Iranian clerics to restructure their policies in the international arena and in the Caspian region. The conclusion that Iranian mullahs will make out of all these developments around the country should also bring clarity to the Iranian position on the legal status of the Caspian Sea in the coming years.

One more concern that has made Iranian regime persistent in its position on the legal status issue of the Caspian Sea is that the country is populated by considerable amount of Azeris estimated up to 30 million in different sources.<sup>16</sup> This number is about half of the Iranian population and four times more than the Azeris living in Azerbaijan itself. Iran has the fear that an independent and economically rich Azerbaijan on the north will spark nationalism among the Azeris living in Iran thus resulting in separatist movements in the country. This movement has already started in an organized way and has many offices overseas in especially Western countries like Sweden, Canada, and USA.<sup>17</sup> Viewing all these developments intentionally organized by Azerbaijan and backed by Washington and its regional ally Ankara against the integrity of Iran,

the clerical regime gets even more steadfast than the Russian government in its position on the legal status issue. Therefore it makes one to think that Iranian foreign policy will be formulated to impede, though unsuccessfully so far, Western intervention in the Caspian basin.

Russia also had motives like Iran to prevent the entrance of newly independent states, or its “near abroad” as Russian former president Yeltsin called it, to the Western sphere of influence. Russia’s declining role on the international arena with the Soviet collapse has also shown itself in its regional politics after 90s when it could not avert Western intervention in developing the Caspian’s hydrocarbon resources.<sup>18</sup> In the beginning, the estimates of 200 billion barrels of oil situated in the Caspian made Russian foreign policy makers not to give up their condominium regime position on the legal status. But a huge amount of Western investment had already reached the region and the first international oil contracts were concluded in Azerbaijan. Having the fear that it would be left with an unproductive sector of Caspian and also left outside of the huge economical benefit, Russia on November 1996 offered to recognize 45 NM (nautical mile) offshore economic zone for each country and also expressed willingness to discuss national jurisdiction on a case by case in sites where already international companies started tapping oil.<sup>19</sup> Thus tendency towards a shift in Russian foreign policy regarding the Caspian has started. New oil findings on the northern Caspian especially in the Severny deposit after first drills have been estimated to contain as much as 600 million tons of oil.<sup>20</sup> This has given impetus to Russian foreign policy makers to come to an agreement with Kazakhstan for the sectoral division of the seabed. Hence in July 1998 the presidents of Russia and Kazakhstan signed an agreement dividing the seabed and mineral resources into national sectors but leaving water surface for joint control. Such an agreement was welcomed in Baku but protested by Tehran.<sup>21</sup>

In order to conciliate with Iran, Russian First Deputy Foreign Minister Pastukov visited Tehran and persuaded Iranian colleagues that the agreement between Kazakhstan and Russia does not infringe the rights of other littoral states and does not contain provisions contradicting 1921 and 1940 Soviet-Iranian treaties.<sup>22</sup> The same agreement had been signed between Azerbaijan and Kazakhstan in 1997. Kazakhstan has also signed a communiqué with Turkmenistan to divide their sectors of the Caspian along a median line. In January 2001 when Russian President Vladimir Putin visited Azerbaijan a joint communiqué on dividing seafloor of the Caspian was signed with Azerbaijani President Heydar Aliev.<sup>23</sup>

It was the same year when a conflict arose between Iran and Azerbaijan in July 2001 over the exploitation of the Araz-Alov-Sharg field, which is located on the southeast of Baku. Azeri oil exploration ship the Geofizik-3 licensed to a BP-led consortium was threatened by an Iranian gunboat and forced to leave

the field. Iranian officials argued that the field was Iranian property. It stemmed from the Iranian claim that the Caspian should be divided evenly by five littoral states where Iran gets equal share of 20% of the Sea. Based on this principle the Alborz field how Iran calls Araz-Alov-Sharg falls under Iranian sector of the Sea. According to international laws regulating seas in case of dividing the seabed along median line Iran gets only 12%-13% of the Caspian, which does not suit the Tehran side. These moves of Tehran were soon after answered by official criticisms from Washington and Ankara who once more reiterated their support for Azeri side.<sup>24</sup>

While Iran once more demonstrated firmness on its position regarding the legal status, Russia headed for new direction apart from Tehran on the issue. Having bigger ambitions in global politics the policy makers in Moscow eventually had to give up their position on the Caspian legal issue and have recognized the weakness of their previous stance on the issue. Russian Foreign Ministry had also to take into consideration of interests of Russian and international oil companies who have been showing willingness to participate in oil consortiums and pressuring Moscow continuously. Also, the Russian side could not ignore anymore the increasing influence of Western countries in the newly independent countries. In fact Moscow was facing danger to lose complete control of its former vassals.

