


# GEOGRAPHICAL ASPECTS OF DETERMINING THE LEGAL STATUS OF THE CASPIAN SEA

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**Abstract:** *The article contains a geographical analysis of the “Concept on the legal status of the Caspian Sea (2018)”. The main object of the study is the process of drawing state borders in the Caspian Sea, meanwhile the subject is the identification of geographical factors influencing it. Along with the methods of scientific description and figurative-symbolic modeling as well as comparative-geographical and cartographic methods, traditionally used in geographical research, the author applied the method of geopolitical analysis, which involves identifying the properties of the region under study that affect the policies of the countries in this region. The following geographical factors were identified as the leading ones: natural properties of the Caspian Sea as a geographic object; its natural resources (attention is focused on the reserves and territorial distribution of hydrocarbon raw materials and biological resources); the geographical position of the Caspian countries (the continentality of Kazakhstan, Turkmenistan and Azerbaijan, which constitutes the dependence of their foreign economic activity on neighboring countries - Russia, Iran); the geographical position of the Caspian (transit position, i.e. the location at the junction of the Central Asian region, rich in hydrocarbon raw materials, Europe, China, which are its leading consumers and the Middle East, whose military and political problems impact on the implementation of many economic, primarily transport projects in the Caspian countries and, as a consequence, on the nature of the relationship between them). As a result, a direct link was established between each investigated geographical factor and the legal norm contained in the “Convention ...”.*

**Key words:** *political geography, geopolitics, state border, the Caspian Sea, Russia*

**JEL codes:** *F51, F52, F53*

## 1. Introduction

Considering the nature of relations between the countries of the post-Soviet space, it should be noted that despite the 1994 Declaration on the Observance of the Sovereignty, Territorial Integrity and Inviolability of the Member States Borders of the Commonwealth of Independent

States the process of delimiting their state borders has not been completed. First of all, this concerns the borders drawn along the water lines. A special place among them is occupied by the borders of the Caspian countries, emerged after the collapse of the USSR: Kazakhstan (40% of the length of the Caspian Sea coastline), Turkmenistan (21%), Azerbaijan (16%), Russia (11%) (Zhiltsov et al. 2003). The relations between them regarding the use of the Caspian Sea, as well as between each of them and Iran (12% of the length of the Caspian Sea coastline) (in contrast to them, which did not change its borders during the period under review while receiving new neighbors) are the subject of many international agreements. Leaving their list and their corresponding analysis outside the scope of this article (which has already been done many times by many Caspian researchers in their works), let us highlight the most significant of them, namely, the “Convention on the Legal Status of the Caspian Sea” (2018) (www1). Over the past 28 years of the sovereignty of the newly independent states, the Convention has for the first time fixed the international status of this reservoir thereby making it possible to judge the limit of the sovereignty of each Caspian state. The purpose of the study is to establish what geographic factors influenced the decisions made.

## **2. Methodology and Data**

In order to achieve this goal, it was necessary to analyze both the official documents regulating international law in the field of drawing water state boundaries: the United Nations Convention on the Law of the Sea (1982), the United Nations Convention on the Continental Shelf (1958), the Convention on the Protection and Use of Transboundary Watercourses and international lakes (1992), and the “Convention ...” itself.

Focused attention to these non-geographical sources of information is due to the general lack of experience in drawing state borders in the Caspian Sea. Despite the rich history of the formation of states in this region and the corresponding state borders, it is worth noting that they were all land-based. Even the treaties between Russia and Iran (St. Petersburg 1723, Rasht 1729, Gulistan 1813, Turkmanchian 1828), and then between the USSR and Iran (1921, 1931, 1935, 1954), which researchers constantly refer to, record distribution of the Caspian lands between the countries, while the delimitation of the water area was not discussed at all, on account of its being initially under the sole jurisdiction of Russia, and then in the joint use of Russia and Iran (without any legal definition of its borders). Meanwhile description of the land borders involved indication of the extreme points of the western and eastern (trans-Caspian) territories - Astara and Hasan-Kuli (Ruban, 2017). The line connecting these settlements (Fig. 1) was considered to be the dividing line between the influence zones of Russia and Iran in the

Caspian region. It was incorporated in the basis of the Soviet-Iranian Treaty of 1940, which, along with the declaration of the right for free navigation and fishing for ships and citizens of the USSR and Iran throughout the entire water area, for the first time recorded the presence of certain elements of the water border (a 10-mile coastal strip where fishing could be carried out only by the ships of the coastal state).

