

Sustainable Development and the New Oil Boom

Cooperative and Competitive Outcomes in the Caspian Sea

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May 1998

Recently at a public conference sponsored by Harvard's Kennedy School of Government, the audience was treated to a glowing account of oil and gas prospects in the Caspian Sea. The Azerbaijani government was represented by the head of the State Oil Company (SOCAR), who happens to be Natick Aliev, son of strongman ruler Heidar Aliev. Top executives from major multinational oil companies were in attendance as well, along with an impressive array of political dignitaries. The vast stores of the Caspian, it seemed, were on the verge of opening up to the world, with rewards for all those far-sighted enough to invest: diversification of energy sources away from the turbulent Persian Gulf, development and marketization of the former Soviet states of the region, and vast profits for the US private sector. The political benefits would be just as profound: a dramatic—and yet stabilizing—expansion of American influence in Russia's traditional backyard, containment of Iranian extremism, and promotion of democracy among the littoral states. Happily, the Clinton Administration's policy was dedicated to precisely these ends. In the warm afterglow of the conference on that Cambridge evening, as glasses clinked softly in toast, no one suggested this was any but the best of all possible worlds.

Alas, it is not. What was left out of the Harvard event—and a host of similar events held in Washington, New York, and elsewhere these past months—are the risks and outright costs associated with such a Panglossian view. The downside includes:

- ◆ *Environmental decay*: a single-minded focus on energy extraction and transportation will inevitably have negative environmental effects. There is no reason to fear outright ecological “resource wars” among the Caspian states; if such conflicts arise, they will more likely be over oil and gas than over fish and water. Nevertheless, in this region of callow post-Soviet polities, severe environmental degradation—especially if accompanied by the extreme polarization of wealth—is likely to have destabilizing effects.
- ◆ *Political instability*: heightened regional competition and further alienation of Russia could have serious political consequences. It is far too early to rule out a backlash effect, leading to dangerous recidivism in Russian international conduct.
- ◆ *Opportunity costs*: not promoting institutionalized regional cooperation means passing up significant gains. In the absence of an inclusive, overarching framework for multilateral cooperation, it will be hard to mitigate the inevitable friction or avoid unforeseen and undesirable outcomes. Unbridled competition—and the absence of institutions for transparency, negotiation and joint problem solving—is a recipe for bad luck in the Caspian Sea.

At the same time it would be churlish to deny the benefits of Caspian energy development. Whatever the ultimate size of the region’s oil and gas deposits, the coming windfall is quite real and should not be discounted.¹ Profits from energy extraction are essential for regional development, and could be used to help solidify democratic institutions and ensure environmental integrity.² Such opportunities do not come along often.

Yet there is, at this point, little danger of missing the boat. American companies are well-poised to reap the benefits of the energy boom, and such obstacles as do exist are self-imposed—a consequence of the Administration’s ill-considered Iran policy. There is no need to plunge

¹ Total reserves have been estimated at 178–192 billion barrels of oil and 564–665 trillion cubic feet of natural gas. United States Department of Energy, Energy Information Administration, *Caspian Sea Region* (October 1997).

² On wealth as a causal factor or consolidating factor vis-à-vis democratic institutions, see, respectively, John Helliwell, “Empirical Linkages Between Democracy and Economic Growth,” *British Journal of Political Science*, Vol. 24, No. 2 (April 1994): 225–249; Adam Przeworski and Fernando Limongi, “Modernization,” *World Politics*, Vol. 49, No. 2 (January 1997): 155–184.

headlong into the Caspian to extract its oil and gas wealth, and there are major pitfalls that must be avoided. The key objective at this point should be to balance the opportunities against the costs and political risks.

The rest of this paper unfolds as follows. First, I review the environmental problems besetting the Caspian Sea, and the dangers of unmanaged extraction. This background underlines the benefits of establishing a wide-ranging regime for sustainable development. Still, the prospect of concrete interstate cooperation depends on the prevailing perception of interests in each of the neighboring states. Therefore I survey the (perceived) national interests of the most important actors in the Caspian basin, and suggest that the considerable overlap of these interests does indeed provide an objective foundation for cooperative policymaking. Finally, diplomatic jousting and regional insecurity have made questions of international law unusually salient, and problems of legal ownership must be resolved before any lasting settlement is possible. Because of its centrality I therefore briefly consider the Caspian legal dispute and its policy implications. I conclude with the claim that institutionalized regional cooperation offers potentially profound political benefits, reaching far beyond environmental issues alone. In closing I offer some thoughts about the requirements for creating a sustainable development regime, including broad prescriptions for policy intervention.

Caspian Environmental Problems

There is a lot to conserve in the Caspian Sea basin, with a great deal at stake in terms of human and physical capital and domestic as well as regional political stability. Yet given the Soviet regime's notorious disregard for the environment, it is not surprising that by 1991 the Caspian basin was already listed as an endangered zone by professional ecologists. The situation has only worsened since then. Following the collapse of the Soviet Union the region has become largely unmanaged, and with the added impact of massive new oil and gas extraction and rapid coastal development programs, the Caspian environment now faces a number of serious threats. This section will outline the three main kinds of environmental problems in the Caspian Sea—water pollution, fisheries depletion, and a rise in sea level—and highlight the opportunity costs associated with a lack of environmental cooperation.

1) *Water pollution.* The leading causes of water pollution in the Caspian Sea are offshore oil rigs, and waste discharge from the Ural, Terek, Kura, and Volga rivers, as well as from industrial and urban sources along the Caspian coast.³ The Volga supplies approximately 80 percent of the influx

³ Henri Dumont, "Ecocide in the Caspian Sea," *Nature* 377 (October 26, 1995): 673–675; Gilbert Rowe, "Azerbaijan, oil, and sustainable development in Azerbaijan," *Quarterdeck*

into the Caspian Sea, and has only limited water purification along its entire length. As a result of the economic crisis affecting the region most facilities for monitoring water quality have fallen into disrepair, and in the chaotic post-Soviet political context there is little coordination even among those that do function.⁴ Consequently, given the virtual lack of environmental protection and legal enforcement in Russia, the Caspian Sea is a repository for various pollutants that accumulate across the width of Russia.⁵ This raises the prospect of massive health problems, potentially akin to those affecting the population in the Aral Sea region. Moreover, a burgeoning tourist industry could offer a major source of additional revenues, but only so long as the shores of the Sea are not blighted by oil and other pollutants.⁶ Runaway contamination would also endanger the region's renowned wildlife preserves.⁷

2) *Fishery depletion.* The Caspian has traditionally been the major source of caviar in the world, holding some 90percent of global sturgeon population (and caviar production). In addition, catches of sprat and several other species provide substantial hard currency earnings as well as edible fish for domestic consumption. The exhaustion of fisheries—as Western states know all too well—means the loss of local jobs and a shrinking tax base. Several factors are involved, one of which is pollution. Development projects in the northeastern, “shallow-water” section of the Caspian, which contain the major spawning grounds of commercial stocks, are considered especially worrisome.⁸ Studies conducted by regional government agencies reveal that undersea oil and gas mining is already damaging the sturgeon population.⁹

Fishery depletion is also the result of uncoordinated economic activities. In the absence of central authority since the collapse of the Soviet Union, fish squabbles have erupted between regional states over their respective shares of the catch. For example, while Russia and Kazakhstan have independently enforced a moratorium on sturgeon

4, no. 3 (Winter 1996); Igor Zonn, *Kaspiiskii memorandum* (Moscow: Korkis, 1997), pp. 208–210.

