The legal status of the Caspian Sea

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THE LEGAL STATUS OF THE CASPIAN SEA

by

NAMDAR HOSSEINZADEH

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for the Honors in the Major Program in Political Science
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ABSTRACT

Currently the Caspian is simply described as the world’s biggest enclosed body of salt water. The five littoral states of Kazakhstan, Azerbaijan, Russia, Turkmenistan, and Iran, have not come to an agreement regarding the legal status of the Caspian, which means it is not considered to be a lake or a sea. This incident can be explained by the legal consequences of claiming the Caspian as an International Lake or Sea. As one could assume, these two statuses greatly differ in regards to their legal structures.

It is of the utmost importance to note that the various national interests of the littoral states prevent them from reaching a concrete compromise on this issue. Yet a third legal definition with the potential of ending the dispute over the Caspian has for many years been overlooked. The name of this official status is called the Condominium and it supports the common usage of the Caspian Sea by all littoral states. Unfortunately, no littoral state has shown any sympathy for this proposal. Perhaps then it is clear that none of these legal regimes are capable of producing an adequate solution to this conflict unless the problem is observed from unconventional means.
DEDICATIONS

First and foremost I would like to dedicate this Thesis to the Creator without whom nothing would be possible.

To my parents for their unconditional support. To Dr. Houman Sadri for pushing me when it mattered the most.

And last but certainly not least to my beloved country that made me who I am today.
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Chapter One
An Introduction to the Caspian Legal Dispute

Introduction

The Caspian Sea, as it is referred to by the international community of nation-states, is neither an official lake nor sea. As it currently stands, the Caspian is simply described as the world's biggest body of enclosed salt water. For better or worse, the five littoral states, which includes the Republic of Kazakhstan, the Republic of Azerbaijan, the Federated States of Russia, the Republic of Turkmenistan and the Islamic Republic of Iran, have not come to an agreement on the legal status of possession in regards to the Caspian. Such an incident can be explained by the legal implications of claiming the Caspian as an international Lake or Sea, which greatly differ. Therefore, the various national interests of the littoral states prevent them from reaching a concrete compromise on the latter issue.

However, a third legal definition with the potential of ending the dispute over the Caspian has been discovered. It is called condominium and it is based off of the principle of common usage of the Caspian Sea by all littoral states along with the equal distribution of its valuable resources. Obviously no littoral state has shown any sympathy for this proposal (Aghai-Diba, pgs. 110-140). Thus it becomes self-evident that none of these legal regimes are capable of producing a sufficient solution to the complex Caspian legal dispute. Therefore, the hypothesis is: “In comparing the proposed legal regimes for the Caspian Sea, it becomes perfectly clear that none of these options are capable of solving the Caspian puzzle.”
Approach to the Study

A specific Functionalist approach has been used to construct this study mainly due to the fact that everything seems to be a sum of its parts in regards to the numerous incidences of the Caspian Legal Issue. All variables in this study are defined in terms of the role they have played or do play within the legal debate. The functionalist methodology defines “things in terms of their causes and effects” (Croissant, pg. 140). Take into consideration the case of Azerbaijan. With an 800 km long coastline, the country is advocating for the “Border Lake” status because this would allow for the division of the Caspian Sea based on the centerline principle, which would bequeath larger national sectors of the Caspian to those littoral states with longer coastlines. Being on the other side of the issue due to its shorter coastline, Iran has clearly dismissed such a measure as being not only unfair not highly unrealistic because of the potential damaging conflict that could arise if not all littoral states are satisfied. (Aras, pgs. 50-130). The cause in this case would be Azerbaijan’s initiative, which is then utilized to explain Iran’s behavior (the effect). Hence this is the main reason why the Functionalist outlook is most conducive for this particular study. Furthermore, the Neo-Functionalist philosophy will be utilized to explain the eventually resolution of this Caspian legal debate. Taking inspiration from Ernest B. Haas, the establishment of a legal regime for the Caspian will only be possible through step by step integration of the littoral states. Focusing on the most basic point and moving on to the less agreeable issues is the main theme of this work (Haas, pgs. 45-50). In order to add balance to the study, a Realists contrast will be included as well. For those unfamiliar with the Realists
school of thought, Realists emphasize that nation-states are purely self-interested and any action they take will be to further their own ambitions or to protect their interests (Croissant, pg. 144).

**Basic Overview**

The Caspian Sea is estimated to contain about 15.31 billion barrels of oil or approximately 2% of the world’s oil reserves. Also, it contains about 230-360 trillion cubic feet of gas, which is estimated to be about 7% of the world’s gas reserves (Bolukbasi, pgs. 397-414). Most of the oil and gas reserves of the Caspian are located in its southern region extending from the Apsheron Peninsula of Azerbaijan to Turkmenistan’s Peri-Balkhan area (Bahgat, pgs.3-15). These resources can significantly improve the struggling economies of the former Soviet states within that region of the world. Yet without an established legal regime to monitor the actions of the littoral states, those states with the most military and/or political might can easily take control of resources that are clearly not within their natural national boundaries. Furthermore, the lack of a clear title for the Caspian is causing disputes to arise over the ownership of the resources within its seabed. Azerbaijan and Turkmenistan have clashed and continuing to argue over the ownership rights of two oil fields in the Caspian. Both states are highly economically underdeveloped and are in desperate need to capitalize on the Caspian’s rich oil and gas reserves. The situation is extremely dire for Azerbaijan because very few foreigner investors are willingly to invest in any energy projects that could be impeded by outside forces, especially after the incident where Iran threaten a Azeri exploration ship that entered disputed water territory within the
Caspian (Dekmejian, pgs. 70-100). But what kind of implications does this have for the world? It is possible that the world’s dependency on Middle Eastern oil could become more severe if the oil reserves of the Caspian are left undeveloped due to ownership disputes. Should this occur, the major Middle Eastern oil producers, Saudi Arabia, Iraq and Iran, will be placed in a highly beneficial position where they could easily manipulate oil prices in their favor. Clearly out of all the littoral states, Iran would benefit the most from such an occurrence. Producing about 3.72 million barrels of crude oil per day just from its oil reserves in the Persian Gulf, Iran is perfectly capable of delaying energy projects in the Caspian without suffering any severe economic consequences. Although it is true that the Russians also have sufficient oil reserves and currently do not need to extract the Caspian’s seabed, the oil within their disposal is highly sulfuric and therefore not as rich or useful as the oil of the Persian Gulf. Taking into consideration America’s foreign policy toward the Islamic Republic of Iran, it would be to the determent of the United States to allow Iran to amass a great deal of political power. Hence, the Americans are fully supporting the Azeris in their oil and other energy projects in the Caspian much to Iran’s annoyance. Theoretically, the lack of a legal regime for the Caspian has the potential of stalling energy development within the region and stunting the economic growth of the already economically ravaged post-soviet states of Kazakhstan, Azerbaijan and Turkmenistan (Dekmejian, pgs. 120-140). In regards to policy analyses of this topic, the events which take place within the Caspian as a result of the tensions over rights to the seabed resources has a tremendous impact on American and European foreign policy.
The Caspian Sea, located in Eurasia, is the largest and completely enclosed body of water in the world (see Appendix A). Similar to the Great Lakes of the United States and Canada, the Caspian has a very fragile ecosystem, sensitive to pollutants like pesticides that run off nearby farms. About 90% of world’s sturgeon population, the famous caviar producing fish, are found in the salty waters of the Caspian. Navigable waterways flow through lands near the Caspian, which connect Europe to Central Asia. One of these routes, the Volga River, is so vital to the Russians that it is protected by a major city by the name of Astrakhan, which is located directly at the point where the Caspian feeds into the Volga. The lands located on the Caspian’s coastlines are perfectly temperate and therefore highly farmable. Consequently, the growth of grains and starches such as rice and wheat is best near the coastlines of the countries bordering the Caspian. Strangely enough, Iran is the third largest state to border the Caspian yet in comparison to the other smaller Caspian nations its land is less farmable. Five nation-states surround the Caspian, Azerbaijan to the Southwest, Iran to the South, Russia to the North and Northwest, Kazakhstan to the North and Northeast while Turkmenistan straddles its Eastern shoreline (Rand Research Group, pgs. 10-20).

