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Legal Status of the Caspian Sea: History and Present

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Abstract. At the present stage one of the unsolved problems in interstate relations of Caspian bordering countries is defining international-legal status of the Caspian Sea. It is noted in the article that this problem is not a new one. First of all, it is concerned with rich oil fields and other minerals and also with convenient geopolitical and geostrategic position. The only way to worry out the international-legal delimitation of the Caspian Sea problem is a negotiating process. By now, despite certain disagreements on legal status of the Caspian Sea, five Caspian bordering countries managed to achieve certain progress, admitting the possibility of applying the principle of sectoral sectioning of the Caspian Sea.

Keywords: status of the Caspian Sea; division of the Caspian Sea ground; Caspian bordering countries.

Introduction. Over the last years there were a lot of articles about the oil of Caspian Sea region in the world press. The value and role of the Caspian Sea region oil has sharply increased in world politics and international relations. It compelled attention of almost all the advanced countries of the world.

The Caspian Sea region draws attention of the world political and industrial elite at the present stage, first of all, because of revealed and anticipated resources of raw hydrocarbons - oil, gas-condensate and natural gas. There were a lot of international projects, concerning development of oil and gas deposits and its transportation. And it is in turn can lead to wide international cooperation or to contention and confrontation between the states.

In this regard, in recent times there was a problem of differentiation of Caspian Sea. The Caspian Sea is the biggest among "closed" seas. 4 % of world resources of oil or about 40 billion barrels concentrated in its bowels [1]. That's why it is obvious that the Caspian Sea zone and near-Caspian territories draw attention with its rich hydrocarbon reserves.

Materials and methods. Theoretical materials of the study were the works of the leading Kazakhstani and foreign political scientists, comments and expert evaluations on the problems of the Caspian region.

The methods of the research include: theoretical analysis of systemic-structural, to historical-legal, comparative analysis of the results of studies conducted by other authors on the issues close to the developed problem.

Discussion. If you look through the history of this region, it is worthwhile noting that the Caspian coast was occupied from time immemorial. In the ancient time the Massageteans, Sarmatians, Huns, Bulgarians, Pincenates, Cumans, Khazars, Golden Hordeans inhabited this place [2]. But these people have not left any material assets after themselves, and didn't create their own Caspian civilization and it in a great measure predetermined its further destiny. The Caspian Sea got its first name in XVI century [3]. This region drew attention of different countries from ancient times. As it is known, in 760–761 years southern Caspian Sea was conquered by Abbasids, and practically up to 1722 the region was under the influence of Persia. In the beginning of the XVIII century Peter I as a result of the Persian campaign of 1722-1723 regained the Caspian Sea from Persians. On 1 January, 1732 Persia and Russia entered into the Reshtsky Agreement on

cooperation concerning the Caspian Sea, defined a freedom of commerce and navigation on the Caspian Sea [4].

In the beginning of the XIX century Russia, Great Britain, France and Germany tried to confirm its domination on the Caspian Sea. Iran had to accept the presence of Russia and western powers in this region. In 1801 Iran entered into agreement with Great Britain according to which the latter promised them military help in case of a confrontation. This document prompted Iran to strain the relations and unleash the war against Russia.

The status of the Caspian Sea started to develop during this period when the Caspian Sea became the reason for opposition between Russia and Persia, and also between Russia and Great Britain for possession of the near-Caspian territory, and the Caspian Sea as well.

On February, 28th, 1921 Iran and Soviet Russia entered into the agreement, according to which Iran got back certain rights on using the Caspian Sea and the possibility of establishing commercial relations with the Soviet republics of the Central Asia and Transcaucasia. The second document mentioned during the discussion of the problem of dividing of the Caspian waters, - the Soviet-Iranian treaty of 1940. According to this document, «vessels of both countries can freely move and come into all ports of two countries». The treaty of 1940 developed the principles proclaimed in the treaty of 1921 and in all subsequent agreements and underlined that only the ships belonging to two coastal countries, have the right to float across the Caspian sea [5].

After the collapse of the USSR instead of two former countries (the USSR and Iran) there appeared five countries which have territorial problems with each other. Azerbaijan, Kazakhstan and Turkmenistan demand to revise the status of the Caspian Sea. In this regard it was necessary to define the legal status of the Caspian Sea and differentiate the spheres of jurisdiction for such spheres, as navigation, fishery, use of sea-bottom, its bowels and preservation of the environment [6].

To solve these problems first of all it is necessary to define the international legal status of the Caspian Sea. At the moment there are three points of view on this problem. The first one says that the Caspian Sea is a sea, hence, it can be divided by a principle of a median line which divides fifty-fifty areas of the opposite states. The second point of view consists in that the Caspian Sea is a «boundary lake» of the adjacent states, and it is divided on sections where the sovereignty of the coastal states extends. According to the third point of view the Caspian Sea is an international water pool belonging simultaneously to all near-Caspian countries which can maintain resources of the Caspian Sea in common [7]. At the moment each of the countries has adherence to this or that point of view.

