



# An expert-based decision making tool for enhancing the consensus on Caspian Sea legal regime



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## ABSTRACT

This paper is focused on finding an optimal strategy for enhancing the consensus on negotiations over the legal status and regime problems of the Caspian Sea, which has caused a lot of abortive strives since the collapse of the Soviet Union. The strategic planning process begins with finding a set of major closed sea that has similar geographical features alike Caspian Sea. Then based on expert ideas and background review, it generates a series of fundamental criteria that have influenced the closed sea delimitation. Through a committee of practical experts with diversified professional backgrounds, these criteria were evaluated and classified into internal strengths and weaknesses of the alternative closed sea, as well as external opportunities and threats to them. The Delphi technique also was used to establish expert consensus on key strategies that are important for delimitating the Caspian Sea. In the next section, the decision makers (DMs) determined the factors weight based on the vast amount of information concerning the closed sea delimitation conditions. Then these factors have been weighted based on the Caspian Sea coastal countries' conditions. Finally, this paper assesses the strength, weakness, opportunity and threat (SWOT) of these criteria, and develops an optimal strategic plan for the Caspian Sea delimitation that can enhance the consensus on Caspian Sea legal regime in future negotiations.

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## 1. Introduction

After appearance of three new states on the shores of the Caspian Sea, the delimitation of the Caspian Sea on the national sectors basis is a complex multi-criteria problem with conflicting objectives (Mojtahed-Zadeh & Hafeznia, 2003). The Caspian Sea is unique in many reasons: the large deposits of oil and gas; valuable fishery resources, including 90% of the world's stock of sturgeon; important transportation routes; connecting the European part of

Russia, Transcaucasia and Central Asia; and significant geopolitical situation. Figure 1 presents the location of the Caspian Sea and the five coastal countries of the Caspian Sea region considered in this study.

The unexampled characteristics of the Caspian Sea led to a problematic identity and stopped its prepared legal classification. It has alternatively been called a lake, an enclosed sea, a closed sea, a semi-closed sea, a sea, an inland sea, and finally a "unique body of water." From the maritime law viewpoint, the legal status of the Caspian Sea should also be determined when the coastal states factually recognized which body of law applies to delimitation of the waters and the resources of the subsoil (Butler, 1971; Ghafouri, 2008; Joyner & Walters, 2006; Kubicek, 2013; Zimnitskaya & Geldern, 2011). Because of the complex nature of Caspian,

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Fig. 1. The location of the Caspian Sea and five coastal countries on a map of the Caspian Sea region.

each of the coastal countries has a different interpretation for the Caspian delimitation and this leads to considerable tensions among them. The absence of a suitable legal status amplifies these tensions because the present legal regime of the Caspian Sea, which is based on the Soviet–Iranian agreements concluded more than 50 years ago, is no longer sufficient to deal with the host of complex political, economic and environmental problems that exist in the area (Aghai-Diba, 2003; Aqayi, 2006). The two countries enjoyed a stable relationship based on the treaties of 1921 and 1941. Determining a new legal regime that delineates the territorial borders, along with the right to access to the natural resources, has been the source of conflict among the current five littoral countries of the Caspian Sea. The discovery of abundant oil and gas resources in the Caspian Sea has significantly added to the complexities of this conflict, especially with the newly independent states of Azerbaijan, Kazakhstan, and Turkmenistan in desperate need of accessing Caspian Sea's valuable oil and natural gas resources. Currently, the five states bordering the Caspian Sea are in dispute over who owns which part of the sea, or whether the five states share the entire sea in some sense. However, during the last twenty years, for balancing the present legal regime and holding on to peace, the five littoral states have met on about 30 occasions, at the presidential, ministerial and expert levels, in all five states and in many different cities (Madani, Sheikhmohammady, Mokhtari, Moradi, & Xanthopoulos, 2014; Mamedova, 2009; Sheikhmohammady, Hipel, & Kilgour, 2012; Sheikhmohammady, Kilgour, & Hipel, 2010;

Zonn, Kostianoy, & Kosarev, 2010). Tehran's meeting in 1992 was the first international conference that raised the question of Caspian Sea's status among the coastal countries. The conference concluded in a joint pronouncement on 4 October 1992. All five coastal countries accepted to define a mutually interested field in the Caspian Sea, saving the natural resources and natural reserves; conservation, reproduction and optimal utilization of the biological resources; development of mineral resources with due account of economic interests of the Parties; determination of rational sea lanes with due account of environmental requirements; and control of the level of the Sea. The controversial approach to this issue adopted by some of the coastal States is particularly evident in the context of the ongoing multilateral negotiations aimed at drafting a framework Treaty on Regional Cooperation in the Caspian Sea. The draft Treaty, prepared by Iran in consultation with other interested States, was completed in 1993. The draft is based on the notion of cooperation of Caspian States in the utilization of the Sea, which is regarded as a unique environmental system of particular importance to all coastal States. The draft provides for the establishment of a regional organization of Caspian States as an institutional framework for future activities, the decisions of which would be based on the principle of consensus. The draft Treaty rejects the idea of the partition of the Sea between coastal States, as well as any unilaterally asserted territorial claims (Vinogradov & Wouters, 1995). In the next meeting, which was held in Ashkhabad conference (14 September 1993) and the year was closed by

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