**The Caspian as a Lake, Sea or Neither?**

It wasn’t until the negotiations between the Soviet Union and Iran in 1940 when the legal status of the Caspian was defined. The Kremlin in Moscow and the Shah’s court in Tehran decided to retain the centuries old title of Sea for the Caspian. Thus from 549 B.C. until 1991 when the Soviet Union collapsed, the Caspian was regarded as an enclosed Sea. In recent times, Russia and Iran
originally argued that the Caspian is a lake, as defined by international law, and its resources should therefore be jointly and equally exploited by the littoral states. Iran has retained this stance but Russia has swayed back and forth on this issue. During the Boris Yeltsin Presidency, Russia and Kazakhstan came to a compromise in regards to the right of usage of the Caspian. A key clause in their accord would allow all countries in the region to carry out their own exploration and production projects while allowing for cooperation in international waters. Both countries called on all parties to sign a convention "respecting sovereignty, territorial integrity, and political independence." The joint statement describes the completion of a Caspian convention opening the way to industrial development at full speed. Russia publicly supported the lake status of the Caspian as was set back in the 1920's and 1940's but yet compromised with another littoral state in regards to the Caspian sea's resources and water rights. It's highly contradictory. Iran maintains that the Caspian Sea's legal status needs to be defined until any meaningful exploration and/or extraction of the region's resources takes place. By default, in the meantime the Caspian Sea is still bounded by the Soviet-Iranian treaties of 1921 and 1940, which intentionally make no reference to mining rights only navigation and fishing rights. Therefore Iran presses for the cooperation of the littoral states in forging a plan or agreement as to how the resources of the Caspian will be fairly distributed if extraction is absolutely imperative. Iran is willing to budge on this stance if and only if every littoral state agrees to equally separate the Caspian into national sectors with each state holding 20% of both the water and seabed (Gale, pg. 4). Russia has taken different positions on the Caspian at various times since
the fall of the Soviet Union. Initially, the federated republic of Russia supported a condominium status for the Caspian along with the Islamic Republic of Iran. However, Russia backed down from this position after signing various treaties with Azerbaijan and Kazakhstan in regards to the ownership of certain subsurface resources. Hence, Russia now asserts that the Caspian be referred to as an “International Lake” and should be partitioned accordingly (Mirfenderesk, pgs. 75-160). The following is a break down of all options available for the establishment of a legal status for the Caspian:

*Sea Legal Status*

Should the Caspian be labeled as an international Sea, the five countries bordering its shores must be entitled to individually exploit their separate seabed resources without interference from the other four nations. United Nations Convention Law of the Sea of 1982 will apply. Specifics of UNCLOS provisions provide that each littoral state be given a territorial sea with a breadth not exceeding twelve miles, an exclusive economic zone not exceeding 200 miles and a continental shelf. This would mean the three new independent states, would be giving their own national sectors equal to that of all states in the region. (Crandall, pgs. 40-49).

*Lake Legal Status*

Under the legalities of international law regulating lakes, use of border lakes is regulated by international agreements between affected states which would also determine lines of state borders, navigational rights and the terms of use of waters for non-navigation purposes (Crandall, pgs. 50-59).
Condominium Legal Status

Out of all the international labels for bodies, none are more confusing or more misunderstood than condominiums. The term condominium refers to the common use of a body of water by all countries within its vicinity. This would mean that the use of the Caspian along with its subsurface resources would only be permissible to the five littoral states. Each state would get an equal share of the revenues produced by the sell of hydrocarbon resources and share in the expenses of their extraction (Crandall, pgs. 60-79).

Research Purpose

The legal status of the Caspian Sea as defined and analyzed in this study seeks to converge all existing works on the topic at hand into one comprehensive study. Each littoral state’s stance on the Caspian issue will be discussed in detail along with the rational behind their positions. Existing studies have done well in providing facts about Caspian legal dispute but have fallen short in their explanations of certain phenomenon. For instance, the reasons for Russia’s sudden change in their Caspian policy are rarely ever discussed in great detail. Unfortunately no existing work to date has adequately addressed this concern due to the lack of information available to those scholars at the time of their research. It is perhaps of great fortune that numerous articles have been written in regards to the distinct reasons for the Russians apparent divide and conquer Caspian policy. Hence, the gap between policy and action can finally be filled with the appropriate scholastic information. In addition to the policy shifts of the littoral states, this work on the Caspian Sea attempts to explain the political conduct of the five littoral
states in regards to this issue from a cognitive perspective. A state's national psyche plays an imperative role in policy development that is normally overlooked by political scientists. Another important element in the study is the impact and significance of historical events on the modern developments of the Caspian legal dispute. Do the past treaties signed by the Iran (Persia) and Russia (Soviet Union) have an impact on the way these countries shape their Caspian policies and if so to what extent? By the conclusion of this work, it will become very clear that those treaties exceeding almost a century ago have had a profound influence on the legal disputes surrounding the Caspian. In fact, the foundations of the Caspian legal dispute were established during the years prior to the outbreak of the Second World War. Essentially, this study focuses on three main questions:

1. What are the Caspian policies of each littoral state?
2. Why do the littoral states hold those policies?
3. How can a compromise be reached in regards to this issue?

The first two questions are easily identifiable due to their concrete nature. However, the third question is a policy topic and thus must be studied from an idealist perspective. Therefore, the bulk of the study will concentrate on questions one and two while question three will mainly comprise the conclusion of the work. This work will cover the policy gap of the littoral states in regards to the Caspian Sea.

*The Research Design*

Within the first section of the study, a comprehensive yet brief introduction to the legal dispute of the Caspian is provided to the reader(s) along with some
background knowledge of the Caspian the likes of which include geological facts and general-relevant details of the littoral states. The second section will focus on the recent history of the dispute. Ensuing the discussion on the legalities of titles, the official stance of every littoral state will be provided as well as the current policies being utilized to lessen disputes over ownership and navigational rights to the Caspian. Fourth on the list is the North-South Corridor and its impact on the Legal Dispute as a whole. Before the conclusion, a section will be dedicated to the available solutions to the Caspian question.

Concluding Remarks

While reading through this particular study the reader(s) should keep in mind that this legal dispute transcends economic interests and crosses into the realm of political rivalry and intrigue. It is unfortunate that many scholars approach this issue with an oversimplified model of study and hope to achieve the impossible by stating a naïve solution to the issue. Simple solutions to this legal dispute do not exist. If an appropriate solution was available this work would haven’t been initiated. One must strive to remember that the Caspian Sea is an instrument used to manipulate the puppets of the world and make them do their biding without consciously being aware of it.
References


Chapter Two
The History of the Dispute

Introduction

Historically, the Caspian has been referred to as an ocean, sea and gulf by the ancient people who inhabited the coastal lands. Many Empires of the world attempted to control as much of it as possible before inscribing its story as the forgotten chapters of history. What were these ambitious nations after? Naturally they were after control of the chain of rivers flowing out from the salty waters of the Caspian and into the heart of Eastern Europe, hydrocarbon resources and influence over the nations located around it (Bolukbasi, pgs. 397-414). Although its oil and gas potentials are largely still unknown, there is enough of these hydrocarbon resources to trigger some desperately needed growth in the ailing economies of the post soviet states within that region (Mehdiyoum, pgs. 179). But without a legal regime to define the status of the area, disputes over commonly claimed sectors and resources frequently occur. Until the early twentieth century, the Caspian was completely dominated by one Eurasia force, Russia. When the Peacock throne was left vacant by the ethnic Turkic Qajars in Persia (Iran), a military leader by the name of Reza Khan quickly consolidated his power over the country and forged the modern nation-state of Iran. A year after the fall of the Qajar dynasty, the new regime in Tehran met with Soviet delegates to discuss the numerous issues of the Caspian. Discontent over the pervious treaties between Tsarist Russia and Persia over legal rights to the Caspian had reached the point of intolerability for the Iranians. Eager to exert its influence over the oil rich
neighboring country, the Soviet regime quickly agreed to the Iranian demands of returning Iranian territory forcefully captured by the Tsar, which included a naval base on the island of Ashuradeh and port in Bandar-e Anzali. Furthermore, the Russians denounced a previous treaty that forbade Iran from launching armed vessels into the Caspian while granting equal rights of free navigation. The document in which these rights were ascribed on became known as the Perso-Russo Treaty of Friendship signed the 26 of February 1921. This was the first step taken on the road to future conflict over the legal rights to the Caspian. By granting only Russian and Iranian ships from freely navigating the waters of the Caspian, the Soviet Union and Persia (Iran) asserted that the body of water in between them was exclusive. Who was it including and excluding? In those times, the Soviet Union was comprised of a plethora of diverse nations yet the treaty made no mention of them. According to the articles of the Perso-Russo treaty of 1921, the only two countries allowed to have ships of any kind on the Caspian are the Soviet Union and Iran. So countries such as Azerbaijan, Turkmenistan and Kazakhstan are not privileged to these navigational rights because the treaty made no mention of them (Jalali, pgs. 7-8). Perhaps an argument could be made on their behalf claiming these countries to the successor states of the Soviet Union and therefore eligible to receive all the rights listed within the Persian-Russian contract. However, this effort would be moot since the treaty that finalized Iranian and Russian authority over the Caspian was signed nearly two decades later. Thus, the focus of this chapter is on the Soviet-Iranian Treaty of 1940 and its unprecedented impact on the controversial Caspian Legal debate plaguing the littoral states of the region. To
declare the Treaty of 1940 as the seed from which the conflicts surrounded the Caspian Sea sprouted, would be in no way be an exaggeration or overstatement. The treaty to be discussed in the following pages was forged with the intention of dividing the Caspian into two permanent spheres of influence to ensure Russia and Iran would always hold the majority of the sway over the region. Due to this fact alone, the other littoral states have denounced the treaty as both unfair and insulting.