⁴ “Kaspii i problemy ekologicheskoi bezopasnosti,” *Astrakhanskie izvestia*, June 26–July 2, 1997.

⁵ Karen Wesenberg, “Toxic Tapwater: Pollution in Russia’s Waterways,” *CIS Environmental Watch*, no. 4 (Summer 1993), pp. 11–24; D.J. Peterson, “Russia’s Environment and Natural Resources in Light of Economic Regionalization,” *Post-Soviet Geography* 36, No. 5 (1995): 291–309.

⁶ “V poiskakh ‘filosofskogo kamnia’,” *Volga*, January 12, 1996.

⁷ *Almaty Ekspres*, June 20, 1995, in FBIS-SOV-95-122, June 26, 1995, pp. 84–85; and *Tezisy dokladov mezhdunarodnoi konferentsii* (Astrakhan: Interpress, 1995), pp. 148–230, passim.

⁸ See the comments by Iurii Chuikov, representative of the Astrakhan oblast Committee on Ecology and Natural Resources, “Kaspii - regionalnaia problema?” *Beregina*, no. 8, 1995.

⁹ Zonn, op. cit., pp. 143–145; “Azerbaijan’s Sturgeon Stock under Threat from Oil Production,” *Pipeline News*, No. 60, Part II (May 17–23, 1997).

catching in the mouths of the Volga and Ural rivers since 1993, Turkmenistan and Azerbaijan have been able to harvest a relatively larger share.¹⁰

Even more serious than interstate competition is the problem of small, well-organized and armed bands of poachers. The main target is sturgeon, especially for selling caviar on the black market.¹¹ The littoral states have made some individual efforts to confront poaching, but the scope of the problem vastly exceeds the available resources. Moreover, there is abundant evidence of official corruption.¹² Obviously, widespread poaching makes nonsense of any efforts to establish strict catch quotas. Finally, water pollution threatens the fish catch directly as well as indirectly, by the loss of essential flora and fauna.¹³ The combined result is a steep decline in fish catch levels, especially sturgeon, which has been placed on the endangered species list.¹⁴

3) *Sea level change.* The rising level of the Caspian Sea threatens local communities and fixed capital. This includes the roughly 1400 oil wells that were drilled onshore 30 years ago, many of which have been engulfed.¹⁵ Throughout the coastal areas large amounts of arable land have been lost to flooding and salination, and thousands of people have been displaced.¹⁶ Another danger of uncontrolled sea level rise is that nesting grounds for rare migratory birds will be destroyed.¹⁷

¹⁰ Interview with Vladimir P. Ivanov, Director of the Caspian Fishery Research Institute, Astrakhan, May 1996. See also Anatolii Guzhvin, "Kasp'ii: reshenie ego problem trebuetsia aktivnykh deistvii," *Astrakhanskii izvestiia*, no. 31, August 3–9, 1995.

¹¹ Losses from poaching are estimated at eleven tons of caviar. "Operatsiia 'Putina' prinela kazne 65 mlrd rublei," *Segodnia*, December 8, 1995. See also *Vestnik Kasp'ii*, no. 4 (July–August, 1997), pp. 13–14.

¹² For an expose of corruption in Russia see "Pogranichniki na Kasp'ii proigryvaiut 'kholodnuiu voinu'," *Izvestiia*, July 31, 1997.

¹³ "Vopros o situatsii v osvoenii prirodnykh resursov Kaspiiskogo Mona," report prepared by the Astrakhan Institute of Water Problems (under the Russian Academy of Sciences), May 1, 1995; also *Tezisy dokladov*, pp. 149–61 and 166–69.

¹⁴ The result is higher prices and falling state income. For Russian evidence see "Rossiia prodolzhaet utrachivat pozitsii lidera v mirovom rybolovstve," *Finansovye izvestiia*, January 11, 1996, p. 1; "Aleksandr Zaveriukha uprekhnul Roskomrybolovstvo v uvlechenii eksportom," *Segodnia*, January 24, 1996; and "In 21st Century Russian Fishermen Will Be Without Work," *Segodnia*, July 1, 1995, in FBIS-SOV-95-136-S, July 17, 1995, pp. 51–52. The Russian sturgeon catch declined from 16.7 million tons in 1983 to 2 million tons in 1996, while the black caviar harvest declined from 13,000 tons in 1990 to 2,000 tons. "Osetra predlagaiut zanesti v spisok okhraniaemykh vidov," *Finansovye izvestiia*, June 17, 1997.

¹⁵ "People and the Caspian," *Selskaia zhizn*, December 8, 1994, in FBIS-SOV-94-237, pp. 25–26.

¹⁶ "Kaspiiskaia katastrofa," *Izvestiia*, November 29, 1994; "Esli Volga razoletsia," *Volga*, June 28, 1995; "Fors-mazhor," *Segodnia*, April 10, 1996.

¹⁷ *Tezisy dokladov*, pp. 66, 67, 115, 116.

Coastal flooding also heightens the danger of environmental damage in areas where pollutants are stored or have already been spilled. One important example is the existence of underground radiation from peaceful nuclear explosions in Kazakhstan.¹⁸ The rising level of the Caspian thus threatens to intensify the already severe problem of water pollution through widespread radioactive and chemical contamination.¹⁹ Fish stocks and all other aquatic life are at risk.

As a caveat, it should be mentioned that—contrary to predictions—1996-97 saw the first *decline* in the level of the Caspian Sea in nearly twenty years.²⁰ Although experts do not agree on the cause, it may have been related to a drop in the level of the Volga, probably due to a combination of short-term factors such as lower fall run-off, less snowfall, and increased irrigation pressure.²¹ Nevertheless, some contend that the recent abatement is only the beginning of a new cycle of falling sea levels.²² In any case the flooding that has already occurred will remain a major economic and social problem for the foreseeable future.

The combination of extensive water pollution, fisheries depletion, and sea level fluctuation poses a social and political threat throughout the Caspian basin. Serious environmental degradation would cost thousands of stable livelihoods, and could conceivably jeopardize the ability of communities and state agencies to function cohesively. Strains on social stability in this polyglot ethnic region are easy to imagine as well. If severe enough, economic dislocation could lead to large-scale migration, in turn compounding social and ethnic strains and affecting areas well beyond the Caspian coast. Ultimately, environmental decay carries the danger of institutional collapse and political instability.²³

¹⁸ A. Shcherbakova and W. Wallace, "The Environmental Legacy of Soviet Peaceful Nuclear Explosions," *CIS Environmental Watch*, no. 4 (Summer 1993): 33-56, at p. 43.