This feature in many respects attracts attention to the study of determining the state borders in the Caspian sea mainly by historians (Pivovar, 2019; Pritchins, 2018; Mamaraev, 2009), lawyers (Mamedov, 2000; Nutsalkhanov, 2019) and political analysts (Zhiltsov et al. 2003; Utkin, 2018). In the meantime, the importance of the Caspian sea for the economic development of coastal countries determines active participation of economists and representatives of the business community in the discussion and, in general, analysis of the legal status of the Caspian sea: (Zavyalova, 2017; Katona, 2017; Markelov, 2011; Kazharov, 2011). Meanwhile, when it comes to studying various aspects of defining the legal status of a certain region, in this case the Caspian Sea, it is obvious that research involves geopolitical studies, since a direct causal relationship is established between the territory and politics (Kretinin et al. 2016; Grudtsyn, 2016; Pototskaya, 2018).

In this regard, along with the methods of scientific description, comparative geographical, cartographic and symbolic modeling methods traditionally used in geographical works, the author applied the method of geopolitical analysis, which involves identifying the properties of the studied region that affect the policy of the countries in this region.

We emphasize that the article contains references only to those scientists whose opinion was taken into account in the research, while there is a whole layer of scientific works devoted to the topic under consideration and published in such authoritative and recognized by the academic community printed and electronic interdisciplinary publications uniting researchers of the region as “Caspian region: politics, economy, culture”, “Central Asia and the Caucasus”. Not only do they popularize up-to-date information about the region, but also allow conducting a scientific discussion on the most problematic issues, which naturally include the legal status of the Caspian Sea.

### **3. Results and Discussion**

The study made it possible to identify four main geographical factors influencing the determination of the legal status of the Caspian Sea: natural properties of the Caspian Sea as a geographic object; its natural resources; the geographical position of the Caspian and the

Caspian countries; ecological aspects of the development of the region. Let us consider them in more detail.

*The first factor* is obviously the natural properties of the Caspian Sea as a geographic object (isolation from the World Ocean, large area, salinity, bottom structure). They did not allow to determine the natural status (sea or lake) and, accordingly, the legal status of the Caspian for a long period of time. The modern “Convention on the Legal Status of the Caspian Sea” (2018) moves away from the definition of this reservoir either as a sea or a lake, defining it as “a reservoir surrounded by the land territories of countries” (www1) thereby enabling application of international legal norms of both seas and lakes:

- allocation of “inland waters” - waters located towards the coast from the baseline (as the sea is an analogue of inland sea waters);
- the allocation of “territorial waters” - the sea belt, which extends the sovereignty of the coastal state (as the sea - an analogue of the territorial sea) - 15 miles;
- the allocation of “fishing zones” - a sea zone in which the coastal state has the exclusive right to harvest aquatic biological resources (as the sea is a relative analogue of the exclusive economic zone) - 10 miles;
- allocation of “common water space” - a part of the water area located outside the outer limits of fishing zones and used by all coastal states (as a lake);
- allocation of “sectors” of the bottom - for subsoil use and other economic and economic activities related to the development of the resources of the bottom and subsoil on the basis of agreements between neighboring and opposite states (as the lake).

While the application of the “sea” norms to determine the legal status of the Caspian (internal waters, territorial waters, fishing zones) gives it metric and legal clarity, the use of “lake” norms entails a lot of questions. For instance, it is the definitions describing the allocation of national sectors of the seabed carried out on the basis of agreements between neighboring and opposing states that indicate certain problems in the implementation of this process.

Moreover, although the allocation of a common water space used only by the Caspian countries settles the issues of national security of the Caspian countries, preventing the military presence of non-regional states, it still does not eliminate the US military presence in the ports of Azerbaijan (Baku) and Kazakhstan (Aktau, Kuryk), through which the delivery of non-military goods for the American contingent to Afghanistan is carried out (www2).