**Caspian Sea’s Status in the World War II Era**

Just one year prior to being expelled from Iran by the Allies of World War II, Reza Shah Pahlavi made one decisive deal with his counterpart Joseph Stalin. In a bilateral agreement between the Soviet Union and Iran, the Caspian Sea would be officially regarded as an enclosed Sea and a condominium regime would regulate its usage by the two parties privileged to the deal. Of course no boundaries were drawn to elude which parts of the Caspian belonged to either the Soviets or Iranians for that would have been in direct violation of the condominium regime. Such a legal status is created on the basis of equal rights and usage to a single body of water along with its resources by all parties involved. Hence, the Soviet-Iranian Treaty of 1940 further reiterated other treaties in that it yet again asserted the Caspian as an Iranian-Soviet Sea in more diplomatic terms. According to article 12 of the treaty, each country was given "an exclusive right of fishing in its coastal waters up to a limit of ten nautical miles", later expanded to twelve. Absolutely no vessels of any third nation were allowed in the Caspian. This gave the new "progressive" regime in Tehran and the radicals in Moscow a tremendous amount of hydrocarbon reserves. However the treaty made no mention of oil exploration or
drilling within the Caspian. Even if the Caspian’s great potential for oil and gas had been discovered in the early forties neither the Soviet Union nor Iran had the sophisticated technology needed for their extraction. Other than one boundary drawn from Astara to Hossein Gholi Khan between the two countries, there were no other lines separating the Caspian into Soviet and Iranian spheres of control. Possession of any oil fields discovered further than ten nautical miles from each nation’s coastline would have definitely been disputed. Interestingly, the treaty intentionally bypassed any issues of ownership to the water territory and hydrocarbon resources of the Caspian Sea. It can only be assumed that all resources extracted outside of given space would have been portioned equally in a typical condominium fashion. Yet even in such a case, no one could be sure that the Soviets or Iranians would have done so because the treaty only mentions fishing and navigation rights not resource extraction rights. Take for example the Soviet drilling of the oil fields off the coast of modern day Azerbaijan, which extended far more than ten nautical miles from the coast. Not obliged to split the revenues made from the exploitation of the oil, the Soviets offered to make no payments to Iran. Even though the resource extracted could have been considered a possession of both countries instead of just one, Iran failed to voice any objections to the Soviets’ actions. It could be argued the Iranians were under the assumption that if they were to stumble upon hydrocarbon resources further than ten nautical miles from their coast they would be permitted to drill them without objection from the Soviets. Whether it was for better or worse, Iran didn’t get the opportunity to test its theory but one positive outcome from Iran’s silence to Soviet drilling activities was that it
established de facto boundaries in the Caspian between the two countries. Soviet ships would not pass a certain point in the Caspian given that Iran followed suite. Today these imaginary boundaries are used by the Soviet Union's successor states. Never the less, the intention of the 1940 Soviet-Iranian treaty was to split the Caspian into two unofficial zones with the North belonging to the Soviet and the South to the Iranians. For fifty-one years the treaty did exactly what it was created to accomplish. After the disintegration of the Soviet Union, all previous deals made between the USSR and Iran were not honored by the Soviet successor states and the deficiencies of the 1940 treaty ripen the fruits of legal conflict over the ownership of the subsurface resources of the Caspian Sea (Janusz, pgs. 1-8).

**The Rebirth of the Dispute**

In the year 1994 the Russian Foreign Ministry sent a well written letter to the English Embassy in Moscow polity warning the British that the ownership over the Caspian had remained unsettled and any activities conducted off the coast of the littoral states was highly restricted. The bulk of the letter focused around the investment deal made between the Azerbaijani government and the British Petroleum Company. From this letter, it became apparent the Russians weren't going to allow foreign investors to freely invest in the extraction of hydrocarbon resources in the Caspian. Even after the fall of their Empire and rise of the new nation-states, the Russia's still believed the Northern half of the Caspian was under their patronage. For a littoral state like Azerbaijan to invite a European investor to invest in their petroleum industry was a small manifestation of betrayal. Just one year prior to the writing of the letter, the Russians had supported the military
insurrection lead by Colonel Suret Huseynov and rise of Heydar Aliyev in Azerbaijan. They even back Aliyev when Suret turned against him and attempted to forcefully remove him from power. Yet the Russians had underestimated Aliyev and his ambitious plans to expand Azerbaijan’s petroleum industry. Going one step further to hinder Aliyev’s plans, the Russian Foreign Ministry wrote another letter to the United Nations in the same year explaining the reasons why international maritime laws did not apply to the Caspian. In their defense, the Russians pleading that there is an absence of a legal regime for the Caspian, the provisions of the Soviet-Iranian Treaties of 1921 and 1940 still applied and all littoral states had a duty to recognize them. So were the Russians indirectly stating that the Caspian was still a Soviet-Iranian Sea? Such an assumption would be ludicrous since the Soviet Union no longer existed. What the Russians were asserting was that no littoral state could conduct drilling or exploration activities exceeding twelve nautical miles from their coastlines. This was problematic for the Azeris because they had hoped to not only drill outside of the permitted area but also send exploration ships to scan the seabed for hydrocarbon materials. Striking back with their own rational, the Azeris declared the illegitimacy of the Soviet-Iranian treaties on several key issues. The treaties never made any references to mineral development and the Soviets themselves conducted oil drilling outside of the twelve nautical mile zone without consulting Iran. The Azeris also made it clear the zones created by the USSR for each former Soviet littoral state are legitimate and therefore should be recognized as international boundaries. Russia was not impressed by Azerbaijan’s line of reasoning and made a very risky move by
renouncing the Azeri’s stance publicly. Subsequently, the littoral states got involved by lending the majority of their support to the Russians. Kazakhstan favored the splitting of the Caspian into national sectors based on the USSR division plan, which greatly favored Azerbaijan and Kazakhstan. Yet the Kazakh government voiced its concern over the lack of a legal regime to regulate maritime and ecological issues. Turkmenistan also made it evident that a joint venture was necessary to establish a legitimate legal regime for the Caspian. Iran practically reiterated the same concern and communicated to the other littoral states that in the absence of a legal regime the provisions of the Soviet-Iranian treaty must still apply. Although never formalized, Iran and Russia had an unspoken agreement to aid one another to protect their interests in the Caspian. Brave enough to defy the Russo-Iranian alliance was Azerbaijan, the only littoral state that objected to the initiative and set itself up for attacks by the other littoral states. However the political atmosphere would soon change in Azerbaijan’s favor after Iran’s costly move to normalize relations with the United States (Amirahmadi, pgs. 68-92).

**Competing Interest in the Region**

The second term of former Iranian reformist President Muhammad Khatami was a time of great hopes for the citizenry of the Iranian nation and the politicians in Washington D.C. who were eager to bring Iran under their sphere of influence once again. Although Khatami had been working on reestablishing links with the United States throughout his first term as President of the Islamic Republic, no serious gains were made until the year 1997 when the reformists in Iran had the necessary support and power to push their agenda in Majles-Iranian Parliament. On
the other side of the Atlantic, the Politicians interpreted Khatami’s efforts to normalize relations as a friendly gesture and they were willing to work with him to bring about more socio-economic reforms in Iran. Upon witnessing Iran’s attempt to draw closer to the United States, the Russians felt alienated and feared friendly relations between Washington and Tehran might threaten its sovereignty over the Caspian Sea. With Azerbaijan and Kazakhstan sitting and waiting for the best opportunity to reassert their Caspian claims, Russia decided to relinquish some sovereignty for security. In the following year, Moscow announced a new plan for the partitioning of the Caspian Sea that nearly mirrored that of Azerbaijan’s. The Caspian was to be divided into national sectors based on individually engineered compromises between all littoral states. Russia was the first to strike by signing deals with both Azerbaijan and Kazakhstan in regards to water boundaries. With this decisive action, Russia ensured the loyalty of the two most active littoral states in a time where Russian interests were in grave danger in that part of the world. Back in Tehran, the reformists became outraged by Russia’s deals with the Kazakhs and Azeris while the conservative elements in the government were granted the necessary ammunition they needed to kill Khatami’s pro-American initiatives. Arguing that if Iran pursued better relations with the United States, the Russians would take even more drastic measures to secure their Caspian interests. At the time, Iran depended heavily on Russia to provide it with arms and medicines. Further elaborating, the Conservatives asserted that the risk of losing Russia as a trading partner was greater than gaining the United States as a de-facto ally. Khatami’s efforts were all in vain for the Majles fatefully decided to put an end to
his plans. Following the Iranian Parliament’s decision, Russia reassumed its former position on Iran, which meant the Iranians were given as much time needed to conclude a separate treaty with Azerbaijan over territorial boundaries in the Caspian. Stating the need for both the Azeris and Iranians to civilly reach an agreement on this issue, the Russians failed to condemn Iran for using military force to expel an Azeri navigation ship that wandered into disputed waters on August 28, 2001 (Crandall, pgs. 200-300). Yet again after eight decades it was clear the Russians along with the Iranians still regarded the Caspian as a Russian-Iranian Sea.

