

Caspian Sea Convention: The Reasons behind Iran's Landmark Agreement

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ABSTRACT

On August 12, 2018 Russia, Kazakhstan, Turkmenistan, Azerbaijan, and Iran reached an agreement on the legal status of the Caspian Sea, facilitating new oil and gas extraction and pipelines. The dispute was settled referring to the Caspian as a sea (not a lake) with "a special legal status". The reason behind the prolongation of the sign for more than two decades was mainly Iran's firm stance on division of Caspian Sea to five equal parts which was opposed by four other littoral states. This paper argues that the decisive factor in determination of the status of Caspian Sea was Iran's formal abandonment of its position on equal partition of Caspian Sea which enabled the Aktau agreement (Kazakhstan) and indicates the crucial changes Iran's foreign policy. The Aktau agreement has clearly demonstrated that at present Iran gives priority to security and geopolitical issues more than mere economic gains.

Keywords: *Iran, Russia, Central Asia, Caspian Sea, Caspian Sea convention, Security*

INTRODUCTION

The 640 miles long and 270 miles wide Caspian Sea is the world's largest inland body of water (more than 40 percent of the world's inland waters),¹ which bridges Asia and Europe and has reserves of oil and gas as well as being a habitat for sturgeon. It has five littoral (coastal) countries – Russia, Azerbaijan, Iran, Kazakhstan, and Turkmenistan. In terms of the length of coasts (median line), Iran has the smallest share - around 13%- of the Caspian Sea, Russia and Azerbaijan each own around 20%, Kazakhstan around 30% and Turkmenistan around 17 % of the Caspian Sea.²

The Caspian Sea region is one of the oldest oil-producing areas in the world and is an increasingly important source of global energy production. According to EIA, the region contains 48 billion barrels of oil and 292 trillion cubic feet of natural gas in proved and probable reserves in the wider Caspian basins area, both from onshore and

offshore fields.³ The nations in the Caspian region—notably Azerbaijan, Kazakhstan, and Turkmenistan, and to a lesser degree Russia, Iran—are believed to be sitting on what amounts to 10% of the earth's potential oil reserves.⁴ Azerbaijan possesses the world's 27th largest natural gas reserves, while Caspian neighbor Russia ranks number 1, followed by Iran at number two and Turkmenistan at number six, and Kazakhstan at 15.⁵ In general, the bulk of offshore oil reserves are in the northern part of the Caspian Sea, while the biggest quantity of offshore natural gas reserves is in the southern part of the Caspian Sea.⁶ None of these treaties established any maritime boundary between the two states.⁷

¹<https://www.eia.gov/beta/international/regions-topics.php?RegionTopicID=CSR>

² <http://www.payvand.com/news/18/oct/1075.html>

³<https://www.eia.gov/beta/international/regions-topics.php?RegionTopicID=CSR>

⁴<https://www.infoplease.com/science-health/energy/oil-caspian-region>

⁵<https://www.cia.gov/library/publications/the-world-factbook/rankorder/2253rank.html#aj>

⁶<https://www.eia.gov/beta/international/regions-topics.php?RegionTopicID=CSR>

⁷ idem



Source: U.S. Energy Information Administration.

Fig1. Caspian region oil and gas infrastructure.

Although the only geographical zone that was defined as controlling the use of resources was the right of each state to fish in its coastal waters up to a limit of 10 nautical miles,⁸ yet even this zone was not defined as a fisheries zone or a territorial sea under law. None of these agreements referred specifically to division of rights to exploit resources in the seabed.

In the 1950s, the Soviet Union delimited certain sectors of the Caspian Sea as falling under the jurisdiction of different of its constituent union-republics.⁹ This was done mainly for the administrative purpose of determining which bureaucracies were responsible for resource exploration and exploitation in which sections of the sea.¹⁰

After the collapse of the Soviet Union, along with newly emerged Russian Federation, three other former Soviet republics - Kazakhstan, Azerbaijan and Turkmenistan - gained independence. In negotiations with post-Soviet nations, Iran and Russia were set for the Caspian Sea to treat a shared one and common ownership was strongly

advocated by both states (Zimnitskaya, Geldern, 2011).

