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**THE NEW LEGAL STATUS OF THE CASPIAN SEA IS THE BASIS OF REGIONAL  
CO-OPERATION AND STABILITY**

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History has evolved in such a way that the problem of the Caspian Sea, with its unique biological and geological characteristics, has become vital on the boundary of the twentieth century. And it is clear that changes in the geopolitical situation and the emergence of the new independent states within the Caspian region have determined a new correlation of interests. This creates the need for some serious corrections to the system of international relations in the Caspian region. This need is sharpened by the discovery and beginning of exploitation of huge reserves of Caspian mineral resources as well as by the realisation of the exceptional importance of preserving its ecosystem.

The change in the former scheme of bilateral relations between the USSR and Iran has not yet led to the formation of a multilateral system of relations which could reflect the new situation adequately. This is the reason why the present conditions require a joint search for methods of establishing regional co-operation, the resolution of the whole set of the Caspian Sea problems, and the attraction of the attention of the all nearby states. The task is to provide an efficient and harmonious interaction for all littoral countries and to establish and start an efficient, permanent mechanism of negotiations that could exclude conflicts and provide peace and stability in the region.

There is no doubt that the Caspian problem has many dimensions and aspects. There are questions of navigation, fishing and the rational use of biological resources, of ensuring the viability of the Caspian ecosystem and the ecological security of the sea, doing research, exploration and exploitation of the sea bed of the Caspian Sea, which is rich in hydrocarbons and many other minerals.

The successful solution of these problems largely depends on their legal settlement. Only after the creation of a stable legal basis, we will be able to solve successfully all the problems related to the Caspian Sea and create a foundation for the long-term co-operation of the Caspian states.

At present, the Caspian's legal status is defined by the Agreement between the Soviet Russia and Iran (Persia), dated 26 February 1921, and the Agreement on Trade and Navigation between the USSR and Iran, dated 25 March 1940.

Serious changes in the Caspian region stipulate the need for a new approach to the definition of the Caspian's legal status. These are, in our opinion, the following:

1. The parties to the Agreements of 1921 and 1940 were Soviet Russia and the USSR, and they do not exist any more as the subjects of international law. With the emergence of the new, independent states on the coast of the Caspian Sea, the development of co-operation in this region has acquired a

multilateral character. In this connection, there is now a need to define a new status for the Caspian Sea, taking into consideration the interests of all the littoral states.

2. Careful examination of these agreements demonstrates that they only settle the matters of trade, navigation and fishing, but do not define the legal status of the Caspian Sea as a whole. They do not contain any indications on such essentials of the Caspian's legal status as the regime for exploitation of the sea bed, the ecological regime, the use of air space above the sea, etc.

Turkmenistan's attitude on the resolution of this question was expressed by the President of our country, Saparmurad A. Niyazov. Answering the questions of a "Caspiy" magazine reporter, he stressed that "the matter of the utilisation of the Caspian Sea resources is not one-sided ... . That is why today the first task for all parties is to elaborate a document, let us say, a convention on the legal status of the sea, which should be taken as a principle for the preparation of international legal norms aimed at the regulation of navigation, the use of biological and mineral resources, and the protection of the ecosystem."

The joint Turkmen-Russian intergovernmental declaration made in August 1995 in Turkmenbashi stated: "the Parties have admitted the need for interaction on the issues of exploitation and protection of the Caspian Sea, assuming elaboration and adoption of co-ordinated decisions on the basis of consensus between all the Caspian States." This has confirmed the primacy of the need for a convention on the status of the Caspian Sea and the recognition of the equal partnership of all the regional countries.

At present there are three approaches to the definition of the legal status of the Caspian Sea:

1. According to the first point of view, the Caspian Sea is to be recognised as a frontier lake and hence to be divided into equal sectors (including the sea bed and water surface) between the Caspian states. Each sector must be under the absolute jurisdiction of the corresponding littoral state.