**Concluding Remarks**

With the fall of the Soviet Union, the parameters for the partitioning of the Caspian between the new successor states of the USSR and Iran were not very clear. As mentioned before, the previous treaties made between Iran and the Soviets made no mention of ownership to the various parts of the Caspian or its subsurface hydrocarbon resources. It came as no surprise then that the various littoral states immediately began disputing over navigation and ownership rights in the Caspian. The Azerbaijani leadership spearheaded a movement calling for Iran and Russia to recognize the former Soviet boundaries drawn after the final Soviet-Iranian treaty of 1940. Initially defending the original claim of condominium, Iran maintained that those boundaries were internal divisions within the Soviet Union. Internationally, such lines held absolutely no legitimacy. Backing their former Caspian co-owner, Russia reasserted Iran’s claim for the continuation of the condominium regime. Fearing the renewed Russo-Iranian alliance, the three
remaining littoral states banded together and renounced all previous Caspian
treaties. After Iran’s attempt to reconsolidate relations with the United States in
1997, the Russians responded by changing their position on the Caspian. Instead of
supporting a condominium status for the Caspian, the Russians decided to back a
legal regime that would claim the Caspian Sea more or less as an international lake.
At about the same time, the Azerbaijanis signed treaties with the Kazakhs and the
Russians in regards to territorial claims to the Caspian. In accordance to their deals,
the boundaries drawn by the Soviet Union marking each state’s zone in the Caspian
were to be respected and upheld. Iran immediately objected and sought to befriend
the only littoral state other than itself not to support this measure, the Republic of
Turkmenistan. The Turkmen President was highly displeased by Azerbaijan’s
negotiations with Russia and Kazakhstan for one imperative reason; the Azeris were
promoting a plan that gave each former Soviet state a national sector in Caspian
based on the length of its coastline. This meant that the Turkmenistan government
would have had to settle for the smallest national sector in the Caspian among the
post-Soviet nations. Though an alliance between the theocratic regime in Tehran
and the secular government in Ashgabat didn’t ferment until later, the basis of the
Caspian conflict was established. Issues were complicated further when the
Azerbaijani government in Baku announced that the Caspian should be divided up
on in accordance to the median line method or each country’s coastline length. To
better understand the significance of Baku’s action, one needs to realize that Iran
has the shortest coastline and subsequently the median line method would leave
Iran with only a scrap of the Caspian. Before the break up of the Soviet Union, Iran
had more or less the entire southern portion of the Caspian to itself. Tehran was not ready to accept a plan that intended on weakening Iranian sovereignty over the Caspian Sea. Another pertinent issue of the Caspian is navigation rights of not just the Sea but also the lakes connected to it. From Iran's perspective, all states should be permitted to navigate freely in Caspian waters with the exception of ten nautical miles off the Iranian coast, which was reserved to Iran for fishing purposes in the 1940 treaty. Obviously the other states have not honored this and it has lead to some show of force from Iran toward Azerbaijan (Herzig, pgs. 503-517). Had the 1940 treaty defined navigation in more precise terms, it might have been possible to apply them to the current situation and avoid the latter conflict. Both the Soviets and Iranians were not interested in being delicate with details that they viewed as irrelevant. But with some foresight it is very clear that such an issue is not in the least bit insignificant. As a matter of fact, the Russians and Iranians had the foresight to predict challenges to their authority in the Caspian might one day arise and consequently they prepared well for such a day.
References


Chapter Three
Available Solutions

Introduction

Now that a firm understanding of the background has been established, it is necessary to observe the Caspian legal dispute from yet another dimension, the theoretical aspect. What is really implied when the Caspian is regarded as an international sea or lake and why would either of these nominal definitions cause distress or joy for the littoral states? Essentially, there are only three legal titles that can be allotted to the Caspian and each of them contains different legal implications.

The first title is that of an international Sea as defined by the United Nations Convention of the Law of the Sea established in 1982 before the dissolution of the USSR. From the date of its inception, it has had a silent effect on the various nations of the world; whether it succeeds or fails in resolving dispute, few ever hear of it.

Second is the International Lake status. Unlike international Seas, lakes are not regulated by a single governing body, but rather by the countries, which have a stake within the body of water in question. Usually only those states with open water ways in their territory linked to the body of water under dispute entertain this idea.

Last and least favored, is the status of a condominium. Only the first two options are seriously being considered due to the fragile interests involved. Condominiums required states to surrender a significant amount of their
sovereignty in order for the system to function properly. As of right now, the Caspian Sea is the front line of a legal battle where alliances shift readily especially in the case of the Federated States of Russia. Hence, it’s every man for him self and no one is willing to surrender an ounce of power held tightly in his grasp. Then it can be deduced that the Caspian legal issue is between two main camps each enthusiastically opposing one another. Proponents of the lake status comprise the first camp and contrasting them is the second camp in favor of the Sea plan (Aghai-Diba, pgs. 200-289). Within this chapter, the pros and cons of each status will be examined along with the each states official position on the Caspian legal issue. Also, the rational of the littoral states’ decisions to support one status in favor of another will be thoroughly studied leaving no factor of this issue unexplored.

**International Law of Sea**

According to Article 76 of the United Nations Convention on the Law of the Sea, the borders of a nation located near a body of water can be expanded on the basis of an elaborate set of criteria, which define the water depth, seafloor geology and sediment thickness along with the distance from the coastline. Currently, there are eighty countries in this world that can potentially benefit from this provision and it’s no quo-incidence that Azerbaijan, Russia, Turkmenistan and Kazakhstan are among those countries. The length of Azerbaijan’s Caspian coastline is 800km, Russia posses 18.5 percent of the coastline and Kazakhstan has a coastline of about 1,894km long. On the other hand, Iran has the shortest coastline bordering the Caspian; measuring only 740km. Meanwhile Turkmenistan has a length of 1,768km long, exceeding that of Azerbaijan but just falling short of Russia and
Kazakhstan. As logic would predict, the countries that have the potential of gaining more from this measure would support it. Oddly enough, only Azerbaijan has thrown all if its political weight behind the Sea initiative while Kazakhstan has shown favorable tendencies for it but not absolute support. How can such a strange event be explained? Through simple calculations that reveal the truth behind this issue. Should the Caspian be declared a Sea, Article 76 of the UNCLS would go into effect giving the majority of hydrocarbon resources to Azerbaijan and Kazakhstan. Furthermore, Azerbaijan’s national zone in the Caspian would be significantly larger than that of its neighbor Iran. Ever since Baku peacefully attained its independence from Moscow, the Azeri leadership has been unsuccessfully attempting to discreetly steer clear from Tehran’s influences and allying itself with Western powers. Denying an already Oil wealthy Iran of more petroleum revenues would help ensure Tehran won’t have the necessary financial strength to support the dormant Islamic forces within Azerbaijan. Kazakhstan on the other hand is not really worried about the threat of radical Muslims bent on establishing an Islamic Republic. President Nazarbayev of the Kazakh Republic is more focused on the large hydrocarbon reserves located off his country’s coast, which would be guaranteed to him if the Caspian should be legally defined as a Sea. Turkmenistan and Russia have no interests in gaining larger national sectors of the Caspian if those sections contain no oil or gas reserves. This is especially the case for Turkmenistan, since it has no other sources for oil or gas and is seeking to lower its dependency on Russia for hydrocarbon resources (Aras, pgs. 175-230).

*International Law of Lakes*
Unlike Seas, International Lakes give do not require states to relinquish a large degree of their sovereignty to be effective. Usage and ownership of international lakes are based on a body of established rules organized by the all affected states. The United Nations Convention on the Protection and Use of Transboundary Watercourses and International Lakes established by the UNECE obligates all parties to work together in regards to pollution control along lake monitoring, research and development, consultations, warning-alarm systems, exchange of protection along with information, mutual assistance and institutional arrangements. None of its provision mentions methods of division, rights to subsurface resources or navigation of the lake itself. This system has been created in such a way as to give parties the ability to compromise on those issues freely and privately. Rivers connected to the international Lake can only be used by those ships with the necessary authorization for usage. Permission is granted by the owner(s) of the rivers. In practical terms, the Russians would have the ability to legally deny a neighboring country or another foreign entity from using the Volga River to ship their goods to Eastern European Markets. For the Islamic Republic of Iran, not being permitted to use the Volga would not hurt the economy because items can still be exported to foreign countries through the use of the Persian Gulf. Yet for Kazakhstan, Azerbaijan and Turkmenistan, the Volga is the only logical route to ship their Oil and Gas to eager European markets. Russia could shut the economies of these countries under the provisions of International Lakes but this would give them no benefit in the long run. Should the Russians wish to exert too much influence over their former proxy’s in a limited amount of time, the
threatened states may turn to Iran for assistance. With the longest coastline on the Persian Gulf, Iran would be more than happy to ship its fellow littoral state’s hydrocarbon resources to Europe for a substantial fee. Even though the cargo would without a doubt take a considerably longer amount of time to reach its destination, it is never the less a viable option. Therefore the Russians have not actively pushed nor show much enthusiasm for this option. They do not wish to upset the delicate balance of power between them and Iranians in the Caspian region, which is the main reason why the Russians initially supported the retention of the Condominium status (Amirahmadi, pgs. 150-194).

Condominium

When compared to all other legal titles recognized by the international community, Condominium is the least understood and used infrequently. To give an elementary definition, Condominium refers to the sharing of a common body of water. Usually this includes not only navigational rights, but resource rights as well. Yet if the parties establishing the Condominium want to place restrictions and/or exceptions on the status, they have the freedom to do so. For better or for ill, there are no set rules for Condominiums. So as long as every nation-state or any other political entity agrees to the conditions set forth by the congregation, no objections can be made by any third party. Likewise, it is the responsibility of the party members to punish transgressions. If one state chooses to violate the provisions created by the Condominium and no consequences follow, then the legal regime will eventually seize to exist. At point the Caspian Sea was governed by a Condominium regime created by the Soviets and Iranians. Despite a few violations,
the two countries chose to respect each other's rights as defined by the treaties that established their legal regime. Due to the very nature of the Condominium, the Azerbaijanis were the first to speak out against it. The Russians, Kazakhs and Turkmen were unable to quell Azerbaijan's defiance and opted to abandon the Condominium option. It wasn't long after when Tehran changed its stance on the Condominium status from favorable to unfavorable (Cohen, pgs. 45-88).