¹⁹ Almaty, *Aziyah-Ezh*, no. 9, September 15, 1995, p. 7, in FBIS-SOV-95-185-S, September 25, 1995, p. 81.

²⁰ "Caspian Sea Level Falls," ITAR TASS in English, November 11, 1997.

²¹ An extensive discussion may be found in Zonn, *Kaspiiskii memorandum*, pp. 227-262.

²² Anatolii Frolov, "Prognozy i 'prognozy'," *Neft Rossii* 1 (16), 1996, pp. 37-8.

²³ Jason Clay, "Resource Wars: Nation and State Conflicts of the Twentieth Century," in Barbara Rose Johnston, ed., *Who Pays the Price: The Sociocultural Context of Environmental Crisis* (Washington, DC: Island Press, 1994); Thomas Homer-Dixon, "Environmental Scarcities and Violent Conflict: Evidence from Cases," *International Security* 19 (Summer 1994): 5-40; for an argument criticizing the putative causal linkage between environmental decay and conflict, see Marc Levy, "Is the Environment a National Security Issue?" *International Security* Vol. 20 (Fall 1995): 35-62.

The Juridical Contest

From a strictly ecological standpoint the problems of the Caspian basin appear urgent. Yet the issue is widely perceived in essentially political, not ecological terms. Consequently, while the magnitude of the problems is widely recognized it is unclear what can or is likely to be done about them. In thinking about the prospects for multilateral cooperation it is necessary to address the dispute over the legal status of the Caspian, inasmuch as this question is often considered a major constraint on any potential regional settlement. The argument to be made here is that the legal dispute is essentially a political, not a juridical matter, one for which any number of resolutions are possible. Certain legal insights may actually be useful in promoting cooperative regime building.

The struggle for control over Caspian resources has centered on the permissibility of dividing of the Sea—especially the seabed and subsoil—into exclusive zones to be used by each state for its own purposes. From 1994 until early 1998 the parties were unwilling to resolve this question through negotiation, and the contest for control over resources devolved into an abstruse debate over legal jurisdiction.²⁴ With the shift in Russian domestic politics this logjam has subsided, and a tentative breakthrough was achieved with the signing of agreements between Russia and Kazakhstan calling for division of the seabed while treating the water column and its resources as common property of the littoral states.²⁵ A final resolution may not come for some time, however, and in the absence of a definitive interpretation challenges will remain possible. Consequently it is worthwhile to review the key juridical questions and their political implications.

Until recently, opposing arguments about Caspian legal status hinged mainly on the question of whether the Caspian should be defined as a “sea” or an “international lake.” Kazakhstan (and less consistently, Azerbaijan) argued that the Caspian is objectively a sea (or an “enclosed marine sea”), and should be considered as such under international law. Consequently, the argument went, the 1982 Convention on the Law of the Sea could be applied to its division, control, and use. According to this interpretation each state should be entitled to a 200-mile economic zone for its exclusive use, which would legitimate national claims to control subsoil resources and to issue mining tenders for the Caspian seabed. Until late 1997 both Iran and the Russian Foreign Ministry argued that the Caspian was an international lake. The purpose of this contention was to deny the relevance of the Law of the Sea, and to justify the assertion that

²⁴ For background see Iurii Fedorov, *Kaspiiskaia neft i mezhdunarodnaia bezopasnost* (Moscow: Federatsiia mira soglasiia, 1996), pp. 49–66; and Djamchid Momtaz, “Quel Regime Pour la Mer Caspienne?” *Espaces et Ressources Maritimes* Vol. 10 (1996): 83–93.

²⁵ “Iz Kaspiia piat morei ne sdelaesh,” *Izvestiia*, April 1, 1998; “Azerbaijan Will Not Join Russian-Kazakh Accord on Caspian,” *Energy & Politics* 14, Part I (April 24, 1998).

all Caspian resources should be considered common property of the littoral states, such that any sectoral division requires consensus.²⁶ In sharp contrast, Azerbaijan generally regarded the Caspian as a lake, but with the added insistence that international lakes are inherently subject to sectoral division under international law.²⁷ Turkmenistan's position has evolved: while initially siding with the Russian Foreign Ministry in the legal dispute, over time Ashkhabad shifted to tacit—and finally explicit—acceptance of sectoral division.²⁸

An important addendum to this debate concerns navigation. Since the Caspian is naturally landlocked, all of the riparian states have an interest in gaining access to the Volga-Don canal system linking it to the Black Sea and beyond. The piquancy of this issue lies in the fact that the canal system, which was built in Soviet times, is located entirely on Russian territory. This allowed Russia to use access rights as leverage, and spawned another predictable set of opposing legal claims. The Russian Foreign Ministry asserted that since the Caspian was a lake, and since rules of navigation in transboundary waters are not clearly delineated in international law, free passage was not guaranteed.²⁹ Kazakhstan has alleged that since the Caspian is a sea, all states have the right to lay pipelines in keeping with the principle of free transit under the Law of the Sea.³⁰ While this has provisionally been resolved by Russia's renewed willingness to grant access to the Volga, a final settlement awaits resolution of the larger legal issue.³¹ Many of the same points have also

²⁶ Russia presented a formal case before the United Nations, arguing that the consortium deal violated international law by ignoring Soviet-Iranian treaties of 1921 and 1940. The fact that these treaties only addressed fishing and navigation—was conveniently overlooked. Moscow, ITAR-TASS, October 8, 1994, in FBIS-SOV-94-196, pp. 17–18. See also the report by Aleksandr Khodakov, head of the legal department of the Russian Ministry of Foreign Affairs, “The Legal Framework for Regional Cooperation in the Caspian Region,” delivered at the international conference on “Oil and Caviar in the Caspian,” London, February 1995. In late 1996 the Foreign Ministry revised its position somewhat to accept exclusive national sectors of 45 miles and a “common jurisdiction” zone in the middle. “New Twist in Legal Battle over Caspian Resources,” *Jamestown Monitor*, Fortnight in Review, November 15, 1996.

²⁷ See Zonn, pp. 178–181. At times, however, the Azerbaijani government has explored the possibility of considering the Caspian a sea, if this might facilitate sectoral division of the seabed according to the Law of the Sea.

²⁸ “Azerbaijan, Turkmenistan Agree on Division of Caspian,” RFE/RL *Newsline*, February 6, 1998.

²⁹ Interviews with Azerbaijan's Ambassador to the US, Hafiz Pashaev, December 1996 and November 1997; “Azerbaijan Suffering From Lack of Access to Russian Waterways,” Baku Azadlyg radio in Azeri, April 17, 1997, in BBC, *Summary of World Broadcasts: Central Asia*, April 17, 1997, CAI.

³⁰ Tlemis Mustafin, “The Caspian—a Sea of Problems,” *Almaty Biznes Klub*, May 22, 1995, in FBIS-SOV-95-105, June 1, 1995, pp. 66–67.