However it is important to notice at this point that though the seabed was divided between three littoral states the water surface was left for joint control in Caspian where Russia has the powerful fleet and control compared to other littoral states.<sup>25</sup> Such a situation might constrain future international projects on developing agricultural resources of the littoral states.

### **Azeri-Turkmen Dispute**

Azerbaijan and Turkmenistan have been involved in a disagreement since 1997 when Turkmen President Niyazov expressed that the part of Azeri and all of Chirag and Kapaz or Serdar (Turkmen version) fields, which Baku has opened for international oil companies, belongs to Turkmenistan according to median line principle.<sup>26</sup> The disagreement arose because of the method of identification of the median line between two. While Azeri side measures median line from the last point of Absheron peninsula, Turkmen experts are insisting that it should be measured from mainland Azerbaijan in which case all three claimed fields fall within Turkmen sector of the sea. Drawing attention to the measurement of median line from mainland Azerbaijan the Turkmen side prefers to see Absheron peninsula as a geographical irregularity. Official Baku

has disregarded Turkmen claims saying that they have been operating in these fields since Soviet Union times. Azeri officials argue that the country concluded an agreement with Western companies in 1994 and 1998 to develop those claimed fields and also adds that with the 1970 division of the Caspian by the Soviet Ministry of Oil and Gas the right of operation in Kapaz field was assigned to Azerbaijan.<sup>27</sup>

Despite differences both parties have agreed to hold discussions over the issue, which are still in process hoping to settle down the problem. Soon after talks Ashgabat laid down claims over Chirag and Azeri fields by leaving Kapaz/Serdar issue open for discussions. Actually, the Turkmen position on the legal status of the Caspian has also eroded like Russian. Having declared itself neutral to all the matters on international arena Turkmenistan faced several problems from time to time. The country was endorsing the condominium principle with Russia and Iran in early 90s, the position which has been changed following the shift in the Russian stance on the legal status. Thus Ashgabat has also joined the camp of sectoral division supporters. But this time the country has been embroiled in conflict with Azerbaijan over the disputed fields and closed down its embassy in Baku later on straining bilateral relations. Ashgabat also went ahead on its position and started purchasing naval vessels which made Baku to reassert that Azerbaijan has the second largest fleet on Caspian after the Russian Federation compared to other littoral states.<sup>28</sup> Though this conflict has strained the situation on the Caspian it has never been aggravated by either of the parties allowing for the willingness of both sides to come to an agreement for the sake of future economic gain of their offshore resources.

### **US and its Allies' Stance on Legal Debates**

The European Union and United States have become active players in the Caspian region from the very beginning of the oil development processes. Their interest in the region can be summarized as "strengthening regional economic and political mechanisms, developing east-west energy and transportation processes, and providing support to conflict resolution efforts and supporting the sovereignties of newly independent states by being guarantors of democracy in the region."<sup>29</sup> Particularly, the US have other geo-strategic and geo-economic priorities such as "containing Iran's influence in the region" and promoting "American business interests and strategic plans."<sup>30</sup> US approach on legal issues in the Caspian region is rooted basically on these priorities. The danger of the possibility of proliferation of weapons of mass destruction and Central Asia's growing drug trade are also among US concerns. The United States gained access to this energy rich region of the world with the collapse of the Soviet Union. The initial US aim in

accessing the region was the belief that Caspian Sea presents good opportunity for America to diversify its source of supplies. After experiencing two oil shocks and also continuous instability in the Middle East have made US policymakers look for alternative sources of energy in the world. The forecasts about the big energy potential of the Caspian Sea have attracted American interests and the region has become lucrative for big American oil companies. Motivated by this goal the US companies have the biggest shares of investments in the Caspian today. Since the countries around the Caspian lacked infrastructure and market oriented investment environments, the next important US priority has been to initiate and support the democratization processes in this region. In this aspect Washington has tried to decrease these countries' dependency on Moscow to a minimum. Naturally, there has been a clash of interests with Moscow but American politicians have not necessarily perceived Russia as a rival in the region and attempted to cooperate and use Russian historical establishment in the region for the successful development of the hydrocarbon resources. As a result of such approach there are many projects today, which are being developed cooperatively with the Russians in the Caspian region.