**The Various Stances of the Littoral States**

*The Russian Stance*

When the Russians said goodbye to Karl Marx and hello to Samuel Adams, the Russian absolute dominance of Central Asia and the Transcaucasia also came to an end. However, the Russians did manage to attain a certain level of power over the newly independent littoral states in regards to oil and gas supplies. Near the end of the 20th century, Russian pipelines supplied Kazakhstan, Azerbaijan and Turkmenistan with valuable hydrocarbon resources. The situation grew dire for Russia as the Kazakh and Azeri Republics began developing their hydrocarbon resources in their respected territories. Turkmenistan looked to Iran to begin a new pipeline project through the latter as an alternative route of supplying the Western half of the World with gas. In the midst of all these challenges to Russian dominance, the leadership in Moscow formulated a plan to salvage as much power it could over the Caspian and newly independent littoral states, divide and conquer. On the tenth of January 2002, the Presidents of Azerbaijan and Turkmenistan met in Moscow to talk in regards to consolidating borders on the Caspian. This event took place shortly after a Russia's new proposal had been rejected by Iran due to
unfavorable conditions. With the Turkmen's backing Iran, Russia couldn’t consolidate enough support to silence Iran and thus suffered a moral loss. A former World Power could not longer overpower a state that it had once occupied and controlled. The only option for Russia was to deal with Iran’s rival Azerbaijan and even go as far as to seduce Turkmenistan with a more favorable division plan. It appeared that the Russians couldn’t turn former Turkmen President Niyazov from the Iran. Azerbaijan however was more than willing to deal with Moscow and a deal was successfully concluded with the Russians. Following the conclusion of the Azeri deal, Moscow concluded a border deal with the Kazakhs on May 13, 2002. Angered and cheated, the Iranians objected to both deals while condemning the Russians for taking unilateral action. After the Azeris and Iranians came close to military confrontation in contest waters, the Russians didn’t blatantly blame the Iranians for the dispute but rather called upon the two countries to make peace and sign a border treaty. Once the Russian relations with Iran warmed up, Moscow announced a revised version of their former plan that called for the division of the Caspian Sea based on a variation of the median line method, which splits a body of water down through the center. In partitioning the Caspian, the dividing line must be equidistant from the coast, issues concerning the median line of division should be resolved through agreements between all five littoral states and the basis of the division should be the water level measurements taken on the 1st of January 1998. The Russians currently assert the Caspian Sea should be broken into national sectors with a common Condominium in the center regulated by a legal regime. Under this plan the Caspian would not be deemed a Lake, Sea or even a true
The Azeri Stance

The Republic of Azerbaijan has been struggling to keep its territorial integrity, national economy, and sovereign authority in tact ever since it declared independence from the crumbling Soviet Union in 1991. Immediately after its declaration of independence, the new nation-state of Azerbaijan had to deal with two major uprisings within the south and southwest regions of the country. These challenges were just the beginning to a plethora of problems that would haunt Azerbaijan for years to come. One of these challenges is the ailing Azeri economy. Azerbaijan is unable to create new employment opportunities for its own people. This is causing a great deal of political unrest. Fearing the wrath of the starving impoverished Azeri people, the government of Azerbaijan has been trying to seduce foreign investors with its Caspian oil and gas reserves as part of a greater plan to boost the economy. Due to the absence of a defined legal regime for the Caspian Sea, oil exploration and drilling is highly limited. Rising to the challenge, Azerbaijan has quickly taken the initiative to announce a plan for the partition of the Caspian Sea based on the centerline-median principle that differs considerably from that of the Russians. In common terms, the length of every littoral states Caspian coastline would determine the size of their national sector. With their western portion bordering the oil rich waters of the Caspian, Azerbaijan would be one of the key beneficiaries of this plan. Other littoral states in similar positions have shown favorable tendencies toward this initiative by signing treaties with the Azerbaijan to this regard. The Azeris signed a deal with the Kazakhs to establish
their national sectors in the Fall of 2001. Three years later, on September 23, 2002, the Russian Federation signed an agreement of division of the adjacent areas of the Caspian Sea bed with Azerbaijan (Croissant, pgs.170-200).

The Kazakh Stance

Similar to Azerbaijan, Kazakhstan faces difficult economically challenges crippling the nation and stunting its growth. The former Soviet state of Kazakhstan holds about 3.3% of the world’s hydrocarbon reserves. What this means is that the President of Kazakhstan is basically sitting on a mountain of oil and gas. Recently, a Kazakh oil company had just discovered a new oil field on the shelf of the Caspian. Apparently the speculations made about the site some time before the oil discover were correct. With every sign of the growing presence of oil, the Kazakhs are growing more hopeful for the future. Investment from Western nations like the United Kingdom can go a long way in terms of boosting the ailing Kazakh economy. Although actually drilling and extraction of the oil won’t take place any sooner than 2010, the Kazakh government is already looking for potential investors in the West. In 2006, Kazakhstan extracted 65 million tones of oil and gas condensate. Yet economic growth remains stagnant at best and the country is still not stable as the leadership would like it to be. Massive energy projects must be undertaken if the Kazakh leadership hopes to build unity and bring about prosperity in the form of economic stability. This would mean exploring for even more oil and gas fields in areas under dispute. Before the Russians renounced the archaic Soviet-Iranian treaties, President Nursultan Nazarbayev of Kazakhstan gave his support to the Russians while also iterating that a compromise must be made
between all littoral states to redefine the status of the Caspian. When the Russians became willing to deal with the littoral states to establish official boundaries on the Caspian, the Kazakhstan pounced on the opportunity. By signing the treaty with Russia in 2003, Kazakhstan as given its support to Russian’s Median Line Method of Division and recognizes the Caspian as a the world most largest enclosed body of Sea Water (Suleimanov , pgs. 50-1258).

The Iranian Stance

The Islamic Republic of Iran is the most sincere of all the littoral states in respects to its stance on the legal title of the Caspian Sea. Contrasting Azerbaijan, Kazakhstan and Russia, the Iranians believe in the principles of the law of international Sea’s outlined by the UNCSL. Based on those principles, the Caspian would be divided into equal portions for all littoral states. No major oil or gas reserves are located off Iran’s coast and this plan would give them a share of the Caspian oil located in the mid point between itself and Azerbaijan. Not surprisingly, the only littoral state to support Iran’s stance is Turkmenistan, another nation with more to gain through this innovative (Mamedyarov, pgs. 1-2).

The Turkmen Stance

With no major hydrocarbon reserves located along Turkmenistan’s Caspian coastline, the Turkmen’s have thrown their weight behind the Islamic Republic of Iran in hopes of not just getting their pipeline financed but to also gain a few oil and/or gas reserves. Turkmenistan has stood by Iran’s side on the Caspian issue and as a result of this steady loyalty, the legal problem has not been resolved. If one country oppose a plan accepted by all other Caspian countries, that state can be
persuaded to change its position or suffer dire consequences of an economic, political and perhaps even of military nature. Yet with the assistance of a second party, an opponent can not easily be compelled to reverse its position on an issue or be silenced. Turkmenistan provides Iran with the necessary aid to oppose the littoral states’ position on the Caspian and push its agenda forward (Joyner, pgs. 173-216).

Concluding Remarks

From this section, one learns that the Caspian Legal Dispute can be simplified along ideological lines based on economic and political benefits. There are two main camps of thought, the countries favoring a modified version of the Lake Status and the countries who wish to define the Caspian as an International Sea. Though the former significantly outnumbers the latter, the other camp has enough influence and power to stall the progression of the legal dispute. In the past a third camp, the condominium, existed with some support but eventually lost favor over time due to its none opportunistic nature (Stein, pgs. 1-2). It would appear the littoral states have chosen a stance they are comfortable with and will most likely hold their ground. Yet nothing is for certain, should the Russia’s feel an urge to switch camps as part of their divide and conquer mentality the dispute may enter into a much more complicated phase of its existence. On the other, if the unstable governments of Azerbaijan, Turkmenistan or Iran fall it could cause one of two reactions:

The new established order in any of these countries might decide to reach a settlement quickly even if it means giving in to certain demands.
A radical regime might further the progression of conflict between the littoral states, which might lead to a bloody war in the Caspian region. Whatever the future has in store for the littoral states, one can be certain that the Caspian issue won’t be resolved quickly.
References


Chapter Four
The Littoral States

Introduction

Russia’s bilateral negotiations with Azerbaijan and Kazakhstan have been met with acute opposition from Iran along with a passive form of resistance from the conservative Turkmen. To complicate matters it appears every littoral state has its own subconscious agenda that manifests itself in the form of sporadic disagreements. Viewing the current Caspian situation from the ground level little appears to be clear or coherent. This is precisely the reason why one must look at this dispute from a good vantage point. Up to the following point of this study, various facts and strategies have been thoroughly reviewed without scratching too deeply into the surface of policy. Within the following chapter, the vital importance of policy will be fully examined from multiple perspectives to give the reader(s) a complete understanding of the issue at light. Knowing the official stances of the littoral states in regards to the Caspian Legal Dispute is only of use when one can apply these pieces of information to the policy decisions of each state. For better or for ill, policy issues not only involve and affect the nations involved but they also have the tendency to impact the rest of the world as well. A failed policy may increase gas prices or even reduce the stock of fuel, which would drastically change the current state of the struggling economy. On the other hand, a successful policy can help the economy to recover from a long and damaging recession. Yet the outcome of a particular policy is relative to what or who it involves. Although there are numerous Caspian policy decisions available to study, only the most influential
of these will be reviewed in depth. Hence, the relatively new North-South Corridor project is the central focus of this chapter. Unlike limited pipeline projects involving only one of the littoral states with a handful of European countries, the North-South Corridor goes beyond the Caspian region and places the interest of Southeast Asian and European nations at stake. It also empowers two of the largest littoral states that do not have the most reputable positions among the democratic nations of the world. Furthermore, it would not be an understatement to propose that the international market can be severely weakened or strengthened by the actions of those two countries. Such a fact has sparked the interests of the United States, which at the current time does not have very friendly relations with these nation-states (Cantle, pgs. 447-480). Perhaps the most interesting point of this matter is how a single project involving three distinct nations could weave a complex system of webs representing the various interest of each nation involved.

