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NEW GEOPOLITICAL REALITIES OF THE CASPIAN SEA REGION

Abstract

On August 12, 2018, the fifth summit of the Caspian Sea coastline states was held in the city of Aktau of Kazakhstan, where five Caspian Sea region countries – Azerbaijan, Turkmenistan, Kazakhstan, Iran, and Russia signed the convention on the legal status of the Caspian Sea. Following the collapse of the Soviet Union, for over two decades, the agreement on the legal status of the Caspian Sea had not been achieved between the Caspian Sea coastline countries. Determination of the legal status of the Caspian Sea depended on several difficulties. In particular, the diverse approaches and interests of these countries over the subject matter. The countries had different approaches to the delimitation of the sea and utilizing its resources. The absence of legal status made it impossible to implement multiple regional and global energy projects. The agreement, reached at the Aktau summit significantly changed the existing geopolitical situation of the Caspian Sea region (which implies central Asia and South Caucasus regions as well).

According to the convention, the countries are prohibited to deploy armed forces of the other non-regional states of the Caspian Sea, which portrays a highly important issue for Russia and Iran. The agreement gives the green light to the perspective of transporting energy resources from central Asian countries in the future. The issue's significance goes beyond the regional scale and represents a global one, as the energy resources present at the Caspian Sea and the region are alternative energy carriers for Europe.

The purpose of the article is to analyze the new reality created at the convention in Aktau and to determine to what extent does the achieved agreement impacts the geopolitical situation observed in the region.

Keywords: The Caspian Sea, legal status, Aktau summit, energy resources, region.

Introduction

The Caspian Sea region is located between Europe and Asia and has the perspective of arranging West-East and North-South communication corridors, which determines the global significance of the region (Latsabidze 2004, 89-100). The Caspian Sea region is connected to four geopolitical areas: to the East – Central Asia; to the West – South Caucasus; to the South – Iran; to the North – Russia (Latsabidze 2003-2004, 173-177). During the Soviet period, the Caspian Sea represented the internal reservoir of the Soviet Union, bordered by Iran to the south. The Status of the Caspian Sea was established by the Soviet Union and Iran as the internal reservoir and was acknowledged by the international commonwealth.

Determining the legal status of the Caspian Sea has become an issue since the collapse of the Soviet Union. The new reality emerged as new countries were formed – Azerbaijan, Kazakhstan, Turkmenistan, and the Russian Federation. Consequently, the need for delimiting the Caspian Sea between five countries (the above-indicated countries and the Islamic Republic of Iran) had emerged.

The legal definition of the Caspian Sea – whether it was the sea or the lake, was of serious concern, since different regulations would be necessary according to international law. While analyzing the Caspian Sea region, including South Caucasus and Central Asia, which is rich in energy carriers, it is important to thoroughly consider the legal status of the Caspian Sea and the balance of powers observed in the region. Interests of large players in the world such as the USA, EU, Turkey, China, Japan, etc. are high over this matter. These countries are engaged in the ongoing processes in the region.

This region is deemed as one of the alternatives for Russia in terms of providing energy resources to Europe. Supplying European markets with the energy resources from this region may reduce Europe's dependence on natural gas supplied by Russia. The advancement of energy independence of Europe and the necessity of developing the alternative energy markets makes this region even more important. This strategically important geopolitical crossroad, with its opulent energy resources, represents one of the distinguishing aspects of international relations in the 21st century.

Legal Status

Before August 12, 2018, the legal status of the Caspian Sea was determined by the Russo-Persian Treaty of Friendship signed on February 21, 1921, and the Treaty of Commerce and Navigation signed on March 25, 1940, between the Soviet Union and Iran. These agreements, which relied on the "common water" principle, ensured free navigation and fishing for the Caspian Sea countries (in the last case, less 10-mile fishing zone); however, navigating with the non-Caspian Sea countries flag was prohibited. The agreements did not regulate the issues of mineral mining, environment protection, and military activities. Furthermore, these agreements were not acknowledged by all newly established states. The Almaty declaration was drawn up in 1991. Kazakhstan, Azerbaijan, and Turkmenistan refused to acknowledge the legal force of the agreements processed between Iran and the Soviet Union in 1921 and 1940. The declaration mandated newly established coastal states to adhere to all agreements and covenants validated by the Soviet Union (The Alma-Ata Declaration 1991). From the point of their national interests, preserving the legal regime of the Caspian Sea was not acceptable to the above-indicated countries.

