

INTRODUCTORY NOTE TO CONVENTION ON THE
LEGAL STATUS OF THE CASPIAN SEA
BY RIZAL ABDUL KADIR*
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Introduction

After twenty-two years of negotiations, in Aktau on August 12, 2018, Kazakhstan, Azerbaijan, Iran, Russia, and Turkmenistan signed the Convention on the Legal Status of the Caspian Sea. The preamble of the Convention stipulates, among other things, that the Convention, made up of twenty-four articles, was agreed on by the five states based on principles and norms of the Charter of the United Nations and International Law. The enclosed Caspian Sea is bordered by Iran, Russia, and three states that were established following dissolution of the Soviet Union, namely Azerbaijan, Kazakhstan, and Turkmenistan.

Background

A basic issue that has shaped both the debate and control over the Caspian Sea is the character of the waters. Indeed, treatment by the littoral states in the Caspian Sea over the character of the waters has in turn shaped the Convention. Therefore, this Introductory Note mainly scrutinizes how the littoral states have chosen to treat the water column, seabed, and subsoil areas of the Caspian Sea. This background may help explain why the littoral states have defined as they have in the Convention the nature and scope of their rights, obligations, and intended activities over the Caspian waters.

Observers have described waters in the Caspian in various ways, including “landlocked body of water,” “large lake,” and “sea.”¹ Experts doubt whether the Caspian Sea satisfies the geographical characteristics of a true “sea,”² placing in context the relevance of the law of the sea in addressing maritime claims in this region. All this has generated debate on the applicable legal regime for the area.³ The practice of the littoral states, however, indicates a preference for a combination of different legal regimes to address problems in the Caspian Sea. For example, the littoral states have advocated for both the law of the sea and the law of inland lakes in various solutions to the issue.⁴

In addressing the waters in the Caspian, the Convention deals extensively with the water column area.⁵ In respect of the seabed and subsoil, however, the Convention is less forthright, and sets out that the Caspian seabed and subsoil will be delimited into sectors by agreement between the littoral states. In this respect, it is important to note that some but not all the littoral states had agreed on seabed delimitation agreements prior to the signing of the Convention. Notably, several bilateral seabed delimitation agreements and a multilateral seabed tri-point agreement were reached between Russia, Azerbaijan, and Kazakhstan, all of which are in force.⁶ These seabed delimitation agreements divided the relevant seabed areas into proportional national sectors.⁷ Two of the seabed delimitation agreements appear to have used a modified median line⁸—modified equidistance—with one seabed delimitation described as based on a median line.⁹ This generally suggests that the states have sought an equal share of relevant maritime space.

However, the validity of any delimitation by one littoral state with regard to the others also depends on international law.¹⁰ Relevant international law in this instance is the law of the sea, but the Convention has steered clear from referring to the law of the sea as the governing legal regime for the Caspian Sea. The preamble of the Convention, however, seems clear that the Convention is based on international law, including principles and norms from international law. In this context, delimitation agreements generally speaking may still have to be amended where interests of third states are affected. This was among the reasons why, for example, certain delimitation agreements reached between relevant states in the North Sea had to be renegotiated upon implementation of the International Court of Justice’s *North Sea Continental Shelf* cases.¹¹

The existing delimitation agreements in the Caspian Sea raise some relevant concerns. For example, considering the coastal geography of Iran and Turkmenistan, the combined length of the Kazakhstan-Russia and Azerbaijan-Kazakhstan

* Dr. Rizal Abdul Kadir, Deputy Director-General, Maritime Institute of Malaysia; Adjunct Professor, National Defence University of Malaysia.

seabed delimitation agreements may impact similar interests of Iran and Turkmenistan. This is because the Caspian Sea measures about 750 nautical miles (nm) from north to south with the width varying between 125 nm at the north to 300 nm in the south.¹² The length of the Kazakstan-Russia seabed boundary, meanwhile, is 315 nm, while the length of the Azerbaijan-Kazakstan seabed boundary is 79 nm.¹³

It is worth noting that two joint statements between several of the states may trigger a reassessment of the existing delimitation agreements in the interests of all the littoral states. These statements generally reinforce a need for some form of joint arrangement such as multilateral offshore joint development between the littoral states in the Caspian Sea. First, in 1996 Iran and Russia issued a joint statement where both states referred to the area as the “Caspian Sea.”¹⁴ Both states maintained that any future legal regime of the Caspian Sea is to be found in two treaties concluded between the two states in 1921 and 1940.¹⁵ This suggests that Iran and Russia intend the two treaties to apply to the entire Caspian Sea, thus encompassing rights over the seabed, subsoil, and water column area also expressed as superjacent waters.

Notably, both states maintained that issues concerning the Caspian Sea, including its resources, “shall be decided, in the context of international treaties, jointly” between the five littoral states, mindful of their “equal rights and mutual interests.”¹⁶ This indicates that Iran and Russia intend that their two treaties be considered in conjunction with other relevant international treaties. All this is consistent with the text and spirit of the Convention. Equally significant, both states also declared that relations between the littoral states in the Caspian Sea are to be “governed by” respect for “State sovereignty,” “mutually beneficial cooperation,” and “partnership on an equal footing.”¹⁷ Again, such sentiment is clear in the Convention.