**The Creation of a Caspian Project**

In a world filled with adversaries waiting for the most opportune time to strike, the Russians and Iranians were being continuously shunned by the western powers financing the various kinds of innovative trade routes to expand free commerce with Asia. Not taking kindly to the discrimination, the Indo-European speaking peoples of Russia and Iran decided to open up the old avenues of trade closed for some time after the collapse of the Soviet Empire. Seeing the immense potential these countries held, the Indians were eager to open their arms to both Iran and Russia for the advancement of their own plans. As one can deduce from a world map, India has limited trading avenues in which it can quickly and safely
transport goods to Europe. Being located north of the Persian Gulf and South of the Caspian, Iran is the perfect host for a corridor that would run straight across the nation. From the Caspian Sea, the goods can be shipped to the famous Russian port city of Astrakhan and in turn sent down the Volga River to Western Europe. Observing the blue prints of the plan, one is made to believe that this a special kind of situation that only produces winners. India can quickly send its products to Europe, the Iranians and Russians are able to collect numerous tariffs and poll charges while the Europeans can enjoy the goods of Southeast Asia more briskly than before. To ensure efficient transportation, the Russians announced the advancement of shipping facilities in the Astrakhan port while the Iranians have done much to build up their avenues of transportation. Hence were the reasons behind the establishment of the International North-South Transport Corridor or INSTC in St. Petersburg, Russia by the Russian Federation, the Islamic Republic of Iran and the secular Republic of India in the year 2000. Eager to capitalize on this international business venture, the neighboring countries of the INSTC requested membership into the organization. Fortunately for these other nations, the founding members were eager to expand their plans to include not just Indian, Iranian, European and Russian goods but also items from the Cucus, Central Asia and the Arabian Peninsula. The INSTC was expanded to include such states as Armenia, Belarus, Kazakhstan, Oman, Syria, Turkey, Kyrgyzstan, Oman, Kazakhstan, Azerbaijan, Ukraine as new active members and Bulgaria as an observing member. At this current point in time, four of the five littoral states are members within the INSTC. Only Turkmenistan has been left behind for reasons not well known.
Considering the fact that a new railway is set to be built, which would link Kazakhstan, Turkmenistan and Iran together, one may rule out bad sentiment as a reason for Turkmenistan’s exclusion. It could be related to the limited amount of hydrocarbon reserves Turkmenistan drills and exports. It would be uneconomical to spend a great deal of money for transportation expenses only to break even at the very end. Whatever the reasons for the Turkmen’s absence, the INSTC members do not seem to be too worried about who’s involved but more eager to start shipping their goods to eager European markets. But before the shipments of goods can be sent to Western nations, the terms of transportation must be set. To their advantage, the majority of the trade routes run through Iran and Russia. This empowers them to set favorable conditions of trade with the other members. The Cuscus, Central Asia and Eastern European members are not forced to deal with Iran in their trade negotiations for the INSTC but Oman, Syria, Turkey and India are not in such favorable grounds (see Appendix B). If it were not for a stubborn Armenia standing in between Turkey and Azerbaijan, the Turkish government could have probably worked out a favorable transportation deal with the Azeris. Unfortunately for the Turks, the only outlet to the Caspian is through an economically tarnished Iran who is more than willing to take large quantities of Turkish capital to fulfill transportation services. Syria is stuck in the same boat as Turkey but at least their regime is on better terms with Tehran. India and Oman not only have to pay for shipping fees but in addition to this they are compelled to pay for physical transportation fees in the form of tolls and handling expenses. Depending on what roads are taken, there are up to seven different stops that must be made in Iran
before goods can be sent from the southern most tip of the country to its most
northern portion. It is within Iran’s sovereign right to charge poll fees for every
stop that is made in its territory. Hence, in addition to the handling expenses that
must be paid to Tehran for transporting foreign goods in its railways, a separate fee
for stops in major cities must also be forwarded to Iranians should the owners of the
goods wish for their possessions to reach the Caspian Sea. For instance, India has
no other choice but to ship its cargo from the distant port cities of Sori or Bandar
Anazli. The latter is located off of Iran’s coast and thus constitutes seven and one
half stops. Although the Sori route does not encompass as many stops as the Anzali
route, it is subsequently farther from the Volga port. In essence, India would pay
the same amount of money to use either of the routes. Many political scientists
have discredited the importance of location in regards to international relations but
it seems as if Iran still provides the bridge between East and West (INSTC, pgs. 1-
15).

**Challenges to Cooperation**

Traditionally, Iran has been the country that brings together Eastern and
Western forces in physical and political terms. In regards to the North-South
Corridor project and the Legal Status of the Caspian, Iran has done its best to be the
mediator in both situations. Unfortunately, the Russians have not taken warmly
toward Iran’s mediation role and they have managed to use bilateral negotiations to
settle any sort of disputes they have had with other littoral states in terms of
ownership and usage rights to the Caspian Sea along with its resources. Taking into
account the sheer amount of influence and power Iran could potentially have on the
predominately Muslim, newly independent soviet states, it would be foolish of Russia to ensue its lone wolf activities in the Caspian. Though both countries would be better off attempting to curb outside third party influences from the region, it appears they are more concerned with their own activities. This sort of conduct creates a hostile environment for business ventures as well as covering the Caspian Region in a blanket of distrust. None of these are suitable for the growth and development of the North-South Corridor, which delays profits for not only Iran and Russia but every other nation-state involved in the activity as well. However India’s neutral stance toward both the Giants of the Caspian can help in bringing them to a relatively balanced agreement over their differences. Yet such an attempt of mediation could only work if Iran steps back from the role of mediator in this instance for the sake of North-South Corridor. The question now becomes whether or not Iran is willing or even capable of allowing a third party foreign to the region to mediate in Caspian affairs? In order to accurately answer this question one needs to examine the current chaotic political environment of Iran. Since the election of President Ahmadinejad in 2006, the factional politics of Iran became more intense than ever before with the reformists lead by former President Rafsanjani watching every move of the hardliners waiting for them to make a mistake so they could discredit the other side in the eyes of the judgmental Iranian people. In a country where the majority of the significant government posts are occupied by hardliners, this state of continuous competition leads to internal bickering that slows the pace of work of the bureaucracies. Subsequently this results in internal political chaos in Iran and delays in external projects. Giving
power to a third party to mediate affairs in its neighborhood would result in great criticism by the opposing reformists in Iran. Hence, the Iranian government can not allow mediation to take place lead by India or any other nation-state for that matter. For the sake of the North-South Transportation Corridor, hopefully Iran can quickly resolve its issue with Russia. The hardliners definitely need a major victory for their camp ever since the nuclear standoff with the West has died down. Their unofficial motto was to defend the integrity of Iran and Iranian people but recently there has not been a need to do so. To add insult to injury, the hardliners have failed to resolve Iran’s dire economic issues and gas reserves are running short in one of the coldest winters in the country. Furthermore, the previous Khatami reformist regime made great advancements in regional cooperation. A transportation corridor between Uzbekistan and Iran running through Turkmenistan was completed and talks were initiated for another route through Afghanistan. The North-South Corridor would link up with these routes allowing the land locked countries of Uzbekistan, Tajikistan and Kyrgyzstan to transport and receive goods to and from Europe. No comparable foreign policy feats have been accomplished as of yet by the hardliners who are quickly losing the faith and support of the impatient Iranian people (Kepbanov, pgs. 1-6).

Russia’s Ambitions

Aside from the Islamic Republic of Iran, the other nation within the region powerful enough to have a significant influence on the development of the North-South Corridor or NSC is the Russian Federation. After all, the majority of the transportation route is located in Russian territory. So it becomes increasingly
important to analyze Russia’s interests in and complications with this project. As a tantalizing appetizer for the Russian government, the NSC offers hundred of millions of dollars in taxes and customs revenues. Furthermore, Russia will gain more political leverage in respect to Western European States. Should a situation arise where Western Europe threatens Russian interests, the latter can threaten to cripple the NSC and block the transport of South Asian goods to Europe. But perhaps the greatest incentive to launch the NSC was the increase in Russian prestige both domestically and abroad. With European transportation routes in Central Asia that deliberately discriminated against Russia such as European Union’s TRACEA project, it has become very crucial that the Russians launch their own transportation project that does not include the Western Europeans. Hanging on the most eastern frontier of Europe, many European Nations treat Russia has the red headed step child of their continent. Due to years of Communist rule by the provocative former Soviet regime, the world tends to view Russia as an archaic-barbaric nation struggling to adapt to the modern era. For some time now, Russia has been attempting to prove that it is civil and cultured as the rest of European countries. Consequently, the NSC gives them such an opportunity by expanding international trade in a quickly globalizing world. Being a President who founded his political career on reestablishing Russia has a major power, Vladimir Vladimirovich Putin jumped on the opportunity to launch the NSC project as a founding member. Although on paper the NSC appears to be a feasible and coast beneficial for the country, one can not help but to ponder on the possible negative aspects of transportation routes. Not all Russian transportation terminals are in
prime stone condition and hence delays may arise in the movement of cargo as a result. To counter this decay, Russia has announced that it would develop some of the major transportation terminals such as Oyla. However, is the Russian government willing to invest in a considerable amount of capital should more terminals need maintenance and or expansion? Would it be profitable to invest money in improving transportation routes in Russia for the sake of NSC? If the Russian government intends on collecting tariffs, poll expenses and additional transportation fees from the countries that intend on using the NSC, then the answers to the questions stated above are obviously yes. Following this answer comes yet another pertinent inquiry: Is Russia politically stable enough to be a vital link in the NSC? With most of the major political opposition reduced to just bickering from a safe distance, President Putin has managed to create a stable environment conducive for the development of economic ventures. Although Putin’s term is slowly drawing to its inevitable end, the country should be able to maintain its stability after the current President’s term unless another raging alcoholic decides to run for office and wins (Cantley, pgs. 447-480). Irrespective of a handful of complications, the NSC is a lucrative transportation project that should bring Russia extra revenue and some desperately needed international acclamation.