³¹ “Waterway Traffic Resumes Between Azerbaijan Russia,” from Baku Turan radio in Russian, November 24, 1997, in *Turkistan-Newsletter*, December 7, 1997.

been raised with regard to pipelines: the question is whether international law—and the Caspian’s legal status—facilitates or hinders national plans to lay undersea lines without gaining consent.

Here some clarification is in order. Two distinct legal questions are involved: the *status* of the Caspian and its *regime*. In the absence of any interstate accord, the legal status of the Caspian may be significant insofar as it implies—or more precisely, may be held to imply—a greater or lesser degree of legitimacy for a given type of regime. If the dispute is eventually referred to arbitration or legally binding resolution by the World Court, the ultimate ruling on regime (including energy extraction rights) would presumably turn in part on the determination of status, and thus on the applicability of various elements of international law. Because of its apparent primacy it is worth addressing the question of status first.

A brief consideration of terms identified in the Law of the Sea is sufficient to resolve the abstract issue of the Caspian’s legal status. According to the Convention, an “enclosed or semi-enclosed sea” is defined as “a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.”³² Consequently, despite the efforts of various politically motivated commentators, the legal status of the Caspian is not highly ambiguous: it is clearly not a semi-enclosed sea, since it is not connected directly to the outside sea.³³ Nor are any other geographical factors relevant to determination of status.³⁴

At the same time, international legal scholars have noted that the legal status of a body of water does not *determine* its regime. Strictly speaking, legal status is an abstraction that determines nothing; bordering states may agree to do virtually whatever they wish within the confines of an

³² Law of the Sea, Article 122. Note that the second part of this definition presupposes that the body of water in question is already clearly identified as an extension of the ocean.

³³ The fact that the Volga-Don canal system links the Caspian and Black Seas is irrelevant, since exclusively man-made channels do not constitute the “narrow outlet” referred to in the Convention. It is possible, although unlikely, that the Caspian could be construed as shared “internal waters.” This is unlikely since internal waters are generally taken to mean bodies of water interior to states but extending directly to the ocean. Still, in the absence of interstate agreement, the International Court of Justice has held in certain cases that internal waters with overlapping state claims are owned in condominium. Jonathan Charney, “Progress in International Maritime Boundary Delimitation Law,” *American Journal of International Law*, 88, 2 (April 1994): 227–256.

³⁴ Salt water is irrelevant: viz, the Dead Sea and Great Salt Lake. See Haritini Dipla, “Le trace de la frontiere sur las lacs internationaux,” in Ralph Zacklin and Lucius Caflisch, eds., *The Legal Regime of International Rivers and Lakes* (The Hague: Martinus Nijhoff, 1981), pp. 247–306, at p. 248.

enclosed body of water, so long as their actions do not prejudice others.³⁵ Such agreement is entirely independent of the legal status of the body of water in question. Furthermore, if appealed for international adjudication, the legitimacy of a given regime would not be evaluated based simply on geography or legal status, but on a combination of geographic, normative, historical, and political factors, all of which would be considered in the process of adjudication.³⁶ These points are often overlooked even by generally informed commentators, who wrongly attempt to establish the Caspian's legal status (geographically) and then deduce an obligatory regime.³⁷ Likewise, although the various parties to the diplomatic dispute often make extravagant and simplistic claims regarding jurisdiction based on assertions of legal status, in reality the question is highly nuanced and contingent.

The major difference between sea and lake status is that in the former case international law provides a default option. While states bordering an "enclosed sea may in principle negotiate any resource ownership and use arrangement, in the absence of agreement the Law of the Sea provides clear guidance, and it is reasonable to assume that the International Court of Justice would resolve disputes accordingly. In contrast, there is not yet any well-codified, encompassing body of international law concerning international lakes, and leading authorities disagree on fundamental issues such as division and delimitation principles.³⁸ In particular, it is not

³⁵ Article 3 of the United Nations Convention On the Law of the Non-Navigational Uses of International Watercourses, adopted by the UN General Assembly, May 21, 1997.

³⁶ Oxinan provides a lucid discussion of this point, and concludes that "the real issue is not whether the Caspian Sea is a sea or a lake as such, but whether, in light of its natural, political, and historic characteristics, its regime is, or should be, analogous to the regime we normally associate with lakes, or with historic bays, or with marine semi-enclosed seas...." Bernard H. Oxman, "Caspian Sea or Lake: What Difference Does It Make?" *Caspian Crossroads* Vol. 2 (Winter 1996): 1-12, at p. 4.

³⁷ For an argument that the Caspian should be considered a sea and should therefore have a regime consonant with the Law of the Sea, see Henn-Juri Uibopuu, "The Caspian Sea: A Tangle of Legal Problems," *The World Today* 51, no. 6 (June 1995): 119-124. For an argument that the Caspian is a lake and should therefore be subject to condominium, see Greg Englefield, "A Spider's Web: Jurisdictional Problems in the Caspian Sea," *Boundary and Security Bulletin* 3, no. 3 (Autumn 1995): 30-33.

³⁸ For example, according to one set of arguments, the divisibility of resources is a cardinal presumption of international law: "The concept of boundary lines ... [in an inland sea or international lake] that divide exclusive rights between or among the littoral states is so pervasive and well accepted that a court would hold it to be a principle of customary international law that the waters should be divided Brice M. Clagett, "Ownership of Seabed and Subsoil Resources in the Caspian Sea Under the Rules of International Law," *Caspian Crossroads* (Summer/Fall 1995): 3-12, at p. 5. If this were the case it is likely that the principle of *uti possidetis*, which governs the delineation of successor states' boundaries following imperial collapse, would be invoked to prescribe equitable division among the former Soviet republics and Iran. Yet while *uti possidetis* is the prevailing principle, it is not uncontested. See Steven R. Ratner, "Drawing a Better Line: *Uti Possidetis* and the Borders of New States," *American Journal of International Law*,

indisputably established that division (as opposed to condominium) of transboundary waters is required; rather, this may depend exclusively on the agreement reached by bordering states.³⁹ In sum, all parties to the Caspian legal wrangle have made unfounded assertions. Dispassionate legal experts would be certain to regard the Caspian as an international lake. Accordingly, navigation rights are not automatically guaranteed, but require a ratified multilateral agreement. Transit through the Volga-Don canal system also depends on Russian consent.⁴⁰ Moreover, the notion that lake status connotes condominium is merely a figment of politically motivated imagination. Nor is it unequivocally established that lakes must be divided; while there are significant arguments to this effect, there remains a great deal of room for maneuver. Hypothetically, it is true that *if* the Caspian were considered a sea, and *if* there were no agreement among states concerning regime, then the Law of the Sea would probably be applied under litigation. But this is an exercise in counterfactual logic.