Second, in 1998 Iran and Turkmenistan issued a joint statement urging a condominium arrangement comprising the littoral states to facilitate common use of the Caspian Sea. Both states expressed that any division—delimitation—of the waters should reflect an “equal share” for all littoral states and equitable exploitation of the resources of the Caspian Sea.¹⁸ Multilateral offshore joint development for resources over the seabed and subsoil may, thus, be one way to mutually benefit all the littoral states in the Caspian Sea.

Interestingly, none of the existing seabed delimitation agreements impact the corresponding water column area. This is because for the superjacent waters the littoral states appear to have adopted a philosophy consistent with the approach for an equal share of relevant seabed. Notably, for the superjacent waters the littoral states have preferred a principle attributable to international lakes. This entails exclusive rights—joint sovereignty—for the bordering states over the surface waters, which may then be classified as “common waters,”¹⁹ explaining in part the notion of “common maritime space” under Article 5 of the Convention.

Salient Features of the Convention

The Convention has twenty-four articles. While this Note does not review the entire Convention, some aspects are worth highlighting. Article 2(1) characterizes the exclusive nature of the Convention, which provides that the five littoral states have sovereignty, sovereign and exclusive rights, as well as jurisdiction in the Caspian Sea. Flowing from this, the activities of the littoral states in the Caspian Sea are governed by seventeen principles described under Article 3. The seventeen principles expand on the understanding and specific aspirations of the littoral states set out in the preamble to the Convention. A significant principle from a political-security perspective appears in principle 6 of Article 3—nonpresence in the Caspian Sea of armed forces not belonging to the littoral states. More generally, while Article 4 sets out the purpose of the Convention—catering to the comprehensive use of the Caspian Sea by the littoral states—the same provision also provides that further separate agreements will be required for the littoral states to conduct their activities in the Caspian Sea. This is particularly true in the case of activities concerning the exploration and exploitation of the seabed and subsoil resources.

Generally, however, the opposite may be said concerning the rights of the littoral states in the Caspian Sea over the water column, or “water area” as it is described in the Convention. Articles 5 through 7 and Article 9 describe four maritime zones: internal waters, territorial waters, fishery zones, and common maritime space. It is interesting to note that the Convention allows the littoral states a breadth of the territorial sea of up to 15 nautical miles. Related closely with matters concerning the water area, Articles 10 and 11 deal extensively with the issue of freedom of navigation

and passage rights. While the Convention underscores the sovereign and exclusive rights of the littoral states in the Caspian Sea, Articles 10 and 11 set out in detail what can and cannot be done in areas within the territorial waters and in areas beyond the outer limits of the territorial waters defined by each littoral state.

While the Convention is certainly not a work in progress, Article 18 is clear that the Convention is a living document; the littoral states may amend or supplement what has been set out. From a practical standpoint, Article 19 may be characterized as the backbone of the Convention. It provides for the creation of a five-party, high-level consultative body tasked with ensuring the effective implementation of the Convention and reviewing the state of cooperation among the littoral states. It may be that the main challenge of the consultative body will center on the purpose of Article 8 of the Convention: delimitation of the seabed and subsoil, mindful that the delimitation will be geared toward establishing sectors—rather than traditional maritime boundaries—within the Caspian Sea.

Conclusion

The Convention's consideration of diverse interests over the Caspian Sea, ranging from political to economic and beyond, is a welcome breakthrough. The *sui generis* regime builds on principles under international law, including the law of the sea. The littoral states have clearly signaled the exclusive nature of their rights and interests in the Caspian Sea.

However, delimitation of the seabed and subsoil, a core interest for the littoral states, remains outstanding. This outstanding issue may shape the outlook for the Caspian Sea. Perhaps for this reason, some observers suggest that joint ownership or condominium may be suited for the Caspian Sea.²⁰ It is arguable that the Convention either reflects such a structure or at least has elements of intent toward eventual exclusive joint ownership over the Caspian Sea. The nature and scope of a potential condominium arrangement can reflect division of the seabed and common management of the surface waters, mindful of the recent seabed delimitation agreements in the Caspian Sea. A condominium in the Caspian Sea may enable better focus on the heart of the issues, which is the belief that the Caspian Sea is rich in oil and gas reserves.²¹ Reinforcing the international dimension of issues in the Caspian Sea are ongoing pipeline projects in the Caspian Basin to transport relevant products to the international community.²² The underlying import of these projects is that cooperation among the littoral states is essential to protect both the environment and the pipelines.²³