*The second factor* is the resources of the Caspian. Due to the considerable natural resource potential, we will designate only the most significant of them which affect the nature of relations between countries and, as a result, the list of rights that states can apply when extracting resources. First of all, we note the presence of substantial reserves of hydrocarbons (oil and gas) (Fig. 1, Table 1). Presumably, the Caspian region has proven reserves of 68 billion barrels of oil and 16 trillion of gas. m<sup>3</sup> (Katona, 2017). At the same time, the main part of oil reserves is concentrated in the national sector of the seabed of Kazakhstan and Azerbaijan, and gas reserves in Turkmenistan and Kazakhstan. The smallest resource base is in Russia and Iran. Since the extraction of hydrocarbons is associated with the exploitation of certain bottom areas of the reservoir, it is obvious that the interests of the Caspian countries are associated with the desire to obtain a sector rich in oil and gas. The “Convention ...” under consideration, as mentioned earlier, does not regulate the boundaries of the national sectors of the seabed, assuming that all adjacent and opposite Caspian countries will be able to accomplish this independently through negotiations.

Such agreements have already been in force between Russia and Kazakhstan (1998), Azerbaijan (2001); between Kazakhstan and Azerbaijan (2001); between Kazakhstan and Turkmenistan (2014). At the same time, they are absent between Azerbaijan and Turkmenistan; Azerbaijan and Iran; Iran and Turkmenistan. That is why it is possible to speak about the presence of clear boundaries dividing national sectors of the bottom only in Russia and Kazakhstan. The boundaries between them were drawn on the basis of the principle of the median line (equidistant from the coastlines of coastal states), which is applied in international law to crossing of the territorial seas of neighboring and opposite states. At the same time, the joint exploitation of fields which turned out to be borderline was also negotiated and agreed on (Kurmangazy, Khvalynskoe, Central).

Nevertheless, the boundaries of the national sectors of the seabed of Azerbaijan, Turkmenistan and Iran remain controversial. This is due to the countries’ different understanding of the principles applied to drawing boundaries of their sectors. Despite the fact that Azerbaijan and Turkmenistan are in favor of dividing the bottom of the Caspian Sea according to the principle of the median line (Markelov, 2011), the method of its determination is different for them. Azerbaijan is in favor of drawing a median line on the principle of equidistant points from opposite shores. Thus, the middle line needs to be drawn taking into account the coastline and the Absheron Peninsula, which juts deep into the Caspian Sea. Meanwhile Turkmenistan proposes to draw a line in the middle of latitudinal lines without

taking into consideration the bend of the coastline on the Absheron Peninsula. The countries' inability to solve this problem results in numerous disputes about territorial affiliation, which, in turn, means impossibility of exploiting the oil field. Serdar-Kapaz.

Similar problems arise in relations between Azerbaijan and Iran, which have different visions of the boundaries that should mark their national sectors of the seabed. As already noted, Azerbaijan draws its borders on the basis of the principle of the median line, while Iran insists on dividing the bottom in equal shares (along the lines connecting the central point of the sea with the points where the borders of coastal states reach the coastline) (Ruban, 2017). The first option provides Iran with only 14% of the seabed of the Caspian Sea, whereas the second option enables it to get 20% (Mamedov, 2000). Since the "Convention ..." does not deal with the methodology for determining the boundaries of sectors (it is assumed that they will be delimited as a result of bilateral negotiations), the countries still have mutual claims to each other regarding the exploration and exploitation of oil fields. Araz-Alov-Sharg and Sardar Jangal (fig.1, tabl.1).

**Tab. 1** The main geographical characteristics of the Caspian countries

The name of the country	Coastline		Major groups of oil and gas fields in the Caspian, (start of mining)	Oil reserves (million tons) / gas (billion m3)
	km.	%		
Kazakhstan	2320	40	Kashagan (2013 / 2016)	1700 / 1
			Kalamkas-sea (2023)	68 / 70
			Block N (Nursultan) (2019)	31 / 19
Turkmenistan	1200	21	Block-1 (1996)	200 / 1000, 300 million tons of gas condensate
			Block Chelleken (2000)	91 / 36
			Serdar-Kapaz (dispute with Azerbaijan)	- / 50
Azerbaijan	955	16	Azeri-Shirak-Guneshli (1997)	930 / 600
			Shallow Guneshli (1987)	175 / 100
			Absheron (2021)	- / 350
			Shah Deniz (2006)	- / 1200
			Bulla Denise (1976)	- / 17
			Umid (2012)	- / 192
Iran	724	12	Sardar Jangal (2013) (dispute with Azerbaijan)	1500./ 1400
			Them. Vladimir Filanovsky (2016)	153 / 40
			Them. Yuri Korchagin (2010)	16 / 44
Russia	695	11	Sarmatskoe (named after Yu.S. Kuykin) (2026)	- / 168
			Shell (2022)	30 / 39
			Khvalynskoe (2016 - postponed)	36 / 332