According to a document signed at a CIS summit on March 20, 1992, “The states participating in the CIS (Commonwealth of Independent Countries) guarantee the fulfillment of international obligations arising from treaties and agreements of the former USSR”.¹¹ This bound the successor states to respect the terms of the 1940 treaty.

The problem is that the treaty did not take into account the existence of five littoral states. Hence, newly-independent Azerbaijan, Kazakhstan, and Turkmenistan challenged the legal validity of the Caspian treaties under the 1978 Vienna Convention on Succession of States in Respect of Treaties. Given these facts, in late 1994 Russia proposed another arrangement. It would have provided for a 20-mile “zone of influence” for each coastal state and the establishment of a condominium-like (i.e., “joint rule”) governing board.¹² Obviously, Azerbaijan and Kazakhstan, the two countries with the most important oil reserves, did not like this proposal.

⁸ idem

⁹ http://www.robertcutler.org/blog/2001/08/renewed_conflicts_in_the_caspi.html

¹⁰ idem

¹¹ http://www.robertcutler.org/blog/2000/08/developments_in_the_evolution_c.html

¹² idem

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Table1. The major oil and gas fields in the Caspian Sea

| Oil and Gas fields | Country | Ownership |
|---|--|---|
| Tengiz (Discovered in 1979) the huge onshore oilfield is located in western Kazakhstan, along north-eastern shores of the Caspian Sea. | Kazakhstan | Owned and operated by Tengizchevroil (TCO), a joint venture between Chevron (50%), KazMunayGas (20%), ExxonMobil Kazakhstan (25%) and Lukoil (5%). |
| Kashagan (discovered in 2000)has been described as the largest field found in the past 30 years, the largest outside of the Middle East, with a projected output close to that of the Ghawar field in Saudi Arabia | Kazakhstan | Shell (16.81%), Exxon Mobil (16.81%), Total (16.81%), China National Petroleum Corp (CNPC-8.33%, which was acquired from ConocoPhillips for \$5bn in 2013), Kazakh state-run oil company KazMunaiGas (16.81%), INPEX (7.56%) and Agip KCO (Eni) (16.81%). |
| Korchagin (discovered in 2000)oil and gas field located in the North Caspian Sea, approximately 180km off the Coast of Astrakhan city, Russia at a sea depth of 11–13 meters. | Russia | Owned and operated by Lukoil |
| Filanovsky (discovered in 2005)is the largest oil field in the Russian sector of the Caspian Sea | Russia | Owned and operated by Lukoil |
| Shah Deniz (discovered in 1999)is a largest gas field in Azerbaijan, situated in the South Caspian Sea, off the Azerbaijan shore, Approximately 70km south-east of Baku and lies in water depths ranging from 50m in the north-west, to 600m in the south-east. A founding link of Southern Gas Corridor | Azerbaijan | BP, with a share of 25.5% in the project, is the operator and other partners are StatoilHydro with 25.5%, Socar, LUKOIL, TOTAL and NICO with 10% each and TPAO with 9%. |
| Azeri–Chirag–Gunashli (ACG) (Discovered in the early 1970s) located about 100km east of Baku is the largest oilfield in the Azerbaijan sector of the Caspian basin | Azerbaijan | BP with 35.78% of stakes, SOCAR (11.64%), Chevron Corporation (10.28%), Inpex (10.96%), Statoil (8.56%), ExxonMobil (8.00%), TPAO (6.75%), Itochu (4.3%) And ONGC Videsh (2.72%). |
| Serdar/Kapaz (discovered in 1989)estimated to contain 50 million tons of oil | Disputed Between Azerbaijan and Turkmenistan | Azerbaijan and Turkmenistan have refrained to start the exploration and production till the settlement of the Caspian seabed |
| Cheleken Contract Area (discovered in 1966-67)consists of two offshore oil and gas fields, Lying in water depth between 8m and 42m in the eastern section of the Caspian Sea, offshore Turkmenistan. | Turkmenistan | Dragon Oil holds a 100% operatorship in the Cheleken Contract Area. |
| Sardar-e Jangal (Discovered in 2012) oil field located in 700m water depth; it began production in 2012 and has Total proven reserves of around 50 trillion cubic feet. | Iran (Azerbaijan has claims) | National Iranian Oil Company (NIOC) |

Only Iran supported Russia's 1994 proposal in the beginning, and indeed this support was only rhetorical, since Iran did not hesitate to explore unilaterally its own Caspian shelf.¹³ Russia changed its position in December of 1996, when it called for a 45-nautical mile exclusive national zone, beyond which a joint-use zone in the centre of the Caspian would be regulated by an interstate committee to license exploration.¹⁴ In addition, Russia also called for a joint

corporation of the littoral states to exploit the resources, joint navigation rights, joint management of fisheries and environmental protection.