Since 1992, various approaches have been discussed to determine the legal regime of the Caspian Sea, mainly focusing on condominium and division regimes. Condominium regime implies that all resources existing in the Caspian Sea are common, and all five coastal countries should use jointly. Accordingly, all decisions on handling and utilizing Caspian Sea resources require the consent of all five states. Legal theories, whether the Caspian Sea is a sea, a lake, or condominium, represented the issue of dispute over the years. Acknowledgment of any of the concepts by the parties would result in regulation of the status of the Caspian Sea (Janusz-Pawletta 2015, 27).

A disagreement arose between the five Caspian Sea coastline countries over the issue of the Caspian Sea status: whether to consider the Caspian Sea a sea or a lake. If the Caspian Sea is a lake, according to the international law norms, the resources existing in its water area are evenly distributed between the coastal states. In the case of a Sea, territorial waters do not exceed 12 nautical miles. Accordingly, the approach of Caspian Sea coastal states regarding the status significantly differed from each other. On one hand, Russia, Azerbaijan, Kazakhstan alleged that the Caspian Sea is a sea and its status should be regulated according to the international maritime law, and, on the other hand, Iran and Turkmenistan considered that the legal regime of a lake should be applied to the Caspian Sea.

The main difficulty was the fact that there was no mechanism of dividing the Caspian Sea. Azerbaijan, Turkmenistan, and Kazakhstan supported the principle of dividing it along the median line; Iran believed that each country was eligible for an equal share (Behzadi 2010, 98-108). Also, there was the territorial/borderline disagreement between the countries, which also hindered the achievement of the consensus between the countries.

Bilateral and trilateral agreements were signed by Russia, Azerbaijan, and Kazakhstan in 1997, 1998, and 2001, and then later signed by Turkmenistan and Kazakhstan in 2014. This finalized the disagreements related to the seabed in the North Caspian Sea. The south part of the Caspian Sea was of major concern; there was a disagreement between Iran and Azerbaijan, Iran and Turkmenistan, also between Turkmenistan and Azerbaijan (Garibov 2019, 1-6).

Summits of the Caspian Sea Coastline Countries

The process of the official establishment of the legal status of the Caspian Sea began in November 1996, at a meeting of the Ministers of Foreign Affairs of the Caspian Sea coastline countries, held in the city of Ashkhabad, where the parties agreed to hold meetings in the five-party format (Warsaw Institute 2018, 1-17).

The process of the official establishment of the legal status of the Caspian Sea has started in parallel with drafting the framework document regarding the determination of the legal status of the Caspian Sea. Caspian Sea coastline countries continued working on various documents, which were designated for the regional cooperation in different directions. The first document adopted by five states

was the framework convention, which was signed in November 2003, in Teheran, at the so-called “Teheran Convention”.

The convention dealt with the environmental protection of the Caspian Sea. The agreement from the Teheran Convention was enforced on August 12, 2006.

The practice of calling summits of the Caspian Sea coastline countries originated in Turkmenistan. In April 2002, at Ashkhabad, the first summit of the Caspian Sea coastline countries was held, where the political agreements of the Caspian Sea coastline states were discussed – mainly focused on the Caspian Sea legal status, including the safety of the sea, etc. Accordingly, in October 2007, in Teheran, at the second meeting of the leaders of the Caspian Sea Coastline countries, the declaration of the Republic of Azerbaijan, Islamic Republic of Iran, Republic of Kazakhstan, Russian Federation, and Turkmenistan was signed.

The leaders of these countries signed an agreement at the third Caspian summit regarding cooperation in the field of Caspian Sea security and made the joint statement concerning the results of the summit.

At the fourth summit of the Caspian Sea coastline countries, held in September 2014, at the city of Astrakhan (Russia), a statement was signed addressing key action principles of the Caspian Sea. Also, the agreement on cooperation in the field of hydrometeorology of the Caspian Sea was signed at the summit along with the inter-governmental agreements, initiated by the President of Turkmenistan, at the third summit. Communiqué was developed upon the completion of the summit.

On August 12, 2018, in Aktau, at the fifth summit, the agreement determining the legal status of the Caspian Sea was signed. This agreement can be considered a historical event. Also, the agreements on transportation, trade, and economic cooperation, prevention of incidents, and the protocols related to agreements in the sphere of Caspian Sea security were signed at the summit (MFA of Turkmenistan 2019).