2 The second approach is to apply to the Caspian Sea, having taken into account its peculiarities, the norms of international sea law—the UN Convention on Sea Law (1982), in particular. It supposes to define for each state its territorial sea, its fishing zone, and to recognise the remaining part of the water surface as the open sea. As to the bed of the Caspian Sea, it should be divided into equal parts belonging to the littoral states.

3. The third approach is that the Caspian Sea is a unique reservoir and many of its characteristics cannot be regulated by existing international legal norms and practices. That is why, in the process of elaboration of the Caspian Sea's status, one may hardly speak about the complete application of both the norms of international sea law and the international practice of dividing frontier lakes. In the process of elaborating of the legal status of the Caspian Sea, non-traditional approaches should be used, and the Caspian states will have to create their own legal mechanism for agreements on the Caspian Sea.

The supporters of the third opinion suggest that the littoral states, in addition to the zones falling under their jurisdiction (fishery zone, specific part of the shelf, etc.), have corresponding parts of the water surface and the bed of the sea upon which the principle of condominium—common use—should apply.

Of course, each point of view certainly has the right to exist. At the same time we would like, not

going into details, to consider several approaches to the legal status of the Caspian Sea.

The problem of the legal status of the Caspian Sea is first of all a territorial matter, the issue of the national security of the Caspian states. It suggests the establishment of territorial limits for each littoral state—zones of national jurisdiction. Any state must have its state boundaries, not only on land but also on sea. First, this is necessary for the prevention of territorial disagreements and disputes, and second, it is important to realise that accurately defined territory is a matter of state security, and the necessary material base of a state's normal existence.

The Caspian states should come to an agreement on the establishment of equal width limits on the Caspian Sea. Until the elaboration of the new Caspian Sea status, according to Turkmenistan's Act on State Boundaries, its territorial sea has a width of twelve nautical miles.

Actually, at present the Caspian states have different opinions on the elaboration of the legal status of the Caspian Sea. And there is only one possible way forward in this situation—consensus. That is quite objective. The Caspian Sea is common property. It is the contact zone of interests for all five littoral states. That is why any attempts at unilateral actions or of the conclusion of a concrete treaty, including a convention on the legal status of the Caspian Sea, without the participation of even one of the Caspian states, is unacceptable and can substantially strain the situation.

There is an opinion that, first, it is necessary to adopt a series of agreements on different kinds of activities—navigation, fishing, exploitation of mineral resources, scientific research, etc.—and only after that, elaborate and adopt a convention on the status of the Caspian Sea. By desiring to adopt branch agreements at an initial stage followed by a principal document on the status of the Caspian Sea, we try to 'put the cart before the horse,' as a Russian proverb says. A convention on the status of the Caspian Sea must become the legal basis for a future international legal mechanism that will include, organically, the whole complex of matters of activity on the Caspian Sea. So, the legal status of concrete kinds of activities (navigation, fishery, etc.) should not be the subject of negotiations at the initial stage; the Sea's legal status as a whole should be.

It would be incorrect to say that nothing is being done in this field. Already, for a few years, negotiations on the status of the Caspian Sea have been under way, and certain efforts are being made to create the organisational legal basis for co-operation between Caspian states. In the process of this work, draft agreements and treaties on the preservation and exploitation of the Caspian Sea's biological resources, on regional co-operation, and several drafts of a convention on the legal status of the Caspian Sea have been prepared.

In order to elaborate the legal status of the Caspian Sea, conferences of the chiefs of legal services of the ministries of foreign affairs of the Caspian states have been held twice (in Tehran in June 1995 and in Almaty in September 1995), according to the results of which, the elements of a legal status were defined. On this basis, a convention on the Caspian Sea should be worked out and an attempt to elaborate the principles of the activities of the Caspian states should be made.

The meeting held in November 1996 in Ashkhabad, with the participation of the ministers of foreign affairs of all Caspian states, became an important stage in the elaboration of a new legal status for the Caspian Sea. Conceptual approaches to the legal status of the Caspian Sea and ways of settling disputes were discussed at the meeting. With this purpose, a corresponding mechanism of reaching agreements, a special working group, was created.