While the Caspian is objectively an international lake with no predetermined legal regime, arriving at a legal definition is nonetheless a politically significant act. Institutionalizing the “lake” definition would be desirable precisely because of its unclear implications in international law. Assumptions about the applicability of the Law of the Sea have often been used to justify unwillingness to compromise, as evidenced by Kazakhstan’s previous position, and tentative agreements may be reversed at any time. For this reason alone, removing claims about the relevance of the Law of the Sea and its ownership principles is likely to have salutary effects. Finally, the mutual benefits of an agreement covering navigation and transportation is another area *in which* the lack of

Vol. 90, n. 4 (October 1996). Furthermore, some authorities contend that division of water resources is presumptively based on equidistance, in practice meaning the median distance between opposing shores, assuming straight baselines. Clagett, *bc. cit.*, pp. 8–10. Oxman notes that the underlying principles of equity and proportionality are key, and that presumably the length of each state’s coastline would be considered as well. Oxman, *op. cit.*, p. 10. The combined result would be to support national claims to a sector of the Caspian Sea. Yet each of the preceding interpretations is controversial.

³⁹ Sergei Vinogradov, “Toward Regional Cooperation in the Caspian: A Legal Perspective,” in Michael Glantz and Igor Zonn, eds., *Scientific, Environmental, and Political Issues in the Circum-Caspian Region* (Boston: Kluwer, 1997), pp. 53–66. Indeed, contrary precedents exist. See Oxman *op. cit.*, p. 11; also Claudius Graf-Schelling and Dieter Schenk, “Le regime juridique du lac de Constance,” in Ralph Zacklin and Lucius Caflisch, eds., *The Legal Regime of International Rivers and Lakes* (The Hague: Martinus Nijhoff, 1981), pp. 97–124.

⁴⁰ It may be argued that since the Law of the Sea guarantees transit rights to land-locked states, this should extend to usage of the Volga-Don system for transit to the Black Sea and beyond. See Oxman, *op. cit.* Article 125 of the Law of the Sea does grant passage rights to the sea through transit states “by all means of transport.” However, paragraph 2 requires explicit interstate agreement, and paragraph 3 provides further restriction: “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.”

pre-existing legal guidelines could prove helpful. The importance of such an agreement makes it a good candidate for pragmatic negotiation among the littoral states, and could foster willingness to make concessions on other issues. If successful, this could lead to spillover of interdependent and self-reinforcing agreements.

There is also a positive rationale for institutionalizing “lake” status for the Caspian Sea. While international law governing transboundary waters remains inchoate, it is a rapidly evolving field of jurisprudence, and there have been significant cases of interstate cooperation in recent years. Most notably, in 1992 the states of the European Union negotiated the “Convention on the Protection and Use of Transboundary Watercourses and International Lakes,” and in 1997 the UN General Assembly adopted a “Convention on the Law of the Non-Navigational Uses of International Watercourses.”⁴¹ There is also a growing number of relevant examples of cooperation in fisheries management and environmental protection.⁴² Taken together such developments could help provide a legal and practical foundation for a viable Caspian regime.

National Interests and the Caspian

Aside from the abstract legal questions involved, the practical matter of cooperation turns largely on the intersection of prevailing state preferences—itsself a function of politically weighted elite constructions of national and group interest. Given the juridical framework for multilateral regime building, then, the analytical question is whether the notion of Caspian cooperation is more than chimerical: do the regional actors have an interest in cooperating, or is the “game” deadlock?⁴³ The following section addresses this question by briefly surveying the prevailing interests of the key state actors involved in the Caspian basin: the littoral states themselves and—because of its global prominence and active regional involvement—the United States. Before moving on to these more concrete problems, however, a brief theoretical digression may be useful to develop the analytical framework used here.

⁴¹ Both documents deal primarily with state obligations regarding pollution prevention and fisheries cooperation. The UN Convention explicitly enjoins littoral states to engage in formal cooperation.

⁴² See “Kenya-Tanzania-Uganda: Final Act of the Conference of Plenipotentiaries on the Establishment of Lake Victoria Fisheries,” Kisumu, Kenya, June 30, 1994; and the “Convention on the Protection of the Black Sea Against Pollution,” Istanbul, April 21, 1992; “Draft Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December, 1982, Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks,” United Nations, New York, August 4, 1995.

⁴³ Kenneth Oye, “Explaining Cooperation under Anarchy: Hypotheses and Strategies,” in Kenneth Oye, ed., *Cooperation under Anarchy* (Princeton: Princeton University Press, 1986), pp. 1–24.

In addressing the question of interests, I assume that foreign policies are shaped by privileged actors who are both enabled and constrained by the institutions that affirm their exercise of decision-making authority and control over resources.⁴⁴ Thus, rather than considering interests in objective terms as exogenously conferred upon states, it is more fruitful to ask whether elites in the Caspian states perceive their interests in terms compatible with a sustainable development regime.

Yet while the problem of determining state interest turns on elite perspectives, international contextual factors may affect the process of strategic decision-making in critical ways. First, geopolitical factors constrain not only policy choices but also underlying preferences, since the quest for autonomy is a fundamental one. In an international setting in which state autonomy is or has been highly constrained, its attainment may overshadow other goals regardless of the tradeoffs involved.⁴⁵ Historical memories and perceptions of outside actors are critical in this regard, since the presence of benign versus malignant images affects the prospects for launching cooperative projects. Therefore, in addressing the question of state preferences and the scope for regime building I am sensitive to *Realpolitik* concerns of the relevant actors.

At the same time, interests are malleable and may be molded to a significant extent by external ideational influences. First, expert knowledge may be crucial in generating interstate cooperation when it convincingly ties specific practices to desirable outcomes, or alters methodological approaches to yield analytical conformity.⁴⁶ Second, the transmission of new values may recast the domestic political calculus by undermining the legitimacy of established practices or enhancing the appeal of alternatives, often in ways that cannot be explained by the distribution of power alone.⁴⁷ The prospect of international prestige, and the domestic cachet of being accepted as a member of the legitimate international order, may be as important for reinforcing elites' privileged position as their ability to meet material goals.⁴⁸ And yet this observation

⁴⁴ Andrew Moravcsik, "Taking Preferences Seriously: A Liberal Theory of International Politics," *International Organization*, Vol. 51, No. 4 (Autumn 1997): 513–553.

⁴⁵ A useful discussion is Paul D'Anieri, "Dilemmas of Interdependence," *Problems of Post-Communism*, Vol. 44, No. 1 (January 1997): 16–27.

⁴⁶ Peter Haas, *Saving the Mediterranean: The Politics of International Environmental Cooperation* (New York: Columbia University Press, 1990); also Emanuel Adler, "The Emergence of Cooperation: National Epistemic Communities and the International Evolution of the Idea of Nuclear Arms Control," *International Organization*, Vol. 46, No. 1 (Winter 1992): 101–146.

⁴⁷ Martha Finnemore, *National Interests in International Society* (Ithaca: Cornell University Press, 1996); Audie Klotz, *Norms in International Relations: The Struggle Against Apartheid* (Ithaca: Cornell University Press, 1995).