Source: Based on Zavyalova (2017); Katona (2017); Murzagaliev (2017)

The Caspian is rich not only in hydrocarbon raw materials, but also in aquatic biological resources (fish, molluscs, crustaceans, mammals and other types of aquatic animals and plants) (www2). Without dwelling on a comprehensive analysis of this issue (due to its thorough study), we will highlight only its most general aspects. As the researchers note, “The total biomass of fish is about 2,900 thousand tons ... .. The commercial fish of the Caspian region include about 40 species of fish ... .., the basis of the fishery is about 25 species. The most valuable fish are sturgeon.... marine fish (sprat) make up about 70% of the total catch ... Currently, most of the Caspian fish stocks are in a depressed state. First of all, this applies to more valuable species that have become objects of large-scale illegal fishing. If in the mid-1980s catches of sturgeon in the Volga reached 18 thousand tons, then at present only about 160 tons are caught for artificial factory reproduction and for scientific research” (Stoloviy, 2011).

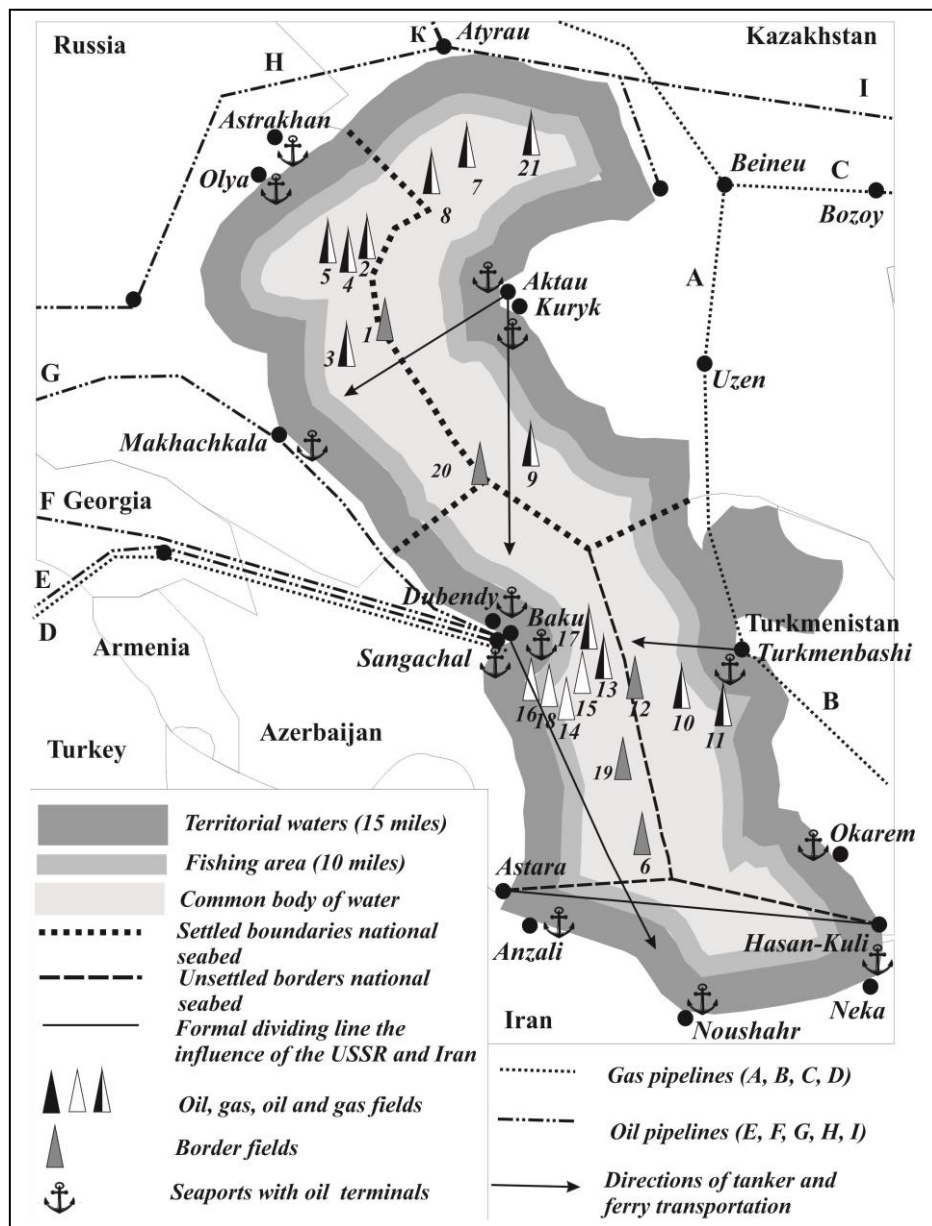
The importance of these resources for the economic development of states was taken into account in the development of the “Convention ...”, which was reflected in the allocation of fishing zones 10 miles wide, where the coastal states have the exclusive right to harvest aquatic biological resources. Nevertheless, this document does not define the size of national quotas. Countries are expected to do this jointly by determining the total allowable catch of aquatic biological resources and then allocating it to national quotas respectively. Moreover, the “Convention ...” fixes the right to transfer part of the national quotas from one state to another in case of impossibility to utilize them. The document also does not determine mechanisms for controlling the amount of catch. Apparently, this issue will be resolved in the regular course of work.