The Republic of Azerbaijan considered that the process of delimitation of the Caspian Sea must be made on the basis of norms and principles of international law and by principle of median lines. At the same time, heads of Azerbaijan made efforts to consider the Caspian Sea as an international lake without an exit to World Ocean, and its resources, such as water, bowels and air space should be divided between the Caspian bordering countries depending on extent of their coastal lines. Kazakhstan defends the compromise position based on extending of separate positions of the Convention of the United Nations on a marine law of 1982, considering the Caspian Sea as a uniform ecological system. The bottom and bottom resources should be delimited between all Caspian states which possess exclusive rights on investigation and working out of mineral resources, a lining of pipelines and cables in the economic zone. Considering that the maximum width of the Caspian Sea does not exceed 200 nautical miles, external borders of exclusive economic zones will pass on a median line, equidistant from coast of the opposite states. Lateral borders are established from the point of the termination of overland border on a straight line, perpendicular to the above-named median line. The oil companies of the Caspian states can participate in mining in an exclusive economic zone of other state under general conditions. This position should not mention already existing consortia. As to living resources of the sea, using waters of Caspian Sea from the position of navigation, fishery, ecological cooperation etc., Kazakhstan is ready on the widest compromises up to a condominium, i.e. joint possession. This means that each Caspian state will possess the maritime belt, the coordinated width the fishing zones which are under their national jurisdictions. Other part of the sea and its surface will be opened only for vessels of the coastal states for free navigation, fishery on the basis of the coordinated quotas. The air space over the sea for flight of aircrafts on the coordinated routes will

also be open. The midland Caspian states should have the right to use the Russian waterways, on the basis of separate agreements with Russia, for an exit to other seas and the World Ocean.

Turkmenistan, owing to its relatively stable political development, has declared that it abstains from joining any political, economic or military structures in the region. As a whole, Turkmenistan together with Iran adheres to a position that Caspian Sea is a lake and should be in the general use. Also Iran openly declares that 20 % of water territories of Caspian Sea belong to it and the others 80 % should be divided among Kazakhstan, Azerbaijan, Russia and Turkmenistan. Russia offered a stage-by-stage way of disentangling of the Caspian problems and declared the division of the Caspian Sea into national sectors which are fixed to the corresponding coastal states. Thus on national sectors the bottom shares, and the surface remains in the general using [8].

It is necessary to note the high degree of multilateral cooperation of all Caspian bordering countries. So, on 16-17 May, 1995 in Almaty, the arrangement on creation of constantly operating talk-back mechanism concerning legal status of Caspian sea in the form of the working groups, headed by heads of legal services of the Ministries of Foreign Affairs of Azerbaijan, Iran, Kazakhstan, Russia and Turkmenistan was reached.

One of the powerful steps on the way to settle disputes in the Caspian region became the Teheran summit of presidents of Azerbaijan, Iran, Kazakhstan, Russia and Turkmenistan which took place on 16 October, 2007. Despite the fact that legal status of the Caspian Sea was not defined yet, strategic positions of the countries have not changed, it was possible to coordinate basic world outlook positions. And the most important thing that all five countries of region have incurred the obligation under no circumstances not to allow other states to use the territories for fulfillment of aggression and other military operations against any of the near-Caspian countries. The near-Caspian states have declared that only they have the sovereign rights to the Caspian Sea, and in vessels can float exclusively under flags of the near-Caspian countries. It blocks access of the extraregional forces, having aggressive plans to the Caspian Sea to [9].

Nevertheless, negotiating process is the only way to resolve the problem of international legal delimitation of the Caspian Sea. As of today, sessions of Special Working Group (SWG), working out the Convention on legal status of the Caspian Sea at level of assistance to heads of the Ministry of Foreign Affairs of the near-Caspian countries are held on a regular basis. By now, 30 SWG sessions have already been held.

However, it is necessary to note that the most effective mechanism of regulation is summit talks, namely, the Summits of heads of the near-Caspian states. On 18 November, 2010 III Summit of heads of the near-Caspian states was held in Baku. The Baku Summit has shown readiness of leaders of "the Caspian five» to overcome a stage of the coordination of positions on the most problem aspects of regional cooperation and to pass directly to coordination and planning of joint actions on the Caspian Sea. Following the results of the meeting, leaders of the states signed the agreement «On cooperation in the sphere of safety in the Caspian Sea» and the joint statement [10].

It is necessary to remember that the problem of the Caspian Sea includes not so much disagreement of the coastal states and their specificity of their relations, as taking into account the place and role of the Caspian region in global geopolitical deals of the new world which are developed by such main characters of modern world politics as the USA, Europe, China, etc. It is obvious that these states today have their own interests in this region.

Conclusions. Thus, it is possible to ascertain that the problem of the Caspian Sea is not the new one. The history of "division" of the Caspian Sea begins in the ancient time, namely in the VIII century. It is remarkable that each times more and more states claim their rights on the use of the Caspian Sea. First of all, it is concerned with rich oil fields and other minerals, as well as with convenient geopolitical and geostrategic position. Contradictions become especially aggravated because of the interests of the leading world powers, concentrated here. But meaningful dialogue begun, so, there is a hope that legal status of the Caspian Sea will be defined and the problem will be solved. Everything depends on mobility, concurrence and rationality of actions of all Caspian bordering states.

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Правовой статус Каспийского моря: история и современность

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Аннотация. На современном этапе одним из нерешенных проблем в межгосударственных отношениях прикаспийских государств является определение международно-правового статуса Каспийского моря. В статье отмечается, что проблема Каспийского моря – далеко не новая. Прежде всего, это связано с богатыми месторождениями нефти и других полезных ископаемых, а также с удобным геополитическим и геостратегическим положением. Единственным способом разрешить проблему международно-правовой делимитации Каспийского моря остается переговорный процесс. К настоящему моменту, несмотря на наличие определенных разногласий, относительно видения правового статуса Каспия, пять прикаспийских государств смогли добиться определенного прогресса, признав возможность применения на Каспии принципа секторального раздела.

Ключевые слова: статус Каспийского моря; разграничение дна Каспийского моря; прикаспийские государства.