⁴⁸ Andrew Cortell and James Davis, "How Do International Institutions Matter? The Domestic Impact of International Rules and Norms," *International Studies Quarterly*, Vol. 40, No. 4 (December 1996): 451–478.

brings us back to the role of politics and agency: ideational and normative influences are filtered through the recipient state's institutional structure and domestic polity.⁴⁹ The key point, then, is that value transmission is not a passive process, but an active one mediated by the preferences of politically dominant elites.⁵⁰

In sum, elite preferences and state-society relations are central to foreign policymaking, and external material and ideational influences are important insofar as they bear on these factors. The intersection of state preferences—as a reflection of their underlying domestic orders and the preferences of politically privileged actors—determines the scope for cooperative or conflictual interstate behavior. Whether or not such cooperation actually emerges and becomes stable depends on the nature of specific policy initiatives and the manner in which they are framed, including their ability to link underlying preferences clearly to strategic choices and politically viable outcomes.

Russia

At first glance Russia would not seem to need Caspian energy; Siberia possesses large deposits of oil and gas. Yet these older sites are remote and increasingly less productive, and the capital stock is dilapidated. The government has only just begun to act aggressively to attract foreign investment.⁵¹ Meanwhile, energy exports account for nearly half of Russian hard currency earnings, and fees for transporting oil potentially offer significant income as well.⁵² In this context, the incentives to

⁴⁹ Thomas Risse-Kappen, "Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War," *International Organization*, Vol. 48, No. 2 (Spring 1994): 185–214; Matthew Evangelista, "The Paradox of State Strength: Transnational Relations, Domestic Structures, and Security Policy in Russia and the Soviet Union," *International Organization*, Vol. 49, No. 1 (Winter 1995): 1–38.

⁵⁰ When norms purveyed by international organizations do not conform with such preferences, privileged actors may seek to elude the binding force of normative constraints—even without any overt repudiation of the restrictive norms themselves. For a discussion of Israeli torture practices which exemplifies this point, see James Ron, "Varying Methods of State Violence," *International Organization*, Vol. 51, No.2 (Spring 1997): 275–300.

⁵¹ "Russia Champs At the Drill-bit: Russia's Oil Industry Finds It Needs Foreign Investment," *The Economist*, Vol. 345 (November 15, 1997), pp. 63–4.

⁵² Oil production, the largest earner, declined by approximately 45% from 1988–1996 before stabilizing in 1997. *Russia: Economic & Trade Overview*, BISNIS (March 1, 1997). According to official statistics oil and gas output increased by 1.44% in 1997 compared to 1996. "Russia Releases Oil, Gas Output Figures for 1997," RIA Novosti, February 5, 1998. For the pipeline from Tengiz to Novorossiisk, transit fees were set at \$25 per ton of crude. Based on forecasts of 28 million tons per year, Russia's 24% share would be \$168 million. *Pipeline News* No. 58 (May 3–9, 1997); and see "Duma Sets New Excise Rate For Oil Shipments," *Energy & Politics*, Part I, January 19, 1998.

participate in the Caspian boom are enormous, and environmental protectionism is widely regarded as an unaffordable luxury.⁵³

Of course, national interests in the aggregate are only part of the story. Complex domestic politics are a crucial element in the formation of any Russian policy, which is marked by sharp struggles between factional groups jockeying for power. Nowhere is this more true than in the Caspian, where Russian geopolitical dominance has held firm for centuries, and where the penetration of foreign capital and influence easily riles nationalistic resentment. The prospect of losing Russian control and seeing the former Soviet states of Azerbaijan, Kazakhstan, and Turkmenistan become truly independent is galling to those who view Russian interests in hegemonic terms.⁵⁴ Environmental restrictions which might impede such developments therefore have a certain attraction. At the same time, however, powerful interest groups have a stake in engaging in lucrative extraction deals with foreign partners, and strict regulatory measures would inhibit this extraordinary profit-making potential.⁵⁵ Nationalistic and rational-pragmatic calculations thus lead to different attitudes about energy extraction and foreign investment.

Given this fact it is not surprising that Russia's Caspian policy has often appeared incoherent. The combination of state weakness and elite conflict resulted for some time in a peculiar situation in which two groups were able to pursue independent Caspian policies simultaneously. One group, associated with the Foreign Ministry, demanded a combination of environmental protectionism and shared ownership of resources by all states bordering the Sea. The upshot of this position was to give Russia veto rights—or possibly equal extraction rights—regarding any proposed project. The other group, representing a coalition of financial-industrial oligopolists, accepted the principle of individual state ownership and worked to maximize the share held by Russian firms in development and transportation deals. As a result the actions and statements of leading

⁵³ "Narushiteliam granitsy i brakonerstvo obnavlena voina," *Nezavisimaia gazeta*, May 17, 1997; and "Pogranichnye storozheviki vyshli na okhranu pybnykh zapasov," *Izvestiia*, October 8, 1997.

⁵⁴ This attitude was expressed in support for the Kurds, blockade of the Volga-Don system, and clandestine arms shipments to Armenia. For background see Rajan Menon, "In the Shadow of the Bear: Security in Post-Soviet Central Asia," *International Security*, Vol. 20, No. 1 (Summer 1995): 149–181; and S. Frederick Starr, "Power Failure: American Policy in the Caspian," *The National Interest*, Vol. 47 (Spring 1997): 20–31.

⁵⁵ While the specific interests of oil and gas firms may diverge, the general interests of the major firms in this sector overlap. See Yakov Pappe, "Russian Oil and Gas Diplomacy," *Pro et Contra*, Vol 2, No. 3 (Summer 1997): 55–71. For background on foreign investment by Russian firms, especially in the oil and gas sector, see Oleg Iurygin, "O zarubezhnoi sobstvennosti Rossiiskikh predpriatii," *Politekonom* (November 1996).

government officials frequently contradicted the Foreign Ministry's position.⁵⁶

By mid-1997, however, this balance of forces had tilted decisively in favor of the pragmatic coalition of pro-extractive elites. To some extent this was the culmination of a powerful trend in Russian domestic politics, marked by the emergence and amalgamation of aggressive new business elites.⁵⁷ External developments were also important to some extent, since despite Russian resistance, Azerbaijan, Kazakhstan and Turkmenistan had managed to gain foreign investment and diplomatic support. Whatever the precise mix of factors, Russian policy finally found a consistent voice.⁵⁸ This led quickly to partial resolution of the long-standing dispute over the Caspian's legal status, whereby Russia and Kazakhstan agreed to divide their adjacent sectors of the seabed.⁵⁹ A number of important questions remain to be worked out, including transportation and environmental impact. Yet the political preponderance of financial-industrial groups with an interest in Caspian development makes a final resolution seem likely. This would pave the way for rapid energy exploitation with vigorous Russian involvement.⁶⁰

It is important to remember, however, that the triumph of the pro-extractive coalition does not eliminate domestic opposition. Legal and political challenges to the new Caspian policy are sure to be raised.⁶¹ Environmental concerns will also be voiced, and are likely to gain broad if under-mobilized support at the national level. Yet such challenges will be most strongly felt at the local level. Because of the state's continued

⁵⁶ For details see Douglas W. Blum, "The Domestic Politics of Russia's Caspian Policy," *Post-Soviet Affairs*, forthcoming.