***The third factor*** is the geographical position of the Caspian and the Caspian countries. It is respectively formed by three main characteristics. On the one hand, this is the obviously marked continentality of Kazakhstan, Turkmenistan and Azerbaijan, which do not have access to the World Ocean and are therefore forced to use the territory of neighboring countries (Russia, Iran) to solve this problem, which, in turn, leads to the dependence of their foreign economic activities on their neighbours. On the other hand, this is the transit characteristic of the Caspian Sea itself, located at the junction of the Central Asian region, rich in hydrocarbon raw materials (not only of Caspian origin), Europe (which is one of the main consumers of energy resources in the world) and the Middle East (whose military and political problems impact on the implementation of many economic, primarily, transport projects in the Caspian countries and, as a consequence, on the nature of relations between them). In addition, one

cannot but take into account the immediate proximity of the countries in the region under consideration (Kazakhstan) with China, which, along with Europe, is one of the main consumers of energy resources in the world. Obviously, the listed features characterizing the geographical location of the region will affect, first of all, the legal aspects of using the Caspian Sea when laying transport routes (fig.1).

**Fig. 1** Geographical aspects of the formation of the legal status of the Caspian Sea, 2019.

Main oil and gas fields: 1 - Khvalynskoye, 2 - Rakushechnoye, 3 - Sarmatskoye, 4 - Im. Yuri Korchagin, 5 - Im. Vladimir Filanovskiy, 6 - Sardar Dzhangal, 7 - Kalamaks-sea, 8 - Kurmangazy, 9 - Block N, 10 - Block-1, 11 - Block Chelleken, 12 - Serdar-Kapaz, 13 - Azeri-Shirak-Guneshli, 14 - Shah Deniz, 15 - Absheron, 16 - Umid, 17 - Shallow Guneshli, 18 - Bulla-Deniz, 19 - Araz - Alov - Sharg, 20 - Central, 21 - Kashagan. Main gas pipelines: A - Caspian, B - East - West, C - Beineu - Bozoy - Shymkent, D - South Caucasian. Main oil pipelines: E - Baku - Tbilisi - Ceyhan, F - Baku - Tbilisi - Supsa, G - Baku - Makhachkala - Novorossiysk, H - CPC oil pipeline, I - Transkazakhstan, K - Atyrau - Samara





However, we emphasize that the “Convention ...” solves the issue of dependence of oil and gas producing Caspian countries on transit countries, since it stipulates “the right to free access from the Caspian Sea to other seas, the World Ocean and back on the basis of generally recognized principles and norms of international law and agreements ... taking into account the legitimate interests of the Transit Party in order to expand international trade and economic development” (www1).