Initial US support in early 90s for Azerbaijan and Kazakhstan for the median line principle came as a result of its interests given above. Further, the United States continued to object to the condominium approach because it was making Russia and Iran superior in the region. Because most of the oil companies operating in the region were American and the Iran-Libya Sanctions Act of 1996 was prohibiting US companies to trade with Iran, the Washington administration had another serious concern. In 2002 at the US-Azerbaijan Chamber of Commerce in Washington U.S. Deputy Secretary of State, Richard Armitage, expressed that “[the US] will not stand idly by and watch them [Iranians] pressure their neighbors [meaning Azerbaijan]”. It has also been added by US authorities that although a rapid resolution of the disputes among the littoral states is desirable, “the absence of the agreement will not hinder oil and gas development”.<sup>31</sup>

In particular, a US concern regarding the energy policy in the Caspian region has been the issue of Iran. Since there has not been any significant development that could initiate a rapprochement between Tehran and Washington, American policymakers have tried to keep Iran away from the major developments in the Caspian region. US oil companies could not cooperate and develop the Iranian portion of the Caspian Sea since the Iran Libya Sanctions Act (1996) prohibited these companies to invest in the Iranian economy. The major oil companies have for a long time pressured the White House for cooperation with Tehran in the energy field and in the field of transportation of the oil and gas resources through Iranian territory. Washington has opposed the Iranian route for the transportation of the Caspian reserves because of the Iran's

nuclear program and support for the instability in Middle East. Furthermore, Turkey the close US ally, in the Caspian region would be undermined in case of any possible rapprochement and cooperation between Washington and Tehran. The US has chosen Turkey as its main ally in this region and prefers future pipelines to pass through Turkish territories.

Having historical and ethnic ties with the region, Turkey, just after the Soviet collapse, sought to reestablish the relationship with the newly independent countries around the Caspian Sea. The Turkish business elite has massively arrived in the region and made significant investments in these countries. Since Turkey lacks energy resources and has to import the most of its energy needs the Caspian region has been viewed as a great opportunity in view of its geographical proximity. Significant US support behind Turkey has allowed it to take active part in energy projects here. Especially, Turkey supports western stance on legal issues and Caspian Mediterranean pipelines for the transportation of the energy resources. Hoping to become an “energy bridge” between Europe and Caspian Sea, Turkey is trying to increase its geopolitical role in the region.

## **Conclusion**

As it is seen in order to reach the compromise regarding the legal status of the Caspian it is not only required to get the consensus of all five littoral states but also other regional and global powers having potential to exert influence in the Caspian region.

After all, the Caspian’s legal status problem hides some significant geopolitical considerations. In an attempt to obstruct the arrival of the Western powers and investment to this region the Russian and Iranian sides for many years have acted together and held the same position on the legal status issue. On the other hand, the newly independent countries around the Sea have tried to settle the legal status issue in their own interest by getting away from Moscow-centered politics. Having the exclusive right to explore their oil and gas fields the Caspian states could have greater freedom to determine their oil future.

The legal status of the Caspian Sea needs to be resolved completely as soon as possible because the unresolved situation is a big obstacle on the way for international investment and full exploration of the energy fields. Azerbaijan, Russia and Kazakhstan should urge Iranian side to approach the legal status issue more constructively and observe the rules of international law regulating the delimitation of seabed. The working groups from Azerbaijan and Turkmenistan should intensify bilateral talks to resolve the disputed

issues regarding Kapaz/Serdar oil field. International community and also other littoral states of the Caspian should offer their assistance to settle down the differences between the two.

However, legal arrangements alone will not be sufficient to guarantee the future security of the Caspian Sea. The security of the pipelines, which will be constructed via the Sea can be best provided if all of the littoral states come to common base and settled their disputes regarding the region. US, Russia and Iran should formalize a trilateral working arrangement in order to solve the energy policy differences among them regarding the Caspian energy fields. Caspian energy must be seen as an opportunity to expand strategic petroleum reserves. In case such agreement could be reached the investment environment in this region would grow faster than now and the region could become an integral part of the global economy eventually.

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