**Turkic Brotherhood: Kazakhstan and Azerbaijan**

The only other littoral states that have a vested interest in the NSTC are the republics of Kazakhstan and Azerbaijan. None of these countries are founding members and therefore can exert only a limited amount of influence on the other member states. Nevertheless, these nations will benefit from the existence of the
NSTC. It is doubtful that any of them refused to contribute to the project financially since it would lower their dependency on Western architected and controlled transportation routes in Central and Euro Asia. Taking into account its close proximity to the Caspian Sea, one would assume Turkmenistan would have joined as a founding State let alone as a secondary one. Yet the Turkmen government has not requested to join the NSTC nor has it shown a particular interest in it. The reason behind their abstinence is not easily explained due to the abundance of benefits the NSTC could provide Turkmenistan. Possessing its own ports on the coast of the Caspian, Turkmenistan wouldn’t need to pay any fees to Iran to transport its goods to Russia, which would save the country a great deal of money. Essentially, the Turkmen can transport their products much faster and in a less expensive fashion than the member states located south or west of Iran. Although the country has not had a tradition of production and is currently not as active as its neighbors, it still has certain items of interest such as iron that could be transported to European markets via the NSTC (Mehdiyoum, pgs. 180-189). Only time will tell if Turkmenistan decides to participate in the potentially lucrative NSTC business venture.

Concluding Remarks

The NSTC’s impact on the Caspian Legal Debate is uncertain, yet with the employment of common sense and critical reasoning, one can come to a logical conclusion to this matter. Russia and Iran will undoubtedly amass large monetary wealth as well as strategic strength from the NSTC, which they may use to convert into military power. Fortunately, the NSTC promotes free trade in the Caspian and
that will do much in regards to curbing the militarization of that region. Though nation-states rarely accumulate power then never intend to use it, and this may result in these two Caspian Superpowers in using different avenues to influence the other littoral states. Such methods may policy decisions along collective decision makings of regional organizations. Azerbaijan or Kazakhstan may find themselves in difficult economic situations if they choose to go against the will of either Russia or Iran for they have the power to keep goods from flowing into and/or out of those nations via the NSTC. Being two of the three founders of the NSTC, Iran and Russia can enforce certain standards of trade the likes of which could include extra tariffs and tolls or specialized conditions of trade. Perhaps this is the exact reason why the Russian and Iranians were so animate about launching the NSTC and the West a bit cautious toward it. On a brighter side, the level of international cooperation needed to start and maintain the NSTC may push the littoral states into more favorable grounds for negotiation in regards to the Caspian's Legal Status. From a liberal perspective, cooperation on small issues will make cooperation possible on the bigger imperative issues. On the other hand, a Realist would argue that the profits gained from the NSTC may make Iran and Russia more selfish and crude, which would make dealing with them nearly impossible (BBC, pgs. 1-3). Which model will be upheld in real life is yet to be seen but as long as they are busy profiteering then they do not have time for war.
References


Chapter Five
Solutions to the Caspian Legal Ambiguity

Introduction

Explaining the numerous complexities existing within the elaborate framework of the Caspian Legal Debate can alone be a comprehensive work on its own. Yet it would be highly irresponsible for an author to leave out a section in reference to a possible solution to a particular issue such as the one at the focal point of this study. Hence this part of the work is solely in reference to the solutions available to solving the international legal dispute. Certain facts and disputes from other chapters will be summarized in this portion of the work to give the reader(s) a better outlook on the Caspian Legal Dispute.

Basic Solution

The basic method of solving the problem would be to declare the Caspian an international sea and give each littoral state share of the Caspian based on the criteria explained in depth within Chapter three. However, the likelihood of this actually materializing is highly unlikely as the nation-states that would benefit the least have no incentive agree to this proclamation. For better or ill, the legalities of the international sea are such that all parties with a direct state in a particular affair must agree to sign on to the partition (Aras, pgs. 125-400). Unfortunately, the provisions of the international sea do not allow for any flexibility. Common sense dictates that all successful plans are those which undergo a considerable amount of amending. A plan that forbids such a process of compromise is doomed to fail at its very onset. With that stated, it is reasonable to assume that this initiative will never
be accepted by all the littoral states and should thus be discarded as a reasonable solution to the issue.

**Only Other Choice Available**

If the international sea is not suitable then the only option left to solve the legal problem would be to proclaim the Caspian an international lake. On the other hand, it does not set any suitable means for division, navigation or ownership rights to the Caspian and its hydrocarbon resources. Reaching a compromise could be difficult without a solid basis yet it is a definite possibility. The only truly disturbing aspect of this plan would the fact that navigation through neighboring lakes and rivers is highly discriminate. This means that any ship hoping to pass through a lake must first get the permission of the nation-state that owns the body of water. Those hoping to negotiate around this rule will be disappointed to realize it is nonnegotiable. In this particular situation, Russia would benefit the most since its famous Volga river runs straight through Asia to Europe and is a very effective rough for trade with the West. If the littoral states agree to implement the international sea plan they would have to abide by the rules of navigation set forth by Russia. Then again, it would not differ from the current arrangement. Currently, the lake model appears to the preferred choice of all littoral states. So if the littoral states agree to declare the Caspian an international lake why has the legal dispute not been solved? The answer is a simple one but it encompasses numerous legalities warranting observation. Acceptable compromises to the three main focal points of ownership, partition and navigation of the Caspian Sea have not been reached. Individual states have articulated their own deals with one
another yet failed to conclude a larger and more significant deal acceptable to all parties involved. With each littoral state unwilling to bend at the negotiation table, it doesn’t seem likely that any acceptable solution will be reached in the foreseeable future (Amirahmadi, pgs. 150-200). However there is still a spark of hope within the seemingly lightless void of darkness. With the introduction of the NSTC the littoral states have become a tad bit more tolerant of one another and their views on this legal issue. Such phenomena warrants the fundamental question of why? In order to make the NSTC system work, the littoral states have no choice other than to work more closely with one another despite any resentment they hold deep down in their national psyches. The potential profit these countries can earn from the North-South Trade Corridor are too precious too be turned due to some points of confliction they have over a separate stalemated issue. Not surprisingly, the NSTC system also indirectly sponsors the lake status for the Caspian by giving each member the right to charge tolls, taxes and handling fees for shipments passing through their territories. This level of sovereignty is exclusive to international lakes and it’s no wonder that two of the original members just so happen to also be the ones that have much to gain should the Caspian be classified under this label. Even with the subtle influences of Russia and Iran, the other littoral states with the exception of Turkmenistan seem to be more interested in getting their goods to Europe both faster and more efficiently.

**The INSTC**

The International North South Trade Corridor seems to the essential element within the formula for the resolution of the uncertain status of the Caspian Sea.
Thus far it has helped expand cooperation between even the most ideological different littoral states (INSTC, pgs. 1-2). Yet the INSTC has failed to address the partition issue of the Caspian Sea. How the Caspian should be divided is still a pestering question without a simple answer. It would be very difficult to convince the littoral states to go beyond their own selfish interest and take into consideration the well being of the region as a whole. The presence of interstate rivalries doesn’t make matters any easier as each littoral state has grounded itself in its position on the partitioning of the Caspian. Meetings are held, mediators are selected amongst the more ideological neutral littoral states to help ease tension between rival states but none of these measures seem to produce any concretely positive results (INSTC, pgs. 2-3). But then again holding even the most unproductive talks is better than holding none at all. When countries fail to communicate in regards to their mutual problems, the result is usually war. Armed conflict would do much to damage the carefully crafted frame work of the INSTC and stall resolution developed over the Caspian’s legality issue. Furthermore, war in the Caspian region would prompt other nations, especially Western European powers and the United States, to get involved to protect their business and national interests. The aftermath of such a war would be a site to gaze upon in awe and amazement but not in regards to its beauty or majesty. Instead the world would look upon this region in astonishing disgust that one of the most naturally beautiful parts of the world has turned into a decadent wasteland. After logically concluding war as a major retarding factor one is left with only one option for the solution of the legal battle of the official title of the Caspian: expanding the INSTC to include political in addition to the economic
cooperation. Slowly but surely the INSTC like NAFTA and to a far greater extent the European Union should build on its economic collectivism to also include political cohesiveness (Suleimanov, pg. 15). Eventually this will lead to resolution of the Caspian conflict without reverting to barbaric and destructive means. Perhaps the only draw back to this initiative is the fact that the length of time between economic cooperation and economic unity is certain to be far apart. In addition to this, one can only speculate how long it will be before the littoral states can build political cohesion within the framework of the INSTC. Hence it is imperative that the INTSC begin to promote political cooperation in other areas independent of economic interests. Specific issues such as the protection of the natural habitat of the Caspian region and the control of drug trafficking within Caspian waters should serve as good starting points for furthering political collaboration amongst the littoral states. Essentially what could be at works are the dynamics that lead to the creation of the European Union or more commonly referred to as the EU. France and Germany initiated the economic agreement that would lead snowball into the EU some years ago after the devastation of World War II. There is no reason to suspect that the INSTC is capable of delivering the Caspian from the powerful grasp of dispute just as the European Coal and Steel Community did for Europe (Suleimanov, pgs. 20-31).