Today, the major transport directions that are carried out through the Caspian are routes for the transportation of hydrocarbon raw materials based on the use of tankers (www4):

- *routes connected with Russia:* delivery of energy resources from Aktau (Kazakhstan), Turkmenbashi (Turkmenistan), Baku (Azerbaijan) to the port Makhachkala (Russia) with subsequent transportation through the pipeline to the port Novorossiysk (Black Sea) or along the Volga-Don Canal to the ports of the Azov Sea, or along the Volga-Baltic Canal to the ports of the Baltic Sea. The most productive of the listed areas is associated with the use of Novorossiysk, since the functioning of the rest is limited by natural conditions in the autumn-winter period;
- *routes associated with Iran* are determined, firstly, by the activities of the ferry moving between Aktau (Kazakhstan), Baku (Azerbaijan) and Noushahr (Iran) and thereby providing all energy swap transactions for Armenia; secondly, by the operation of the oil pipeline from Iranian fields in the Caspian to the port Neka and in the future to the Iranian port Jask on the coast of the Gulf of Oman;
- *routes connected with Georgia, Turkey*, on the one hand, are based on the inclusion of export oil from Kazakhstan (from the port of Aktau) in the transportation of export oil from Azerbaijan through oil pipelines: Baku (Azerbaijan) - Tbilisi (Georgia) - Supsa (Georgia) (Black Sea) and Baku (Azerbaijan) - Tbilisi (Georgia) - Ceyhan (Turkey) (Mediterranean Sea); on the other hand, they are based on the inclusion of gas from Turkmenistan in the transportation of export gas from Azerbaijan through South Caucasian gas pipeline: Baku (Azerbaijan) - Tbilisi (Georgia) - Erzurum (Turkey).

Meanwhile there are routes that do not cross the Caspian Sea, but are focused on transportation, including the Caspian energy (Pototskaya, 2018). Among them, it is worth noting those *related to the interests of China*: oil pipeline Atyrau (Kazakhstan) - Atasu (Kazakhstan) - Alashankou (China); the Central Asia (Turkmenistan, Uzbekistan, Kazakhstan) - China gas pipeline and, extending its capabilities, the East - West (Turkmenistan) and Beineu - Bozoi - Shymkent (Kazakhstan) gas pipelines. From this category can be distinguished

Caspian gas pipeline: Turkmenbashi (Turkmenistan) - Beineu (Kazakhstan) - Aleksandrov Gai (Russia), *focused on the interests of Russia*, a project that is regarded as a competitor to the project Trans-Caspian gas pipeline (Turkmenbashi - Baku), supported by the EU (Fig. 1).

However the prospective increase in the volume of transportation of energy resources (after the commissioning of all Caspian fields) is limited by the capabilities of the tanker fleet. The shallow depth of the Caspian in general and the water areas of the ports, in particular, do not allow to increase the tonnage of ships. In this regard, great attention of the countries is drawn to the possibility of building trans-Caspian pipelines, which is actively supported by the EU countries, which are the main consumers of Caspian hydrocarbons (Chumakov, 2019). The implementation of this idea may lead to a significant redistribution of oil and gas flows coming from the countries of Central Asia (primarily from Turkmenistan) to Europe through Russia. Meanwhile Russia has traditionally opposed the construction of trans-Caspian pipelines, justifying its position with arguments in favour of environmental safety, which is quite difficult to comply with in a closed reservoir.

This aspect was taken into account when defining the current legal status of the Caspian Sea, arguing that the laying of pipelines, cables, the construction of production platforms as well as the creation of artificial islands in their sector are exclusively the business of neighboring and opposite countries. Only they can determine the routes of pipelines to be laid through their sectors. However, this requires environmental approval from all Caspian countries.

Considering the transit function of the Caspian, which combines the functioning of the sea and pipeline modes of transport, and determines the modern logistics of energy exports in the region, one cannot fail to note the presence of land transport infrastructure (railways and highways that go to seaports). This circumstance formed the basis of the project for the creation of an international transport corridor (ITC) North - South, which, by promoting the interaction of Russia with the countries of the Caspian region, can become the basis of the route of interstate container traffic from India through Iran, Azerbaijan, Russia to Europe (www8).