The significance of the 1996 Iran-Russia and 1998 Iran-Turkmenistan statements noted earlier cannot be overstated. However, two observations may be made. First, the 1996 Iran-Russia joint statement provides insights into how these two states considered overall treatment of the Caspian Sea during the Soviet era. Any variations in the treatment of the Caspian Sea by the two states during the Soviet era, when measured against the 1996 joint statement, will have to be assessed in light of their bilateral relations. Second, both the 1996 and 1998 joint statements demonstrate, without elaborating on the principle of good faith under international law, that the littoral states are to benefit from the Caspian Sea on an equitable if not equal basis. Thus, even though several seabed delimitation agreements have already been divided on the basis of proportional national sectors rather than equal national sectors, offshore joint development can remedy any inequities. For example, an equitable stake in relevant oil and gas fields can be incorporated in an offshore joint development arrangement. This may be practical considering the existing seabed delimitation agreements are in force, and progress of various pipeline projects may make it increasingly difficult to maintain claims for an equal share to the Caspian Sea. Alternatively, where claims exist to overlapping oil fields, Russia has proposed to resolve the matters by developing sharing agreements on a bilateral basis.²⁴ The proposal from Russia may well affect circumstances from existing seabed delimitations or other claims in the region or both. At best, however, the proposal from Russia envisages several bilateral offshore joint development arrangements.

ENDNOTES

- 1 William Constantinos Papadopoulos, *International Law & Pipeline Geopolitics in the Caspian Sea*, 36 TEX. J. BUS. L. 1, 1 (1999).
- 2 See J. Ashley Roach & Robert W. Smith, *Caspian Seabed Boundaries*, in INTERNATIONAL MARITIME BOUNDARIES (David A. Colson & Robert W. Smith eds., 2005) [hereinafter Roach & Smith].
- 3 Sergei Vinogradov & Patricia Wouters, *The Caspian Sea: Quest for a New Legal Regime*, 9 LEIDEN J. INT'L L. 87 (1996).

- 4 Ben N. Dunlap, *Divide and Conquer? The Russian Plan for Ownership of the Caspian Sea*, 27 BOS. C. INT'L & COMP. L. REV. 115, 120 n.41 (2004) [hereinafter Dunlap].
- 5 Convention on the Legal Status of the Caspian Sea arts. 5–7, 9, Aug. 12, 2018, <http://en.kremlin.ru/supplement/5328> [hereinafter Convention].
- 6 Roach & Smith, *supra* note 2, at 3583.
- 7 Dunlap, *supra* note 4, at 121.
- 8 Robert W. Smith & J. Ashley Roach, *Report No. 11-1, Kazakstan-Russia*, in INTERNATIONAL MARITIME BOUNDARIES, at 4013, 4018, 4023 (David A. Colson & Robert W. Smith eds., 2005-a); Robert W. Smith & J. Ashley Roach, *Report No. 11-2, Azerbaijan-Russia*, in INTERNATIONAL MARITIME BOUNDARIES, at 4034, 4037, 4039 (David A. Colson & Robert W. Smith eds., 2005-b).
- 9 Robert W. Smith & J. Ashley Roach, *Report No. 11-3, Azerbaijan-Kazakstan*, in INTERNATIONAL MARITIME BOUNDARIES, at 4042, 4045, 4048 (David A. Colson & Robert W. Smith eds., 2005-c).
- 10 *See generally* Fisheries (U.K. v. Norway), 1951 ICJ REP. 116, 132 (Dec. 18).
- 11 *See* David A. Colson, *Legal Regime of Maritime Boundary Agreements*, in INTERNATIONAL MARITIME BOUNDARIES (Johnathan I. Charney & Lewis M. Alexander eds., 1993).
- 12 Roach & Smith, *supra* note 2, at 3537.
- 13 *Id.*
- 14 Letter dated 18 January 1996 from the Permanent Representatives of the Islamic Republic of Iran and the Russian Federation to the United Nations addressed to the Secretary-General, UN Doc A/51/59, Annex 5 (1996) [hereinafter Iran/Russia Joint Statement].
- 15 Letter dated 3 September 1997 from the Charge d' Affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General, UN Doc. A/52/325, at 1 (1997); Law of the Sea - Letter dated 5 October 1994 from the Permanent Representatives of the Russian Federation to the United Nations addressed to the Secretary-General, UN Doc. A/49/475, at 2 (1994).
- 16 Iran/Russia Joint Statement, *supra* note 14, Annex 1.
- 17 *Id.* Annex 2.
- 18 Letter dated 30 September 1998 from the Permanent Representatives of the Islamic Republic of Iran and Turkmenistan to the United Nations addressed to the Secretary-General, UN Doc. A/53/453, at Annexes 4, 5 (1998).
- 19 Dunlap, *supra* note 4, at 121.
- 20 Barry Hart Dubner, *The Caspian: Is It a Lake, a Sea or an Ocean and Does It Matter? The Danger of Utilizing Unilateral Approaches to Resolving Regional/International Issues*, 18 DICKINSON J. INT'L LAW 253, 285 (1999–2000) [hereinafter Dubner].
- 21 *See* Jan H. Kalicki, *Caspian Energy at the Crossroads*, 80 FOREIGN AFF. 120 (2001).
- 22 *See* Rosemarie Forsythe, *The Politics of Oil in the Caucasus and Central Asia: Prospects for Oil Exploitation and Export in the Caspian Basin*, 36 ADELPHI PAPERS 300 (1996).
- 23 Dubner, *supra* note 20, at 285.
- 24 Dunlap, *supra* note 4, at 124.

