Building Azerbaijan’s Legal Framework for Marine Operations on the basis of UNCLOS

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Overview of the Presentation

I. INTRODUCTION

II. Practice of Land-Locked States in the International Law of the Sea.

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1. Background information of Azerbaijan

Officially, The Republic of Azerbaijan is a country in the region of Eurasia. Located at the crossroads of Western Asia and Eastern Europe, it is bounded by the Caspian Sea to the east, Russia to the north, Georgia to the northwest, Armenia to the west and Iran to the south and a short borderline with Turkey to the west.

Area Total: 86,600 km²
Population: 9,165,000 (estimate)
Capital and Largest City: Baku
2. Definitions

- A "land-locked country" is defined in the UNCLOS as a State that has no sea coast. In practical terms, land-locked countries are located in the interior of continents, hundreds or even thousands of kilometers from maritime ports. As January 1 on 2010 there were 45 such states, and half of these have ratified the LOSC.

- Bilateral agreements between coastal and land-locked States also allow for equal access for LL States to the sea via maritime ports and article 131 of the UNCLOS states that: "Ships flying the flag of Land-locked States shall enjoy equal treatment to that accorded to other foreign ships in maritime ports".
As to Azerbaijan, the nearest maritime coast with a distance about 400 km from Black Sea with the ports of in Georgia, which plays key roles for Azerbaijan’s import and export business. However Azerbaijan is at the same a transit State for neighboring countries which are themselves landlocked.
3. **Transit and access in the 1982 UNCLOS:**

Part X of the 1982 (Art 124-132) specially a number of rules concerning the right of access of land-locked States to and from the sea. It states that:

a) Land-locked States shall have the right of access to and from the sea for the purpose of exercising the rights provided for in this Convention including those relating to the freedom of the high seas and the common heritage of mankind. To this end, land-locked States shall enjoy freedom of transit through the territory of transit States by all means of transport.
b) The terms and modalities for exercising freedom of transit shall be agreed between the land-locked States and transit States concerned through bilateral, sub regional or regional agreements.

c) Transit States, in the exercise of their full sovereignty over their territory, shall have the right to take all measures necessary to ensure that the rights and facilities provided for in this Part for land-locked States shall in no way infringe their legitimate interests.
At present only thirteen landlocked States possess merchant fleets:

1. Austria
2. Azerbaijan
3. Czech Republic
4. Ethiopia
5. Hungary
6. Kazakhstan
7. Laos
8. Luxemburg
9. Malawi
10. Paraguay
11. Slovakia
12. Switzerland
13. Turkmenistan.
National legislation concerning maritime safety and security, prevention and response to marine pollution

Azerbaijan has ratified number of significant international maritime conventions, which include the 1974 SOLAS, and 1972 STCW and the 1973/79 MARPOL and became an IMO member in 1995.

The main national legal framework is provided by Merchant Shipping Code and by the Statue of the State Maritime Administration.
• IMO Convention 48;
• IMO amendments 1991;
• IMO amendments 1993;
• SOLAS Convention 74;
• SOLAS Protocol 88;
• LOAD LINES Convention 66;
• LOAD LINES Protocol 88;
• TONNAGE Convention 69;
• COLREG Convention 72;
• STCW Convention 78;
• FACILITATION Convention 65;
• MARPOL 73/78 (Annex I/II);
• MARPOL 73/78 (Annex III, IV, V);
• MARPOL Protocol 97 Annex VI;
• London Convention 72;
• CLC Convention 69;
• CLC Protocol 76;
• CLC Protocol 92;
• LLMC Convention 76;
• SUA Convention 88;
• SUA Protocol 88;
• SALVAGE Convention 89;
• OPRC Convention 90.
• Bunkers Convention 01
The Caspian Sea, located in western Asia on the eastern edges of Europe, is the largest lake on the planet. History records that it's called a sea because it is found to be salty, especially in the southern reaches.

The measured surface area is 371,000 sq km (143,244 sq mi), and the maximum depth is at 1025 m (3,363 ft).
Five nations border the Caspian's shores: Azerbaijan, the Islamic Republic of Iran, Kazakhstan, Turkmenistan and Russian Federation.

The Caspian is completely landlocked, causing a controversy over whether it is a sea or a lake.

The Caspian is home to seven different sturgeon species, some of which are found nowhere else in the world. All told the sea hold's 90% of the world's sturgeon.

Estimation of possible oil reserves reaching 230 billion barrels.