The process of co-ordination of positions is going on, not only in five-sided multilateral talks, but also bilaterally. Bilateral meetings between all Caspian states have been held.

So, step by step, ideas on the legal status of the Caspian Sea are being drawn together, and a search for possible ways of reaching agreements is in process.

Being a Caspian state, Turkmenistan is engaged in constructive relations with all states bordering the Caspian Sea. We are for the creation of an atmosphere which will enable the working out of a legal status which would take into consideration not only the interests of the littoral states, but also the states which propose to make investments in the exploitation of hydrocarbon resources in the Caspian Sea. Turkmenistan is in favour of dealing with activities in the Caspian Sea in strict accordance with agreements reached earlier between the USSR and Iran (the treaties of 1921 and 1940). This also comprises the problems of administrative territorial demarcation of water space of the Caspian Sea between the republics of the former USSR.

In 1970, the Soviet part of the Caspian Sea was divided between Azerbaijan, Kazakhstan, Russia and Turkmenistan. The middle line accepted in international practice was taken as a basis. This status is yet legal in relation to the administrative borders which are recognised by the littoral states in the framework of the Helsinki accords and which define the borders of Turkmenistan with its neighbouring states to the north, west and south.

We call on the littoral states to respect the given borders and of the status quo. Our attitude towards the Caspian Sea is that until the old order defined by the Soviet-Iranian agreements and by the demarcation of the former Soviet zone by the middle line on its water space is in force, Turkmenistan, as a law-abiding subject of international law, will hold by this order.

Unfortunately, Turkmenistan's friendly neighbour, Azerbaijan, made a statement of priority concerning its rights to the Chirag and Azeri oil fields, the first one of which is partly in Turkmenistan's zone of jurisdiction and the second one, completely. In spite of the firm and persistent invitations of the president of Turkmenistan, Saparmurad Niyazov, to gather for negotiations, Azerbaijan gave a permit to start exploitation of these fields. We understand the great economic interest of our neighbours in exploitation the Caspian Sea's resources, but this interest shall not be realised to the detriment of other littoral states. If all the countries of the region do not strive towards mutual co-operation, then the positive development of the region will be almost impossible.

Turkmenistan is seeking mutually acceptable solutions for solving problems by negotiations among governments. Also it has to be noted that the existence of different interpretations does not have the character of fundamental interstate disagreements; they are quite solvable with the help of those means and methods which Turkmenistan professes in its foreign policy, that is to say through open, mutually respectful dialogue. Demarcation of the jurisdiction zones of Azerbaijan and Turkmenistan in the Caspian is not only a problem of relations between the two countries but a problem of defining the status of Caspian Sea as a whole.

We understand that Azerbaijan has done certain work to exploit the fields on the Caspian shelf, an international consortium was created, and we are not against it. The only thing we are calling for is that Azerbaijan recognises the jurisdiction of Turkmenistan over the Azeri oil field and (partly) over the Chigar oil field. Taking into account the fact that Azerbaijan has already started work on these

fields, we can agree on a long-term leasing arrangement.

The main point is clear: both Turkmenistan and Azerbaijan, and the other Caspian states, are interested in attracting investments and advanced technology to develop oil in the Caspian Sea. But to do that, an atmosphere of mutual trust and security guaranteed by international law in the Caspian Sea should be created. Turkmenistan is ready for a productive dialogue, multilateral co-ordination of problematic issues, and wise compromises. The only thing that is unacceptable for us is attempts to impose rules which do not express the interests of the Caspian states.

International relations around the Caspian Sea today are based on a system of co-operation between five sovereign subjects, all with equal rights and responsibilities. That is the reason why Turkmenistan comes forward as a consistent supporter of elaborating a united approach by all Caspian states to the resolution of the international status of the sea.

It is necessary to create such legal and economic conditions, which will guarantee the normal regime in Caspian Sea, to minimise the risks of for foreign investment and avoid a situation of distrust between the states of the region.

The creation of such a stable and long-term legal basis of co-operation is an important factor in ensuring peace and stability in the region.

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