CONVENTION ON THE LEGAL STATUS OF THE CASPIAN SEA*
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Convention on the Legal Status of the Caspian Sea

August 12, 2018

The Parties to this Convention, the Caspian littoral States – the Republic of Azerbaijan, the Islamic Republic of Iran, the Republic of Kazakhstan, the Russian Federation and Turkmenistan – hereinafter referred to as the Parties,

Based on the principles and norms of the Charter of the United Nations and international law,

Taking into account the atmosphere of cooperation, good-neighbourliness and mutual understanding among the Parties,

Guided by the desire to deepen and expand good-neighbourly relations among the Parties,

Proceeding from the fact that the Caspian Sea is of vital importance to the Parties and that only they possess sovereign rights over the Caspian Sea and its resources,

Emphasizing that solving issues related to the Caspian Sea falls within the exclusive competence of the Parties,

Recognizing political, economic, social and cultural importance of the Caspian Sea,

Aware of their responsibility before the present and future generations for the preservation of the Caspian Sea and sustainable development of the region,

Convinced that this Convention will facilitate the development and strengthening of cooperation among the Parties, and promote the use of the Caspian Sea for peaceful purposes and rational management of its resources, as well as exploration, protection and conservation of its environment,

Seeking to create favorable conditions for the development of mutually beneficial economic cooperation in the Caspian Sea,

Taking into account changes and processes that have occurred in the Caspian Sea region at the geopolitical and national levels, the existing arrangements between the Parties and, in this regard, the need to strengthen the legal regime of the Caspian Sea,

Have agreed as follows:

Article 1

For the purposes of this Convention, the following terms shall mean:

“The Caspian Sea” – the body of water surrounded by the land territories of the Parties and outlined on the 1:750,000-scale nautical charts of the General Department of Navigation and Oceanography of the Ministry of Defense of the Russian Federation, Saint Petersburg, No. 31003, archive edition of 17.04.1997 published in 1998; No. 31004, archive edition of 04.07.1998 published in 1999; No. 31005, archive edition of 16.11.1996 published in 1998, certified copies of which are attached to this Convention and form an integral part thereof.

“Baseline” – the line consisting of normal and straight baselines.

“Normal baseline” – the line of the multi-year mean level of the Caspian Sea measured at minus 28.0 meters mark of the 1977 Baltic Sea Level Datum from the zero-point of the Kronstadt sea-gauge, running through the continental or insular part of the territory of a Caspian littoral State as marked on large-scale charts officially recognized by that State.

* This text was reproduced and reformatted from the text available at the President of Russia website (visited January 7, 2019), <http://en.kremlin.ru/supplement/5328>.

“Straight baselines” – straight lines joining relevant/appropriate points on the coastline and forming the baseline in locations where the coastline is indented or where there is a fringe of islands along the coast in its immediate vicinity. The methodology for establishing straight baselines shall be determined in a separate agreement among all the Parties.

If the configuration of the coast puts a coastal State at a clear disadvantage in determining its internal waters, that will be taken into account in developing the above methodology in order to reach consent among all the Parties.

“Internal waters” – waters on the landward side of the baseline.

“Territorial waters” – a belt of sea to which the sovereignty of a coastal State extends.

“Fishery zone” – a belt of sea where a coastal State holds an exclusive right to harvest aquatic biological resources.

“Common maritime space” – a water area located outside the outer limits of fishery zones and open for use by all the Parties.

“Sector” – parts of the seabed and subsoil delimited between the Parties for the purposes of the subsoil exploitation and other legitimate economic activities related to the development of resources of the seabed and subsoil.

“Aquatic biological resources” – fish, shellfish, crustaceans, mammals and other aquatic species of fauna and flora.

“Shared aquatic biological resources” – aquatic biological resources jointly managed by the Parties.

“Harvesting” – any type of activity aimed at removing aquatic biological resources from their natural habitat.

“Warship” – a ship belonging to the armed forces of a Party and bearing external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the government of the Party and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline.

“Ecological system of the Caspian Sea” – interacting components of air, water and biological organisms, including human beings, within the Caspian Sea and parts of the land affected by the proximity of the Sea.

“Pollution” – the introduction by man, directly or indirectly, of substances, organisms or energy into the ecological system of the Caspian Sea, including from land-based sources, which results or is likely to result in deleterious effects, such as harm to biological resources and marine life, hazards to human health, hindrance to marine activities, including harvesting of aquatic biological resources and other legitimate uses of the sea, impairment of quality for use of sea water and reduction of amenities.

Article 2

1. In accordance with this Convention, the Parties shall exercise their sovereignty, sovereign and exclusive rights, as well as jurisdiction in the Caspian Sea.
2. This Convention shall define and regulate the rights and obligations of the Parties in respect of the use of the Caspian Sea, including its waters, seabed, subsoil, natural resources and the airspace over the Sea.