**Iran the Lion of the Caspian**

An issue that has not be brought to the frontlines of the Caspian Legal battle due to its ambiguous nature is the changing political atmosphere of Iran. Ever since the controversial victory of conservative candidate Mahmoud Ahmadinejad, the
foreign and domestic policies have gone through a compete metamorphosis. Moves to further privatization, non-hostile approaches to the Israeli-Palestinian conflict along with cooperation with the United States have all been stalled for the advancement of more aggressive policies. Even the Supreme Leader has always been critical of the West and its initiatives, the Iranian Presidency has always been dominated by liberal individuals that provided a sort of inferior check to the conservatives on the top of the political pyramid. In 2006 this fact of Iranian factional politics changed. Conservatives are currently in charge of both the Supreme Leadership and Presidency within Iran. Consequently, the Iranian Revolutionary Guard is more active than ever in attempting to curb the United States influence in the Middle East. Its head of affairs was replaced by a General more sympathetic to the cause of Basij sect of the IRG. Socialist overtones are being to bleed through the paper thin economic reforms initiated by the President Ahmadinjad much to the dismay of the reformists. Western media outlets have failed to portray the situation in an accurate light. President Ahmadinajed does not represent the entire interest of the IRG but rather one specific sect known as the Basij. In the Iraq-Iran war, the Basij sacrificed greatly to protect their country but were poorly awarded after the war in comparison to the paramilitary troops of the IRG. Obviously this tension caused major dissatisfaction among the Basij who viewed the lack of recognition has a sign of inherent disrespect for the less economically fortunate members of Iranian society, which comprised the majority of the members of the Basij. Hence the members of this IRG organ became more socialistic in their political-economic philosophy. Currently, the economic reforms
have been aimed at aiding the lower class and some instances punish the upper class for possessing large amounts of capital. Some affluent members of the IRG have also been targeted by the President’s economic initiatives despite their privileged positions within the Iranian Armed Forces. Furthermore, the bickering of the reformists hasn’t helped the Iranian President make any more friends but it has done marvels in producing new enemies for him. Considering the relatively chaotic situation of Iran’s political atmosphere, it is amazing that the President has found time to dedicate to the Caspian Legal Dispute. Mr. Ahmadinejad’s approach to the Caspian debate differs from that of his predecessor. Unlike former Iranian President Muhammad Khatami, President Ahmadinejad isn’t afraid of threatening neighboring countries when necessary. Shortly after his election into office, the Iranian President clearly told the President of Azerbaijan that if he considered allowing the United States to open a military base in his country Iran would be forced to preemptively react to such a hostile threat of eminent invasion. Apparently the Azerbaijanis were not willing to call Ahmadinejad’s bluff and decided to deny President Bush the privilege of opening a US army base in their country. This kind of openly aggressively behavior has its obviously uses for Iran. Being one of the largest and strongest of the littoral states, Iran has finally decided to use its muscle in bullying the smaller states in its region (Cohen, pgs. 1-9). Although it is yet to be seen whether or not they would be willing to approach another potentially dangerous issue the same way, one can be certain that no resolution to the Caspian Legal debate that is not blatantly beneficial to Iran will be accepted by the Ahmadinejad administration.
Concluding Remarks

As the littorals states continue to resolve their legal issues over the Caspian Sea, the rest of the world waits and hopes for the best. Of course the notion of what is best differs from region to region as well as country to country. The United States perverted obsession of granting Azerbaijan a great advantage in terms of water territory and access to the hydrocarbon resources of the Caspian Sea has left European nations pulling in the opposite direction. Backing Iran and Turkmenistan, the Western European nations feel that a too cozy of a relationship between the Azeris and Americans would endanger their interest in the region. Former Soviet states tend to discretely lean in the direction of the NSTC in hopes that the influence of Russia will curbed by an international body. Such a tactic is a safe method of opposing the sole domination of Russia while not appearing to be too sympathetic to the other littoral states. At the corner of Southeast Asia, India has managed to throw itself into the frying pan of international intrigue in the Caspian region by helping to found the NSTC, which founded an Indian interest in the Caspian Legal issue. Absent from the scene is the People’s Republic of China; the only other major power in the world that has failed to show particular interest in the Caspian region. Considering there close economic ties with the Islamic Republic of Iran, one could assume that if push comes to shove the Chinese will happily back their economic partner in the region (Croissant, pgs. 225-300). Aside from the players in this great new game are the paths to legal salvation. Although none of them are adequate enough to resolve the numerous differences of opinion between the littoral states, there are indeed a better alternative to having no options at all. The ultimate
question boils down to which one of those options explained within this chapter is best suited for the resolution of the Caspian Legal issue? A biased response would appear similar to the author stating that the NSTC is the most efficient and effective route to long journey toward legal resolution. It has the ability to unit all the littoral states on common economic grounds while at the same time posses the ability to expand into political cooperation in the near or distant future. Yet all the facts are provided to the reader and therefore an independent assessment can be made without accepting the author's outlook on the issue in its entirety.
References


Conclusion

A Final Look

At this point within the study it is obvious to concur that the Caspian Legal Debate entails not just the five littoral states but other powers foreign to the region seeking to protect their own interests. In essence all the players in this great game are merely attempting to accomplish one essential goal: to ensure the continued survival of their national interests. Consequently this does not create the most conducive environment for cooperation and the eventual conclusion of this legal issue. Never the less the littoral states continue to carry out conventions that ultimately seek to end the legal obscurity surrounding the Caspian Sea. However these conventions always appear to be driven by the selfish needs of the more powerful littoral states. If one were to simplify this issue, the Caspian Sea would be divided between four interests. The first interest belonging to the Russian Federation, the second to the Iranians, Kazakhstan comprises the third interest and Azerbaijan would make up the last interest competing in the region. Turkmenistan has been unable to break away from the other competing interests due to its lack of effectively leadership. It has always been the case that the Turkmen have been under the imposing umbrella of either the Russians or the under the protective blanket of the Iranians. Azerbaijan's interest is driven by the Americans who encourage, quite recklessly at times, the Azeris to challenge the Russians and Iranians at any opportune time. Mean while Iran, Russia and Kazakhstan are all looking out for themselves in a world filled with self-motivated rivals. Such a hostile environment is likely to unite these three Caspian giants, which is why the
increased cooperation between Iran and Russia is not seen as an unexpected phenomenon. Taking into consideration the damaged image of the United States and the lack of support for its activities in the Middle East by its European allies, it isn’t exactly a wise choice to corner three of the most powerful littoral states into a position where unity would be the only logical answer to their common threat (Jalali, pg. 7). Then again nothing is as it truly seems in politics and only the cunning politicians truly know what’s really going on behind the thick curtains of diplomacy.

**Reasonable Conclusions**

At the end of the day, one ponders the age old question of how the Caspian Sea issue relates to one’s personal life as a civilian living thousands of miles away from that region of the world? First and most pressing would the price of oil and gas. Containing a rough estimate of oil comparable to that of the Persian Gulf, the Caspian Sea has the potential to keep the twenty first century petroleum dependent (Jalali, pg. 8). Depending on which country is in control of the major oil and gas resources, the price of both of these commodities can go down or up depending on how willing and able the provider is to place them on the global market. Secondly, the Caspian Sea connects with a number of key rivers and lakes that are great routes to ship cargo through, which also means that if any enemies of Western style democracies ever got a hold of a weapon of mass destruction and sent it up stream to Europe, it could create a very devastating catastrophe (Rand Research Group, pg. 21). Having a key ally in control of those transportation routes would be beneficial to all European nations. Unfortunately for Europe, the majority of the lakes that
link to the Caspian and flow to Europe are in Russian territory (Jalali, pgs. 7-8). So the nature of European-Russian relations is greatly impacted by the Caspian legal debate. This also means that certain commodities from Asia might be more expensive due to the tolls and other transportation fees that could be charged by the Russians. If those two reasons aren’t enough to convince an individual of the importance of this study then perhaps the threat of an all out war will spark his or her interest. Should a small armed conflict break out between two or three of the littoral states, one can almost be certain that the major powers of the world are most certain to get involved. An ordinary American citizen from Kansas might be called to active duty to fight in a war to protect his country’s interest within the Caspian region from countries such as Iran and Russia. Hopefully it will never reach that point but never the less the reader has most likely understood the fundamental importance of this subject from the standpoint of an ordinary and academically challenged individual. Having explored the various paths to Realist outcomes, it is so evidently clear that the only logical answer to the legal issue of the Caspian is developmental cooperation, which is the underlining neo-functionalist theme of this study that advocates for the gradual establishment of a legal regime for the Caspian.
References


The Caspian Sea and the nation-states surrounding it.
Appendix B

The International North-South Transportation Corridor
References


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