Iran implicitly supported this position while Azerbaijan rejected it. Kazakhstan continued to support Azerbaijan's position on national sectors but agreed on the cooperation on the issues of environment, fishing, and navigation. Originally, Turkmenistan supported Russia's proposal for a 45-mile nautical zone, but later in February of 1997 it signed a statement with Kazakhstan calling for the Caspian Sea to be divided into

¹³ idem

¹⁴ idem

national sectors according to Soviet-period administrative divisions. After a dispute with Azerbaijan over a field called Serdar/Kyapaz, Turkmenistan's position changed again.

Indeed, Russia's ever changing position was also the reflection of the internal disagreements and opposing views between different ministries. In the early 1990s, the Russian Foreign Ministry's preference for regarding the Caspian as an inland lake conflicted with the Russian Fuel and Energy Ministry's permission given to LUKoil (Russian multinational energy corporation) to participate in the consortium to develop certain offshore Azerbaijani fields - and also with its support for the BP-led exploration of the Caspian seabed off Kazakhstan.¹⁵

When Azerbaijan signed important oil contract with leading Western energy (BP, Exxon, Pennzoil, Amoco, Unocal, McDermott International, Ramco, and Statoil) companies in 1994 ("Contract of the Century")¹⁶, LUKoil was among signatory's getting 10% in it. Moreover, in 1993 LUKoil also became a shareholder of the world's deepest supergiant oil field and the largest single-trap producing reservoir in existence called Tengiz located in Caspian shore of Kazakhstan. However, in 40-year arrangement deal, the bulk of the shares again went to Western oil giants as Chevron (50%), Exxon Mobil (25%), while LUK oil retained only minor share (5%). In the meantime, LUK oil's agreement with Azerbaijan and Kazakhstan damaged the Russian diplomatic position on the Caspian Sea temporarily, creating difficulties for Russian negotiators. Faced with independent energy policies of Caspian States and the loss of valuable petroleum resources and its virtual diplomatic monopoly on the territory of the former Soviet Union, Russia was compelled to adopt a new strategy of signing bi-lateral agreements with the newly independent states bordering the Caspian (Zimmitskaya, Geldern, 2011). Soon Russia, Kazakhstan and Azerbaijan - effectively split the northern Caspian between each other using median lines. In 1998 Kazakhstan and Russia agreed on the division of the seabed in the Northern Caspian, while the same agreement was signed between Kazakhstan and Azerbaijan in 2001.¹⁷ In addition, the agreement on the delimitation of the seabed between Kazakhstan, Azerbaijan and Russia was

achieved in 2003. Instead of radically defending its argument like Iran, Russia simply signed the bi-lateral treaties, thus adopting a step by-step approach while also trying to settle disputes over offshore oilfields. Although these agreements allowed passing some offshore projects such as the Kashagan oil field off Kazakhstan's coast, the disagreement over the sea's legal status has prevented some other projects (e.g. Trans-Caspian Pipeline) from being implemented.

Russia, in fact, by signing the above bilateral contracts violated the joint ownership agreed upon with Iran and the case ended in Tehran's detriment.¹⁸ It led to Iran's protest maintaining that because both countries enjoy the joint ownership of the Caspian Sea, then any decisions have to be taken jointly in this regard. Under Mohammad Khatami, the then president of Iran, it was proposed that the Caspian Sea be divided equally having 20% share by each coastal country, but the four other states did not accept the offer, after which Iran declared that it will not allow any interference by other countries in 20% of its adjacent waters. Since that time, Iran has emphasized its 20% share, but Azerbaijan and Turkmenistan were dissatisfied with this situation, making it a dispute and the disagreement continued until this year. The diplomatic negotiations between five states lasted for two decades, comprising 51 working groups, more than a dozen meetings between foreign ministers, and four presidential summits.¹⁹ The leaders of the five countries met for the first time in 2002 in Ashgabat (Turkmenistan). The second Caspian summit was held in Tehran (Iran) in 2007, the third one in Baku (Azerbaijan) in 2010, and the fourth summit - in Astrakhan (Russia) in 2014.²⁰ After two decades of diplomatic efforts, the presidents of the five states inked a landmark convention on the legal status of the Caspian Sea on September 12th 2018 at the 5th Caspian Summit in the Kazakh city of Aktau predicated on "shared usage".²¹