Article 3

The Parties shall carry out their activities in the Caspian Sea in accordance with the following principles:

- (1) Respect for the sovereignty, territorial integrity, independence and sovereign equality of States, non-use of force or the threat of force, mutual respect, cooperation and non-interference into the internal affairs of each other;
- (2) Using the Caspian Sea for peaceful purposes, making it a zone of peace, good-neighbourliness, friendship and cooperation, and solving all issues related to the Caspian Sea through peaceful means;

- (3) Ensuring security and stability in the Caspian Sea region;
- (4) Ensuring a stable balance of armaments of the Parties in the Caspian Sea, developing military capabilities within the limits of reasonable sufficiency with due regard to the interests of all the Parties and without prejudice to the security of each other;
- (5) Compliance with the agreed confidence-building measures in the military field in the spirit of predictability and transparency in line with general efforts to strengthen regional security and stability, including in accordance with international treaties concluded among all the Parties;
- (6) Non-presence in the Caspian Sea of armed forces not belonging to the Parties;
- (7) Non-provision by a Party of its territory to other States to commit aggression and undertake other military actions against any Party;
- (8) Freedom of navigation outside the territorial waters of each Party subject to the respect for sovereign and exclusive rights of the coastal States and to the compliance with relevant rules established by them with regard to the activities specified by the Parties;
- (9) Ensuring safety of navigation;
- (10) The right to free access from the Caspian Sea to other seas and the Ocean, and back in accordance with the generally recognized principles and norms of international law and agreements between the relevant Parties, with due regard to legitimate interests of the transit Party, with a view to promoting international trade and economic development;
- (11) Navigation in, entry to and exit from the Caspian Sea exclusively by ships flying the flag of one of the Parties;
- (12) Application of agreed norms and rules related to the reproduction and regulation of the use of shared aquatic biological resources;
- (13) Liability of the polluting Party for damage caused to the ecological system of the Caspian Sea;
- (14) Protection of the environment of the Caspian Sea, conservation, restoration and rational use of its biological resources;
- (15) Facilitation of scientific research in the area of ecology and conservation and use of biological resources of the Caspian Sea;
- (16) Freedom of overflight by civil aircraft in accordance with the rules of the International Civil Aviation Organization;
- (17) Conducting marine scientific research outside the territorial waters of each Party in accordance with legal norms agreed upon by the Parties, subject to the respect for sovereign and exclusive rights of the coastal States and to the compliance with relevant rules established by them with regard to certain types of research.

Article 4

The Parties shall conduct their activities in the Caspian Sea for the purposes of navigation, harvesting, use and protection of aquatic biological resources, exploration and exploitation of the seabed and subsoil resources, as well as other activities in accordance with this Convention, other agreements between the Parties consistent with this Convention, and their national legislation.

Article 5

The water area of the Caspian Sea shall be divided into internal waters, territorial waters, fishery zones and the common maritime space.

Article 6

The sovereignty of each Party shall extend beyond its land territory and internal waters to the adjacent sea belt called territorial waters, as well as to the seabed and subsoil thereof, and the airspace over it.

Article 7

1. Each Party shall establish the breadth of its territorial waters up to a limit not exceeding 15 nautical miles, measured from baselines determined in accordance with this Convention.
2. The outer limit of the territorial waters shall be the line every point of which is located at a distance from the nearest point of the baseline equal to the breadth of the territorial waters.

For the purpose of determining the outer limit of the territorial waters, the outermost permanent harbour works which form an integral part of the harbour system shall be regarded as forming part of the coast. Off-shore installations and artificial islands shall not be considered as permanent harbour works.

The outer limit of the territorial waters shall be the state border.

3. Delimitation of internal and territorial waters between States with adjacent coasts shall be effected by agreement between those States with due regard to the principles and norms of international law.

Article 8

1. Delimitation of the Caspian Sea seabed and subsoil into sectors shall be effected by agreement between States with adjacent and opposite coasts, with due regard to the generally recognized principles and norms of international law, to enable those States to exercise their sovereign rights to the subsoil exploitation and other legitimate economic activities related to the development of resources of the seabed and subsoil.
2. Within its sector, a coastal State shall have the exclusive right to construct, as well as to authorize and regulate the construction, operation and use of artificial islands, installations and structures. A coastal State may, where deemed necessary, establish safety zones around artificial islands, installations and structures to ensure the safety of navigation and of the artificial islands, installations and structures. The breadth of the safety zones shall not exceed a distance of 500 meters around them, measured from each point of the outer edge of such artificial islands, installations and structures.

The geographical coordinates of such structures and contours of the safety zones should be communicated to all the Parties.

3. All ships must respect those safety zones.
4. The exercise of sovereign rights of a coastal State under paragraph 1 of this Article must not infringe upon the rights and freedoms of other Parties stipulated in this Convention or result in an undue interference with the enjoyment thereof.