⁵⁷ See Michael McFaul, "A Precarious Peace: Domestic Politics in the Making of Russian Foreign Policy," *International Security*, Vol. 22, No. 3 (Winter 1997/98): 5–35. The policy of blocking energy development and transportation was also undermined at the local level by collusive arrangements among extractive elites and political officials. See Blum, *op. cit.* The discovery of potentially significant deposits of oil in the prospective Russian sector is less likely to have been a key factor, since this was not apparent until late 1997 and in any case did not affect the larger questions of elite interests in shaping Russian foreign policy.

⁵⁸ For an argument that this shift reflects a compromise which reconciled the interests of Russian elites, see Yuri Fedorov, "Russia's Caspian Policy: Towards Consensus of the Elite," *Pro et Contra*, Vol 2, No. 3 (Summer 1997): 72–89.

⁵⁹ "Kazklistan i Rossiia dogovarivaiutsia o statuse Kaspiiskogo moria," *Izvestia*, February 18, 1998; "Iz Kaspiia piat morei ne sdelaesh," *Izvestiia*, April 1, 1998.

⁶⁰ Yeltsin authoritatively endorsed the extractive policy on the condition that Russian participation in decisions on the legal regime is ensured. "Kasp'ii ne mozhnet byt 'morem razdora'," *Izvestia*, February 11, 1998. Moreover, Prime Minister Viktor Chernomyrdin's replacement in March 1998 by former Minister of Fuel and Energy Sergei Kirienko merely reaffirmed the predominance of the pragmatic group.

⁶¹ As of this writing, legal challenges have been raised over the constitutionality of developing-northern Caspian, which is a nature preserve according to Soviet law. "Genprokuratura zashchishchaet ekologiiu Kaspiia," *Izvestiia*, February 4, 1998.

institutional weakness, the success or failure of the new Caspian policy requires the ability to ensure implementation in the maritime provinces of Astrakhan, Dagestan, and Kalmykia.⁶² Without local political allies and guaranteed access to infrastructure, the pro-extractive agenda cannot be realized. As it stands, the general attitude of the local administrations in all three provinces is similar—each has actively sought integration into the broader regional and international economy, soliciting trade and investment deals with all other states of the Caspian basin. And yet there are ambivalent attitudes on this question. A large number of jobs are related to the fishing industry (including commercial fishing operations, processing plants and canneries, ship-building enterprises, and other related activities). Not surprisingly, the ecological health of the Caspian is widely considered crucial to the local economy. Were it to be seriously damaged, the political consequences could be severe.⁶³

For these reasons there exists a basis for compromise. The central preference for Russian pragmatists is gaining access to Caspian wealth through extraction and transportation projects. Regional stability is thus more important than political dominance. Naturally these oligarchs are ambivalent about accepting stringent environmental regulations that might hinder resource extraction and other profitable endeavors, and strident arguments about the inadmissibility of developing energy deposits are likely to go nowhere.⁶⁴ Yet the sensitivity of the Caspian environment, and the political consequences of neglecting local concerns, are such that prudence demands some concessions. Acceding certain environmental conditions also offers a way of co-opting erstwhile opponents. If following such guidelines promised to smooth political relations and reduce risk, it might be worthwhile—particularly if foreign firms operating in the area were bound by restrictions as well.⁶⁵

Finally, external influences are potentially consequential for redirecting Russian policy. Joining the club of “civilized” nations remains a key symbolic objective for a large element of Russia’s ruling elite,

⁶² For elaboration on the points raised in this paragraph, see Blum, *op. cit.*

⁶³ On the importance of environmentalism for local political mobilization in Russia, see Jane Dawson, *Eco-Nationalism: Anti-Nuclear Activism and National Identity in Russia, Lithuania, and Ukraine* (Durham: Duke University Press, 1996), especially pp. 99–123.

⁶⁴ One of the few well-placed environmentalists who participate in foreign policymaking, Valerii F. Menshikov, who is an ecological advisor to the Russian Security Council, argues that sustainable development should be pursued in the Caspian only to the extent that it does not curtail extraction. Personal interview, June 1997. Meanwhile, advocates of severe limits on development in order to safeguard the environment have been marginalized. A prominent example is Aleksandr Iablokov, former Chairman of the Interagency Commission on Ecological Security. Personal communication, June 1997.

⁶⁵ On politically expedient uses of environmentalism see Miranda Schreurs, “Domestic Institutions and International Environmental Agendas in Japan and Germany,” in Miranda Schreurs and Elizabeth Economy, eds., *The Internalization of Environmental Protection* (Cambridge and New York: Cambridge University Press, 1997).

alongside corporate economic interests in becoming integrated into the Western institutional system.⁶⁶ Despite reluctance to comply with environmental treaties that collide with development interests, the Yeltsin Administration has been susceptible in the past to well-orchestrated IO pressures that have raised the prospect of international trade sanctions and negative publicity.⁶⁷ For this reason the government's recent support for Caspian environmental cooperation with leading international organizations is potentially promising.⁶⁸

The "Other" Former Soviet States: Azerbaijan, Kazakhstan, and Turkmenistan

In comparison with Russia, the policymaking process in Azerbaijan, Kazakhstan and Turkmenistan is relatively cohesive, if not monolithic. There is no serious fragmentation of state institutions, and with the partial exception of Kazakhstan, no independent civil society, which is at least nascent in Russia.⁶⁹ As a result there are no major domestic institutional constraints on rapid development in the Caspian. Moreover, the incentives to engage in extraction are overwhelming. Despite signs of

⁶⁶ In discussing Russia's admission to the London Club, First Deputy Prime Minister Anatolii Chubais remarked, "leaders of the biggest banks in the world recognized the irreversibility of our reforms and the -prestige of Russia in the international community." RFE/RL Newswire, Part I, October 8, 1997. On Russian membership in the Council of Europe, see Jeffrey Checkel, "Empowerment, Ricochets and End-Runs: Russia's Integration with Western Human Rights Institutions and Practices," Program on New Approaches to Russian Security, Policy *Memo Series*, Memo No. 14, Harvard University, 1997.

⁶⁷ Vladimir Kotov and Elena Nikitina, "To Reduce or to Produce? Problems of Implementation of the Climate Change Convention in Russia," and Owen Greene, "The Montreal Protocol: Implementation and Development in 1995," both in John Poole and Richard Guthrie, eds., *Verification 1996: Arms Control, Peacekeeping and the Environment* (Boulder: Westview Press, 1996).