¹⁵ http://www.robertcutler.org/blog/2000/08/developments_in_the_evolution_c.html

¹⁶ <http://www.visions.az/en/news/206/1ee04b7e/>

¹⁷ <https://www.pravda.ru/authored/06-12-2017/1358605-kaspiy-0/>

¹⁸ <https://www.tehrantimes.com/news/429319/Legal-framework-of-the-Caspian-Sea-and-the-interests-of-Iran>

¹⁹ <https://www.independent.co.uk/news/world/europe/russia-says-deal-to-settle-status-of-caspian-sea-reached-a8486311.html>

²⁰ <https://www.azernews.az/nation/135271.html>

²¹ <https://www.forbes.com/sites/gauravsharma/2018/08/13/what-does-caspian-seas-new-shared-usage-convention-hold-for-oil-and-gas-exploration/#3f8424bf2043>

This became possible as Iran for the first time formally accepted the joint ownership of everything in the Caspian Sea but the sub-seabed tacitly.²² Prior to the Aktau agreement, when Iran had any disagreement over the Caspian Sea, it relied on both historical background and the 1921 treaties with Russia and 1940 treaties with the Soviet Union. Iran has always put emphasis on this historical background making its status one of two historical claimants of the Caspian Sea.²³ Iran ignored these two historical contracts in Aktau convention by giving them up in its text.²⁴ The Caspian Sea convention has been drawn up in 24 articles²⁵ and settles a long dispute over whether to consider the water body a sea, which would make it accessible by outside countries, or to consider it a lake, which would require dividing it equally among its five littoral nations. The dispute was settled referring to the Caspian as a sea (not a lake) with “a special legal status”. The Caspian Convention determines a 15-mile territorial Sea for the littoral states and a 10-mile exclusive fishing zone for the littoral states while leaving the superjacent waters of the Caspian Sea out of the national territories for the “common use” of the littoral states.²⁶ In addition, the littoral states are free to lay submerged pipelines without the need to get approval of others. The Convention keeps most of the sea in shared use while dividing up the seabed and underground resources.

However, carving up the seabed resources in the southern part of the Caspian Sea is still the subject of further negotiations as except for Iran the other four countries agree on dividing the basin by a line equidistant from the five coastlines. Iran, who ended up with the smallest share of the sea under the terms of the convention, is viewed as a potential loser in the deal.

President Rouhani of Iran, admitting the huge progress and achievement, added that after 20 years of negotiations, only 30 per cent of the Caspian Sea issues have been solved and negotiations still continue.²⁷ According to

President Rouhani, in the southern part of the sea, there are still issues between Turkmenistan, Iran and Azerbaijan.²⁸

Until recent days, the future of the proposed Trans-Caspian Pipeline from Turkmenistan to European market through Azerbaijan that would bring Turkmen gas to European markets was murky. Russia²⁹ and Iran³⁰ both were strongly against the Trans-Caspian pipeline.

But now the pipeline project gains a clearer outline as new agreement states that pipelines only require the consent of the affected states.³¹ Iran accepted the crossing of the pipeline and energy transmission through the Caspian Sea in the Aktau agreement.³²

The littoral states can lay underwater cables and pipelines along the bottom of the Caspian Sea, subject only to the agreement of those states whose sectors the pipelines or cables will pass through.³³ Moreover, Iran was able to secure a provision in the draft agreement forbidding the presence of armed forces from non-littoral states on the Caspian Sea. The ban of the presence of foreign vessels in Caspian Sea by five countries was dubbed as “great national security achievement” by President Rouhani of Iran.³⁴ The agreement also forbids any of the signatories from letting their territory be used as a base for an attack on another signatory. Since Azerbaijan has shown interest in seeing U.S. navy in the region (Namazi & Farzin, 2004), it was Iran's primary concern to contain American presence in the Caspian.