Article 9

1. Each Party shall establish a 10 nautical miles-wide fishery zone adjacent to the territorial waters.

Delimitation of fishery zones between States with adjacent coasts shall be effected by agreement between those States with due regard to the principles and norms of international law.

2. In its fishery zone, each Party shall have the exclusive right to harvest aquatic biological resources in accordance with this Convention, separate agreements concluded by the Parties on the basis of the Convention and its national legislation.
3. On the basis of this Convention and international mechanisms, the Parties shall jointly determine the total allowable catch of shared aquatic biological resources in the Caspian Sea and divide it into national quotas.
4. If a Party is unable to harvest its entire quota in the total allowable catch, it may grant access to the remainder of its quota in the total allowable catch to other Parties by way of concluding bilateral agreements or through other arrangements in accordance with its national legislation.
5. Terms and procedures for harvesting shared aquatic biological resources in the Caspian Sea shall be determined by the separate agreement concluded by all Parties.

Article 10

1. Ships flying the flags of the Parties shall enjoy freedom of navigation beyond the outer limits of the territorial waters of the Parties. The freedom of navigation shall be exercised in accordance with the provisions of this Convention and other compatible agreements between the Parties without prejudice to the sovereign and exclusive rights of the Parties as determined in this Convention.
2. Each Party shall grant ships flying the flags of other Parties that carry goods, or passengers and baggage, or perform towing or rescue operations the same treatment as to its national ships with regard to free access to its ports in the Caspian Sea, their use for loading and unloading goods, boarding or disembarking passengers, payment of tonnage and other port dues, use of navigation services and performance of regular commercial activities.
3. The regime specified in paragraph 2 of this Article shall apply to the ports in the Caspian Sea that are open to ships flying the flags of the Parties.
4. The Parties shall have the right to free access from the Caspian Sea to other seas and the Ocean, and back. To that end, the Parties shall enjoy the freedom of transit for all their means of transport through the territories of transit Parties.

Terms and procedures for such access shall be determined by bilateral agreements between the Parties concerned and transit Parties or, in the absence of such agreements, on the basis of the national legislation of the transit Party.

In the exercise of their full sovereignty over their territories, the transit Parties shall be entitled to take all necessary measures to ensure that the rights and facilities of the Parties provided for in this paragraph in no way infringe upon legitimate interests of the transit Party.

Article 11

1. Ships flying the flags of the Parties may navigate through territorial waters with a view to:
 - (a) Traversing those waters without entering internal waters or calling at a roadstead or port facility outside internal waters;
 - or
 - (b) Proceeding to or from internal waters or calling at such roadstead or port facility.
2. Terms and procedures for the passage of warships, submarines and other underwater vehicles through territorial waters shall be determined on the basis of agreements between the flag State and the coastal State or, in the absence of such agreements, on the basis of the coastal State legislation.

If the entry of a warship to the territorial waters is required due to a force majeure or distress, or to render assistance to persons, ships or aircraft in distress, the captain of the warship approaching the territorial waters shall notify the coastal State accordingly, with such entry to be performed along the route to be determined by the captain of the warship and agreed with the coastal State. As soon as such circumstances cease to exist, the warship shall immediately leave the territorial waters.

Terms and procedures for the entry of warships to the internal waters due to a force majeure or distress, or to render assistance to persons, ships or aircraft in distress shall be determined on the basis of agreements between the flag State and the coastal State or, in the absence of such agreements, on the basis of the coastal State legislation.

3. Passage through territorial waters must not be prejudicial to the peace, good order or security of the coastal State. Passage through territorial waters should be continuous and expeditious. Such passage shall take place in conformity with this Convention.
4. Warships, submarines and other underwater vehicles of one Party passing through the territorial waters in compliance with the terms and procedures set forth in paragraph 2 of this Article shall not have the right to call at ports and anchor within the territorial waters of another Party unless they have a proper permission or need to do so due to a force majeure or distress, or to render assistance to persons, ships or aircraft in distress.
5. Submarines and other underwater vehicles of one Party shall be required to navigate on the surface and show their flag when passing through the territorial waters of another Party.
6. Passage through territorial waters shall be considered to be prejudicial to the peace, good order or security of the coastal State if any of the following activities is performed in the process:
 - (a) Threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
 - (b) Any exercise or practice with weapons of any kind;
 - (c) Any act aimed at collecting information to the prejudice of the defense or security of the coastal State;
 - (d) Any act of propaganda aimed at affecting the defense or security of the coastal State;
 - (e) Launching, landing or taking on board any aircraft or military device and controlling it;
 - (f) Putting afloat, submerging or taking on board any military device and controlling it;
 - (g) Loading or unloading of any commodity or currency, or boarding or disembarking of any person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
 - (h) Any act of willful and serious pollution contrary to this Convention;
 - (i) Any fishing activities;
 - (j) Carrying out research or hydrographic survey activities;
 - (k) Any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
 - (l) Any other activity not having a direct bearing on the passage through territorial waters.
7. In its territorial waters, a Party may take necessary steps to prevent a passage through its territorial waters violating conditions set forth in this Article.

