

## **SPECIFIC FEATURES OF EXPLOITATION AND PROTECTION OF THE CASPIAN SEA WATERS UNDER UNCERTAIN LEGAL STATUS**

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The Caspian littoral states have not yet agreed upon the issue – how to divide among themselves the Caspian water area, water column, the seabed, and natural resources, and what part of the sea should be retained in the common use.

Most likely, the legal status of the Caspian Sea will be based on the formula proposed by the Russian Federation: “Divide the seabed and share the water”. According to this statement, the seabed will be divided into the national sectors, whereas the water area and water column (save for the coastal waters) will be in the common use. This formula has already been embodied in the seabed division between Russia, Kazakhstan and Azerbaijan, as well as in the territorial water boundaries established unilaterally by Kazakhstan and Turkmenistan.

In general, it may be stated that the Caspian water area and water column, except for the Kazakh and Turkmen territorial waters, Azerbaijani “national sector” (set unilaterally as well), and 10-mile exclusive coastal fishing zone (established earlier under the Soviet-Iranian treaties), still remain in common use.

Impetus for complete division of the seabed is provided by existence of vast hydrocarbon reserves in the Caspian Sea subsoil. The current stage of hydrocarbon development is characterized by putting proven reserves into operation and exploration of new fields. Meanwhile, hydrocarbon exploration and extraction will be conducted (and is already conducted) both in the national subsoil areas, and in the shared surface areas and water column of the sea, which need to be protected from pollution bound with oil and gas activities.

Our research is focused on the analysis and development of protection tools for shared water used for production needs by the oil and gas companies operating within the national seabed sites. We believe that the results of our research will benefit in case the legal status of the Caspian Sea will be based on the formula “Divide the seabed and share the water”.

The natural pathway to protect common interests is cooperation. In 2003, the Caspian littoral states signed the Framework Convention for the Protection of the Marine Environment of the Caspian Sea. In accordance with provisions stipulated by the Framework Convention, “the parties shall take all appropriate measures to prevent, reduce and control pollution of the Caspian Sea resulting from seabed activities. They are encouraged to cooperate in the development of protocols to this Convention to that effect.

However, the Caspian States neglected doing anything in this direction. The most likely explanation to this situation is the permanent dispute on the legal status of the Caspian Sea as well as on laying of Trans-Caspian pipelines.

The use of national tools to protect the shared waters from negative effects of oil operations in the national seabed sectors is estimated controversially. On the one hand, there is no other way in this situation; on the other hand, the shared water fails to be common. The national tools used for protection of the shared waters may be classified as “soft” and “strict”. “Strict” tools include applications of current water law of the Caspian littoral states to marine coastal areas. Such actions, undoubtedly, are in conflict with the shared water principle.

In Russia, special environmental requirements are set for each license site allocated to the oil company for hydrocarbon exploration and production. These may be referred as “soft” tools, if inconvenient in terms of environmental control, they do not impinge on the shared water principle.

Under uncertain legal status of the Caspian Sea, the use of “strict” national tools for protection of the shared waters does not enhance mutual understanding and good neighborhood between the Caspian littoral states.

The negative attitude towards the use of “strict” tools by the states adhering to the shared water principle indicates that the same negative reaction towards the Caspian Sea neighbors will follow their uncoordinated actions on the Trans-Caspian pipelining, which threatens the shared waters.

Adoption of the Protocol on the protection of the marine environment from seabed activities, supplementary to the Framework Convention, is the only apparent way to protect the shared waters used in oil operations at the national seabed sites, including construction of the Trans-Caspian pipelines.