Aktau Summit

On August 12, 2018, leaders of the five Caspian Sea coastline states (Kazakhstan, Azerbaijan, Turkmenistan, Iran, and Russia) signed the convention determining the status of the Caspian Sea at the Caspian Sea summit held in Aktau. It could be stated that after almost two decades, the consensus was finally reached over the issue of the legal status of the Caspian Sea. According to the convention, the Caspian Sea surface remains in the use of the parties. The seabed and the soil are divided into sectors: internal waters, territorial waters (width 15 nautical miles, which falls under the state sovereignty); fishing zones (width 10 miles; in this area, the states have special rights of fishing); common maritime space. The parties can build underwater cables and trunk pipelines at the seabed, if the projects meet the ecological demands and standards of the international agreements, to which the member countries signed, including the framework agreement, regarding the protection of the Caspian Sea environment. Underwater cables and pipeline routes are established with the participation of the party at whose bottom sector the subject lines must pass. According to the convention, the presence of non-regional military forces at the Caspian Sea basin is not allowed. All five states assume responsibility for security. According to the achieved agreement, navigation, fishing, scientific research, and pipeline construction should be carried out according to the regulations agreed by the parties.

When exercising large scale projects, ecological factors should be taken into consideration, furthermore, the responsibility for the damage incurred to the ecosystem is assumed by all states. The Convention reckons the Caspian Sea as the reservoir, which is surrounded by the terrain. The Caspian Sea is not considered either a sea or a lake. The Convention is subject to ratification. The instruments of ratification shall be deposited with the Republic of Kazakhstan acting as the Depositary of the Convention. This Convention shall enter into force on the date of the receipt by the Depositary of the fifth instrument of ratification (Convention on the Legal Status of the Caspian Sea 2018).

Results of Aktau Summit

The enforcement of the convention signed by all five Caspian Sea coastline countries in Aktau, in 2018, depended on the ratification of the parliaments of the participant countries, making way for new advancements. The convention is especially important in terms of exercising energy projects.

Establishing the status of the Caspian Sea has a significant impact on the construction of pipelines, by which oil and natural gas will be exported to Europe from Central Asia (Coffey 2016, 1-5).

Trans-Caspian Pipeline is one of the outstanding projects in this regard. Through this pipeline, 30 billion cubic meters of natural gas will be delivered from Turkmenistan, via Azerbaijan, Georgia, and Turkey (by already existing pipelines) to Europe.

Another important issue is not allowing the deployment of non-regional states' armed forces at the sea. This may play a decisive role to form Iran's and Russia's positions. This issue is highly important for Russia and Iran due to their antagonistic attitude towards NATO and the USA.

Although the Aktau convention could be deemed as the end of negotiations held over decades concerning the legal status of the Caspian Sea, yet it is not clear to what extent is the adopted convention effective in terms of regulating the disputable issue between the coastline countries. In the Southern part of the Caspian Sea, the issue of delimiting the seabed boundaries is not solved yet; ultimately, the agreement has become the subject of disputes in Teheran. Critics view this agreement as an example of the domination of Russia's foreign policy in the region (Vatanka 2019, 1-3).

After signing the Aktau Convention, on August 23, 2018, the Ministry of Foreign Affairs of Iran made statements concerning the agreement reached in Aktau. According to the representative of Iran's Ministry of Foreign Affairs, the share of each country has not been discussed at the Aktau summit, and the convention which was signed on August 12, 2018, in Kazakhstan did not cover the issue of the seabed shares of the states (Iran Press 2018, 1-5).

Following the agreement reached in Aktau, the President of Iran, Hassan Ruhani, stated that despite the achieved agreement, delimitation of the seabed, which has caused multiple disagreements, requires additional agreement between the coastline states (Auyezov 2018, 1-8). Accordingly, the ultimately adopted document determines the principles of peaceful coexistence and cooperation of the coastline countries. Convention was also supposed to determine maritime boundaries, which represented the most disputable matter. The Convention does not determine accurate boundaries; however, it sets forth the regulation for their establishment.

This is the so-called 15-mile maritime zone (which counts from the coastline) external boundary of which will be deemed as the state border (Karazhanov 2019, 1-5). Accordingly, the official position of the Islamic Republic of Iran shows a different approach to the number of issues, which, to a certain extent, is expressed in the absence of consensus over the issue of delimitation of the boundaries.

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