8. A Party may adopt laws and regulations, in conformity with provisions of this Convention and other norms of international law, relating to passage through territorial waters, including in respect of all or any of the following:
 - (a) Safety of navigation and regulation of maritime traffic;
 - (b) Protection of navigational aids and facilities, as well as other facilities or installations;
 - (c) Protection of cables and pipelines;
 - (d) Conservation of the biological resources of the sea;
 - (e) Prevention of infringement of fishery laws and regulations of the coastal State;
 - (f) Preservation of the environment of the coastal State and prevention, reduction and control of pollution thereof;
 - (g) Marine scientific research and hydrographic surveys;
 - (h) Prevention of infringement of customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
 - (i) Ensuring national security.
9. A Party shall duly publish all laws and regulations related to the passage through its territorial waters.
10. Ships flying the flags of the Parties, while passing through territorial waters, shall observe all laws and regulations of the coastal State related to such passage.
11. Each Party may, where necessary and with due regard to the safety of navigation, require ships flying the flags of other Parties passing through its territorial waters to use such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships through its territorial waters.
12. In the case of ships proceeding to internal waters or a call at port facilities outside internal waters, the coastal State shall also have the right to take necessary steps to prevent any breach of the conditions to which admission of those ships to internal waters or such a call is subject.
13. A Party may, without discrimination in form or in fact against ships flying the flags of other Parties, temporarily suspend in specified areas of its territorial waters the passage of those ships if such suspension is essential for the protection of its security.

Such suspension shall take effect only after having been duly published.

14. If a warship or a government ship operated for non-commercial purposes does not comply with laws and regulations of the coastal State concerning passage through territorial waters and disregards any request for compliance therewith which is made to it, the Party concerned may require it to leave its territorial waters immediately.
15. The flag Party shall bear international responsibility for any loss or damage to another Party resulting from the non-compliance by a warship or other government ship operated for non-commercial purposes with laws and regulations of the coastal State concerning passage through its territorial waters, entering such waters and anchoring therein or with provisions of this Convention or other norms of international law.
16. A Party shall not hamper the passage of ships flying the flags of other Parties through its territorial waters except when acting under this Convention or laws and regulations adopted in conformity therewith. In particular, a Party shall not:
 - (a) Impose requirements on ships flying the flags of other Parties which have the practical effect of denying or impairing unjustifiably the right of passage through its territorial waters;

or

- (b) Discriminate in form or in fact against ships flying the flags of other Parties or ships carrying cargoes to, from or on behalf of any State.

A Party shall give appropriate publicity to any danger to navigation within its territorial waters of which it has knowledge.

Article 12

1. Each Party shall exercise jurisdiction over the ships flying its flag in the Caspian Sea.
2. Each Party shall, within its sector, exercise jurisdiction over the artificial islands, installations, structures, its submarine cables and pipelines.
3. Each Party, in the exercise of its sovereignty, sovereign rights to the subsoil exploitation and other legitimate economic activities related to the development of resources of the seabed and subsoil, and exclusive rights to harvest aquatic biological resources as well as for the purposes of conserving and managing such resources in its fishery zone, may take measures in respect of ships of other Parties, including boarding, inspection, hot pursuit, detention, arrest and judicial proceedings, as may be necessary to ensure compliance with its laws and regulations.

The application of measures stipulated in this paragraph needs to be justified. If measures applied were unjustified, the ship shall be compensated for any loss and damage incurred.

Measures, such as boarding, inspection, hot pursuit and detention, can be undertaken exclusively by representatives of the competent government authorities of the Parties present aboard warships or military aircraft, or other ships or aircraft bearing the external marks clearly indicating that they are in the government service and are authorized for that purpose.

4. With the exception of cases specified in Article 11 hereof, nothing in this Convention shall affect the immunities of warships and government ships operated for non-commercial purposes.

Article 13

1. In the exercise of its sovereignty, each Party shall have the exclusive right to regulate, authorize and conduct marine scientific research in its territorial waters. Ships flying the flags of the Parties may conduct marine scientific research within the territorial waters of a Party only with its written permission and on such terms as it may establish.
2. In the exercise of its jurisdiction, each Party shall have the exclusive right to regulate, authorize and conduct marine scientific research related to aquatic biological resources in its fishery zone, as well as marine scientific research related to the exploration and exploitation of seabed and subsoil resources in its sector. Ships flying the flags of the Parties may conduct such research in the fishery zone and the sector of a Party only with its written permission and on such terms as it may establish.
3. Terms and procedures for issuing permissions shall be determined by each Party in accordance with its national legislation and shall be duly communicated to other Parties.
4. There must be no unjustified delays or denials in taking decisions on the issue of permissions to conduct marine scientific research in accordance with paragraphs 1 and 2 of this Article.
5. Marine scientific research activities referred to in this Article shall not create unjustified impediments to activities undertaken by the Parties in the exercise of their sovereign and exclusive rights provided for in this Convention.