In line with Rocca (2016), in this article states are considered as the main actors at play and adopt a geopolitical perspective on Iran's foreign policy principles which sees the processes unfolding in the greater Eurasian space as a

²⁸ idem

²⁹ <https://www.trend.az/business/economy/2404254.html>

³⁰ Sergei Zhil'tsov “Transkaspiskii proekt,” *Nezavisimaia Gazeta*, 15 May, 2012

³¹ <https://www.forbes.com/sites/gauravsharma/2018/08/13/what-does-caspian-seas-new-shared-usage-convention-hold-for-oil-and-gas-exploration/#47d933cc2043>

³² <https://theiranproject.com/blog/2018/11/07/legal-framework-of-caspian-sea-and-interests-of-iran/>

³³ <https://www.strategyculture.org/news/2018/08/13/caspian-sea-convention-signed-open-new-prospects-for-region.html>

³⁴ <https://en.mehrnews.com/news/136792/Iran-received-special-privileges-in-Caspian-Sea-Convention-Pres>

²² <https://en.mehrnews.com/news/139366/Legal-framework-of-Caspian-Sea-and-interests-of-Iran>

²³ <https://theiranproject.com/blog/2018/11/07/legal-framework-of-caspian-sea-and-interests-of-iran/>

²⁴ idem

²⁵ <https://www.presstv.com/Detail/2018/08/12/570966/Caspian-legal-status-convention-presidents-Aktau-Zarif>

²⁶ <http://www.payvand.com/news/18/oct/1075.html>

²⁷ <https://en.mehrnews.com/news/136792/Iran-received-special-privileges-in-Caspian-Sea-Convention-Pres>

geographical and resources-driven one. In contrast to the popular interpretation of Iran's foreign affairs values as ideologically driven, this article considers religion as only one of the Iran's many foreign policy drivers and it is not considered as the most important one. Indeed, geopolitical factors — proximity to the European continent on one side and to the Indian subcontinent and the Russian territory on the other; accessibility to seas; the possession of consistent reserves of gas and oil; the fact of being the Central Asian corridor's terminal in the Eurasian continent — represent the main determinants of Iran's foreign policy (Rocca, 2016).

The Changes in Foreign Policy Values of Iran

As a matter of fact, the Iranian part of the Caspian Sea (almost 13 percent of the Caspian Sea) in terms of resource potential, are largely unexplored and underdeveloped.³⁵ Even if new and economical resources of oil and gas are found in this sector in future, as the Iranian part of Caspian Sea is deep, their exploration and exploitation requires high investment and technology. Iran has none of them in the proper level now and given the US withdrawal from Iran nuclear deal³⁶ and escalating economic sanctions, it unlikely to happen in near future. Again, if it has any of them, it would be easier and more profitable for Iran to use them in other places (such as the Persian Gulf) so Caspian Sea has not high economic priority for Iran. Iran is not under economic pressure to resolve the boundary issue because it has greater sources of oil and gas elsewhere on its territory and in the Persian Gulf.³⁷

At the same time, since the collapse of Soviet Union, Iran saw the development of relations and regional cooperation with Central Asia as a means of reducing its international isolation in the face of continued American hostility. If the Middle East is seen as the place of Iranian misadventure, then Central Asia is the place where the Islamic Republic shows its pragmatic streak (Wastnidge, 2016). During the Mahmoud Ahmadinejad presidency (2005-13), Iran adopted *Look East*

approach to foreign policy aimed at consolidating Tehran's ties with non-Western countries. The primary goal was escaping the isolation resulting from its ever-deteriorating relations with the United States and European nations.

