What’s in a Name? The Legal Regime in the Caspian Sea (or Lake)

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INTRODUCTION

Before 1991, the Caspian Sea was, for all practical purposes, a Soviet lake; a status that was tacitly accepted by Iran, which was the only other bordering state. With the demise of the Union of Soviet Socialist Republics (USSR) and the addition of three new independent coastal states, however, debate over whether it is a “sea” or a “lake” became more than simply a matter of semantics; it became a vivid shorthand description of two competing views of the appropriate future legal regime for the Caspian. One was that it should be governed under the principles of law of the sea. The other was that the law of international lakes and waterways should apply. Although use of the “sea” versus “lake” terminology is less frequent now, the issue remains unchanged and unresolved. This impasse has led to more than a decade of varying degrees of hostile rhetoric and even physical confrontation, and has continued to impede the establishment of a stable legal regime in an unstable part of the world. Perhaps most important, the failure to agree has impeded cooperative management and development of a region which is much in need of both.

The thesis of this article is that the Caspian is not a “sea” as understood by international law of the sea, nor would it benefit the coastal states to declare it so. Nonetheless, there is much in the law of the sea that either applies as customary law or would serve as useful precedent in developing a

*The author is deeply grateful to Professor David VanderZwaag of the Dalhousie University Law School for encouraging publication of this research and for his wise counsel in polishing the initial attempt into a much better product. Thanks also to Dr. Murat Laumulin of the Kazakhstan Institute for Strategic Studies and Dr. Mikhail Troitskiy of the Russian Academy of Sciences for their insightful comments, as well as to the anonymous referees whose suggestions have made the work much more precise and accurate.

Ocean Governance

Fig. 1.—The Caspian Sea Region