6. A Party conducting marine scientific research shall ensure the right of the Party that has permitted such research in accordance with paragraphs 1 and 2 of this Article to participate or be represented in the research, especially aboard research ships when practicable, without payment of any remuneration to the scientists of the permitting Party and without obligation of that Party to contribute towards the costs of the research.
7. A Party conducting marine scientific research in accordance with paragraphs 1 and 2 of this Article shall provide the Party that has permitted such research with the results and conclusions thereof after its completion, as well as access to all data and samples obtained within the framework of the research.
8. A Party shall have the right to require the suspension or cessation of any marine scientific research activities in progress within its territorial waters.
9. A Party that has permitted marine scientific research conducted in accordance with paragraph 2 of this Article shall have the right to require its suspension or cessation in one of the following cases:
 - (a) Research activities are not being conducted in accordance with the information provided that served as a basis for granting the permission;
 - (b) Research activities are being conducted in violation of the conditions it has established;
 - (c) Failure to comply with any of the provisions of this Article in conducting the research project;
 - (d) Such suspension or cessation is essential for ensuring its security.
10. Ships flying the flags of the Parties shall have the right to conduct marine scientific research beyond the outer limits of territorial waters subject to paragraphs 2 and 3 of this Article.
11. Bilateral and multilateral marine scientific research shall be conducted by agreement between the Parties concerned.

Article 14

1. The Parties may lay submarine cables and pipelines on the bed of the Caspian Sea.
2. The Parties may lay trunk submarine pipelines on the bed of the Caspian Sea, on the condition that their projects comply with environmental standards and requirements embodied in the international agreements to which they are parties, including the Framework Convention for the Protection of the Marine Environment of the Caspian Sea and its relevant protocols.
3. Submarine cables and pipelines routes shall be determined by agreement with the Party the seabed sector of which is to be crossed by the cable or pipeline.
4. The geographical coordinates of areas along routes of submarine cables and pipelines where anchoring, fishing with near-bottom gear, submarine and dredging operations, and navigation with dredging anchor are not allowed, shall be communicated by the coastal State whose sector they cross to all the Parties.

Article 15

1. The Parties shall undertake to protect and preserve the ecological system of the Caspian Sea and all elements thereof.
2. The Parties shall take, jointly or individually, all necessary measures and cooperate in order to preserve the biological diversity, to protect, restore and manage in a sustainable and rational manner the biological resources of the Caspian Sea, and to prevent, reduce and control pollution of the Caspian Sea from any source.
3. Any activity damaging the biological diversity of the Caspian Sea shall be prohibited.

4. The Parties shall be liable under the norms of international law for any damage caused to the ecological system of the Caspian Sea.

Article 16

Cooperation of the Parties in the Caspian Sea with natural and legal persons of States that are not parties to this Convention, as well as international organizations shall be in conformity with the provisions of this Convention.

Article 17

The Parties shall cooperate in combating international terrorism and financing thereof, trafficking in arms, drugs, psychotropic substances and their precursors, as well as poaching, and in preventing and suppressing smuggling of migrants by sea and other crimes in the Caspian Sea.

Article 18

1. Provisions of this Convention may be amended or supplemented by agreement of all the Parties.
2. Amendments and supplements to this Convention shall be an integral part of the Convention and shall be made in a form of separate protocols that shall enter into force on the date of the receipt by the Depositary of the fifth notification of completion by the Parties of internal procedures required for their entry into force.

Article 19

To ensure effective implementation of the Convention and to review cooperation in the Caspian Sea, the Parties shall establish a mechanism of five-party regular high-level consultations under the auspices of their Ministries of Foreign Affairs to be held at least once a year, on a rotation basis, in one of the coastal States, in accordance with the agreed rules of procedure.

Article 20

This Convention shall not affect rights and obligations of the Parties arising from other international treaties to which they are parties.

Article 21

1. Disagreements and disputes regarding the interpretation and application of this Convention shall be settled by the Parties through consultations and negotiations.
2. Any dispute between the Parties regarding the interpretation or application of this Convention which cannot be settled in accordance with paragraph 1 of this Article may be referred, at the discretion of the Parties, for settlement through other peaceful means provided for by international law.

Article 22

This Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Republic of Kazakhstan acting as the Depositary of the Convention. This Convention shall enter into force on the date of the receipt by the Depositary of the fifth instrument of ratification.

Article 23

1. The Depositary shall notify the Parties of the date of submission of each instrument of ratification, the date of entry into force of the Convention and the date of entry into force of amendments and supplements thereto.
2. This Convention shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

Article 24

This Convention shall be of unlimited duration due to its nature.

Done at Aktau on 12 August 2018 in one original copy in the Azerbaijani, Farsi, Kazakh, Russian, Turkmen and English languages, all texts being equally authentic.

In case of any disagreement, the Parties shall refer to the English text.

The original copy shall be deposited with the Depositary. The Depositary shall transmit certified true copies of the Convention to all the Parties.