This transport corridor along with the existing marine infrastructure (Russian ports Astrakhan, Olya, Makhachkala and Iranian ports Anzali, Noushahr, Amirabad) focused on the use of direct rail links through border crossings Samur (Russia) - Yalama (Azerbaijan), with further access to the Iranian railway network through the border crossing Astara (Azerbaijan) - Astara (Iran). Therefore, special attention is paid to the commissioning of a new railway line Rasht - Astara (Iran) - Astara (Azerbaijan), which is the last missing link of the direct rail route

along the International Transport Corridor MTK North - South. The ITC is also considering the possibility of involving the railways of Kazakhstan, Uzbekistan and Turkmenistan to access the railway network of Iran through border crossings Serakhs (Turkmenistan) - Serakhs (Iran) and Akyayla (Turkmenistan) - Inche Burun (Iran) (www3). At present, these routes are mainly exploited for the delivery of Russian export cargoes going to Azerbaijan and Iran.

The listed geographical factors influencing the establishment of the legal status of the Caspian also determine the emergence of environmental problems in this region. Leaving their analysis outside the scope of this study, let us pay attention only to their categories:

- environmental problems of natural origin (pollution of a reservoir as a result of flooding of oil fields, associated with an increase in the level of the Caspian water surface; a decrease in the biological productivity of ecosystems due to a decrease in the level of the Caspian water surface, etc.);
- environmental problems of anthropogenic origin (pollution of a reservoir resulting from the extraction and transportation of energy carriers; waste of anthropogenic activity getting into the sea together with river flows; a decrease in the volume of water in rivers flowing into the sea owing to the construction of hydraulic structures and drainage of river water into reservoirs; a drop in biological productivity of ecosystems caused by the penetration of invasive species into the Caspian Sea, as well as overfishing and poaching, etc.)

All these problems lead to the overall degradation of aquatic and coastal ecosystems with all the ensuing negative consequences for the socio-economic development of coastal states. Despite the fact that each state makes a different contribution to the formation of the listed problems, for obvious reasons their solution requires joint efforts. This circumstance forms the fourth geographical factor influencing the determination of the legal status of the Caspian - the ecological safety of the region. Its significance is so high that the first type of international cooperation that has emerged in the region is cooperation in the environmental sphere. Ultimately, it was legally formalized by the "Framework Convention for the Protection of the Marine Environment of the Caspian Sea" (2006), which formed the basis for the part of the "Convention ..." which is responsible for the degree of responsibility borne by the countries in this area. Nevertheless both documents do not record any differences between countries in this matter. Declaring a ban for all countries on any activity damaging the biological diversity of the water body and an obligation to protect and preserve its ecological system, they insist on independent or joint control over the pollution of the water body. The difference in the degree

of responsibility is contained only in one of the principles of the “Framework Convention ...”, namely, it is the “polluter pays” principle (the polluter bears the costs of implementing measures to prevent, control and reduce pollution of the marine environment).

#### **4. Conclusions**

In conclusion, taking into consideration the incompleteness characterizing the process of establishing the legal status of the Caspian Sea, it is nevertheless worth noting that, firstly, its current legal status is determined by such geographical factors such as: its natural properties as a geographical object; reserves and territorial distribution of natural resources (special hydrocarbon raw materials and biological resources); the geographical position of the Caspian sea (transit) and the Caspian countries (continentality); ecological consequences of anthropological activities in it. Secondly, there is a direct link between each geographical factor and the corresponding legal norm contained in the “Convention ...”. Thirdly, the above mentioned geographic factors, combined with the absence of a unified regional integration structure, attract considerable interest to the Caspian Sea not only of the countries in coastal regions, but also of those in other regions, such as Europe (France, Great Britain, Italy, the Netherlands, etc.), America (USA, Canada, Argentina), East Asia (China, Japan, Republic of Korea), the Middle East (Turkey, Saudi Arabia, etc.), which further pushes the Caspian states to define the legal norms for the exploitation of the reservoir clearly and transparently.

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