That said, for long time Iran had held a firm stance regarding the Caspian Sea issue and couldn't accept the terms of other four nations including the Central Asian countries which have demonstrated the superficiality of the *Look East* policy. While conflicts between Iran and the US are still widespread and peaceful solutions for removing the conflicts are not so promising, adding on the US withdrawal from Iran nuclear deal³⁸ the possibility of confrontation is growing. Thus, it seems that now while continuing to work with the European Union to keep the 2015 nuclear deal alive and find ways to circumvent the new wave of US sanctions, Iran is developing a more targeted *Look East* approach, trying to strengthen its ties with the "Eastern powers," not necessarily any state with an anti-US orientation. In line with this approach, Tehran hosted meeting among national security and deputy national security advisers from China, India, Russia and Afghanistan on Sept. 26, 2018 to which it later referred as the first Regional Security Dialogue.³⁹

In fact, the successful determination of legal status of Caspian Sea Convention is another sign of practicality of Iran's updated *Look East* approach. Iran remains mindful of Russia's position in the Caspian Sea and the assertive stance of Russia on this issue to which the other three countries subscribed was also the key determinant in resolving the long-lasting dispute. In the light of the Russia–Azerbaijan–Kazakhstan agreements, it could be argued that Iran found itself isolated, as Turkmen support cannot always be counted on due to that country's historically vacillating position on the issue (Wastnidge, 2016). Turkmenistan's position indeed has changed several times during the negotiations regarding the legal status of the Caspian Sea.⁴⁰

The mutual understanding of Iran and Russia regarding the Caspian Sea issue is an outcome

³⁵ Gawdat Bahgat, "Prospects for energy cooperation in the Caspian Sea," *Communist and Post-Communist Studies*, 2007, 40 (2): 157–168 (160), <https://doi.org/10.1016/j.postcomstud.2007.03.006>.

³⁶ <https://www.npr.org/2018/05/08/609383603/trump-u-s-will-withdraw-from-iran-nuclear-deal>

³⁷ David N. Griffiths, "What's in a Name? The Legal Regime in the Caspian Sea (or Lake)," in *Ocean Yearbook 23*, ed. Aldo Chircop, Scott Coffen-Smout, Moira McConnell (Leiden, Netherlands: Brill, 2009), 161–192 (177).

³⁸ <https://www.telegraph.co.uk/news/2018/05/08/donald-trump-announces-decision-iran-nuclear-deal-live-updates/>

³⁹ <http://www.iras.ir/www.iras.iren/doc/note/3746/iran-look-east-policy-2-0>

⁴⁰ http://www.robertcutler.org/blog/2000/08/developments_in_the_evolution_c.html

of their military alliance coupled with their close partnership in Syria.⁴¹ The success of the Astana Peace Talks (Kazakhstan) in bringing real change to the Syrian situation in a way that meshes with Iran's basic interests has led Iran to the conclusion that "security multilateralism" could be an effective way to overcome the most-pressing regional issues while legitimizing Iran's regional role and influence.⁴² In fact, the Astana agreements have legitimized Iran's presence in Syria via the "de-escalation zones" agreement endorsed by the United Nations.⁴³ The Astana framework has also led to a greater degree of cooperation among Iran, Russia and Turkey.⁴⁴ The developing relations between Iran and Russia along with Central Asian states are not restricted to military cooperation. Iran has just signed an agreement to enter a three year provisional free trade agreement with the Eurasian Economic Union (EAEU) which is also a Russian-led organization including Central Asian states⁴⁵. Given the vulnerable and deteriorating economic situation and further American sanctions, Iran needs to diversify its markets and EAEU is significant market for Iranian export companies.

CONCLUSION

In light of these events, Iran attaches the highest priority to its survival and is more concerned about the military-security issues in the Caspian Sea, rather than resources in the seabed or even Iran's share of the whole area.

Iran is wary of Azerbaijan, allowing American firms into an area that is not yet fully demarcated. Indeed, Azerbaijan was the leading actor amongst Caspian littoral states to invite Western interests in the region. Thus, Iran has been using every legal and political occasion, to block the presence of non-littoral states, especially the US, in the Caspian Sea, with the cooperation of Russia who shares its concern. Iran and Russia have used all meetings of the Caspian littoral states in the last twenty years or so to put pressures on the other Caspian states to keep the West out of the region.

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⁴¹ <http://www.iras.ir/www.iras.iren/doc/note/3746/iran-look-east-policy-2-0>

⁴² Idem,

⁴³ idem

⁴⁴ idem

⁴⁵ <http://greater-europe.org/archives/5091>