A major problem also exist to in the transporting of this potentially enormous amount of oil and gas for export to the western and Asian markets from the land-locked Caspian region.
The major pipeline routes that transport oil from the Caspian region to the west include the following:

- The 830 km *Baku – Supsa* pipeline has a capacity to transport 100,000 barrels of oil per day (b/d) from Baku, Azerbaijan to the Georgian Black Sea port of Supsa.

- The 1400 km *Baku – Novorossiysk pipeline* has a capacity to transport 100,000 b/d from Baku, Azerbaijan to the Russian Black Sea port of Novorossiysk.

- In order to decrease this heaviness from the Black sea and Bosporus Straits, there was constructed the 1768 km *Baku – Tbilisi – Ceyhan pipeline* with a capacity to transport 1 million b/d from Baku, Azerbaijan to the Mediterranean port of Ceyhan, Turkey.
Territorial division and Legal Status of the Caspian Sea.

- The current legal status of the Caspian Sea are based both on the Soviet – Iranian treaties concluded in the first part of the twentieth and on earlier state practice and agreement. The first such treaty, on the demarcation and cession of certain territories, was the Treaty of Resht (1729) concluded between Russian and Persian empires, which provided for freedom and commerce and navigation.

- The treaty of Friendship between Soviet Union and Persia (26 February 1921) became basis of bilateral relations between the two States, however it did not specifically address the issue of the legal regime of the Caspian. Natural resources were mentioned only in connection with the renewal of fisheries agreements.
Sea or lake? Territorial division problems.

According to scientists, the Caspian possesses characteristics of both a sea and a lake. As a largest inland salt water reservoir in the world, the size of the Caspian sea and is surrounded by several states, which is not common for the lakes. Furthermore, it is depth and salinity are comparable to some semi-enclosed seas, and the connection to the ocean exists only via artificial canals. Some dictionaries refer to its connection to the ocean in the past as well as its large size and, therefore, define as a sea.
To define the Caspian as a lake or a sea easier from a legal point of view than a scientific one. International law does not consider a reservoir a sea or lake depending solely on its size. Experts in maritime law emphasise that, according to the UNCLOS, the basic principle for definition of a body of water as a sea is its connection to an ocean. A sea is a water reservoir with a direct connection to an ocean. Flowing waters such as rivers and canals, as mentioned above, are subject to internal affairs of the affected states and do not change the legal status of a reservoir into which they flow. According to the definition of the UNCLOS, the Caspian Sea, which is 1000 miles away from any ocean and has no natural outlet to it, is not a sea. Of course, another common principle is that littoral states can decide through unanimous agreement whether or not an international lake is a sea. However, the Caspian Sea is not a sea according to the UN Conventions, and there is no respective unanimous agreement of the five littoral states. Following the logic of this argument, the Caspian Sea should be considered a lake in terms of maritime law.
Practice of delimiting lakes between littoral states shows that lakes are divided so that each coastal state has exclusive sovereignty over the biological and natural resources, water surface and shipping in its national sector. The most popular principles for delimitation of international lakes are:

- Thalweg
- Coastal line
- Median line (median)
The *thalweg* is the principle in which the *boundary* between two political states separated by a watercourse is denoted as the *thalweg* of that watercourse, if those two states have agreed to use the *thalweg* definition. Various states have also defined their watercourse international boundaries by a median line, left bank, right bank, etc. The precise drawing of river boundaries has been important on countless occasions; notable examples include the

- *Shatt al-Arab* (known as *Arvand Rud* in Iran) between *Iraq* and *Iran*,
- the *Danube* in central *Europe*,
- the *Kasikili/Sedudu Island* dispute between *Namibia* and *Botswana*, settled by the *International Court of Justice* in 1999,
- and the 2004 dispute settlement under the *UN Law of the Sea* concerning the offshore boundary between *Guyana* and *Suriname*, in which the *thalweg* of the *Courantyne River* played a role in the ruling.
The coastal line principle was mostly applied in a period of colonization of tropical countries and later often replaced by middle line. For example:

1. Lake Malawi, 1890 German–British agreement and 1891 Luso-British agreement; 1954 Great Britain–Portugal agreement in Lisbon;
Despite the unsettled official status of the Caspian Sea, several countries have concluded bilateral and multilateral agreements to divide it into national sectors until a final convention between all littoral states is agreed and signed. Bilateral agreements have been signed between:

- Kazakhstan and Azerbaijan,
- Kazakhstan and Turkmenistan,
- Kazakhstan and Russia,
- Russia and Azerbaijan.
THANK YOU!!!!!