⁶⁸ Even as the new agreement on Caspian division was being forged, Foreign Ministry spokesman Gennady Tarasov stated that "plans for the development of the Caspian reserves must be in line with the legitimate rights and interests of all of the five littoral countries on obligatory condition that the environment of this unique water area will be preserved." Cited in *Pipeline News* (February 22-28, 1997). In particular, an international "Ecological Program for the Caspian" sponsored by the IBRD, the Global Ecological Fund, and the EU's Tacis Program has been endorsed by the Russian State Committee for Environmental Protection. "International Ecological Programme to Begin in Spring on Caspian," RIA Novosti, January 28, 1998. UNEP has also taken an active role in developing a framework convention for the Caspian. See *UNEP Update*, vol.2, no. 1 (January 1996).

⁶⁹ For background see Martha Brill Olcott, "Democratization and the Growth of Political Participation in Kazakhstan," in Karen Dawisha and Bruce Parrott, eds., *Conflict, Cleavage, and Change in Central Asia and the Caucasus* (Cambridge: Cambridge University Press, 1997), pp. 201-241; Audrey Altstadt, "Azerbaijan's Struggle Toward Democracy," *Loc. cit.*, pp. 110-155; and Michael Ochs, "Turkmenistan: The Quest for Stability and Control," *Loc. cit.*, 312-359.

stabilization these young states are still bedeviled by poverty, capital obsolescence, and sizable government arrears.⁷⁰ Even aside from these compelling economic reasons to develop Caspian deposits, the political pressures are huge. In the face of Moscow's traditional—and quite recent—expansionist tendencies, policymakers in Azerbaijan, Kazakhstan, and Turkmenistan view independence from Russia as the *sine qua non* of national interest.⁷¹ As Kazakhstan's former Prime Minister Sergei Tereshchenko once put it, "As soon as we are no longer dependent on Russia in oil matters, it will talk differently with us."⁷²

Such calculations explain these states' conduct in the Caspian. Azerbaijan moved first to assert jurisdiction over three large offshore fields in the fall of 1994, and Kazakhstan was quick to follow suit. By September 1995 Turkmenistan had also ventured to explore its own deposits, and the foreign ministers of the three states drafted an agreement calling for division of the seabed into exclusive zones.⁷³ In addition to rapidly developing their natural resources, the former Soviet states have acted to build new pipelines that would redirect the flow of oil and gas away from Russian territory.⁷⁴

Relations among these former Soviet republics are rather complex, since their interests overlap strongly—and just as strongly diverge. Beyond merely surviving and consolidating sovereignty, they desperately seek foreign investment, infrastructural renewal, and sustained economic growth. Caspian energy resources are essential for these purposes. As a result they have shared interests in establishing a legal regime based on

⁷⁰ For an overview, see Michael Kaser, "Economic Transition in Six Central Asian Economies," *Central Asian Survey*, Vol. 16, No. 1 (March 1997): 5–26; and Idem, "Privatization and Agrarian Reform in the Caucasian Economies," *Central Asian Survey*, Vol. 16, No. 2 (June 1997): 159–168.

⁷¹ Ellchan Nuriyev, "Regional Conflicts and the New Geopolitics of NATO Expansion: The Cases of the Caucasus," paper presented at the 39th annual convention of the American Association for the Advancement of Slavic Studies, Seattle, Washington, November 1997; V.A. Teperman, "Strany Zakavkazia mezhdru Possiei i iuzhnyimi sosedomi," in A.M. Khazanov et al, eds., *Rossija, blizhnee i dalnee zarubezhe Azii* (Moscow: Russian Academy of Sciences, 1997), pp. 29–37. ⁷² Almaty Kazakli Radio, August 27, 1993, in FBIS-SOV-93-166, pp. 44–45.

⁷² Almaty Kazakh Radio, August 27, 1993, in FBIS-SOV-93-166, pp. 44–45.

⁷³ Kakimbek Salykov, "The Lake With the Fate of a Sea," *Kazakhstanskaia pravda*, July 6, 1995, in FBIS-SOV-95-135-S, July 14, 1995, pp. 73–75; Kazakh radio, September 27, 1995, in FBIS-SOV-95-188, September 28, 1995, p. 82.

⁷⁴ Possible non-Russian routes for Azerbaijan include two options, either through Georgia (and perhaps Armenia) to Supsa, Georgia, on the Black Sea, or south to Ceyhan, Turkey, on the Mediterranean. For Kazakhstan, such routes would run from the Tengiz field to Azerbaijan across the Caspian Sea and then on to Turkey, south to Iran, and east to China; and for Turkmenistan, south either to Pakistan or the Persian Gulf, or via Iran and Turkey to Europe. See Forsythe, op. cit., pp. 44–54; J. Roberts, *Caspian Pipelines* (London: Royal Institute of International Affairs, 1996); Geoffrey Kemp, *Energy Superbow: Strategic Politics and the Persian Gulf and Caspian Basin* (Washington, DC: Nixon Center for Peace and Freedom, 1997), pp. 49–62.

divisibility and in balancing against Russian domination. This provides a basis for solidarity and cooperation, and explains their eagerness to participate in American-led military maneuvers.⁷⁵ Yet while Azerbaijan, Kazakhstan and Turkmenistan share similar long-term goals, in the short run they compete for investments, energy export markets, and even access to undersea oil and gas wealth. As a result there has been some friction in the past (especially between Azerbaijan and Turkmenistan) over the precise demarcation of Caspian boundaries.⁷⁶

Relations with Russia are complex as well, since Moscow's military and economic presence continues to loom large in the region, and Russian pragmatism cannot be confused with altruism. Although the CIS is increasingly revealed as a fictional institution, Russia still has a sizable share of trade flows with its neighbors to the south and controls most of the operational export pipelines, with the ability to exert pressure on others.⁷⁷ Political and military balancing alone cannot provide adequate insurance. After all, Russia remains a major, unpredictable force. Even if a Chechnya-like invasion is ruled out for the "near abroad," the possibility of strong-arming remains and is magnified by lingering perceptions and historical lessons of Russian hegemonism dating back to Peter the Great. And despite the symbolic importance of the "Centrazbat" and other exercises, there is no realistic chance of massive Western military intervention on behalf of the former Soviet republics.

The better part of valor, then, is to avoid inflaming Russian sensibilities. The leaders of Turkmenistan, Kazakhstan, and Azerbaijan have tried to curry favor by inviting Lukoil and Rosneft to join consortia, promising to transport a portion of oil across Russian territory, and otherwise working to smooth the diplomatic ties.⁷⁸ Still, newfound energy wealth provides crucial options. With the emergence of alternative sources

⁷⁵ "Time, Location Set for Central Asian Military Exercise," RFE/RL *Newsline*, Part I, February 6, 1998; "Turkmenistan to Participate in NATO Program," RFE/RL *Newsline*, Part I, August 21, 1997. For an analysis of factors leading toward competition and cooperation, see Paul Kubicek, "Regionalism, Nationalism and Realpolitik in Central Asia," *Europe-Asia Studies*, Vol. 49, No. 4 (June 1997): 637-656.

⁷⁶ While these disputes appear to have been largely worked out, this cannot be considered final until the Caspian's legal regime is formally established. On Kazakhstan-Turkmenistan relations see "Niyazov, Nazarbaev Reach Agreement On Caspian Sea," *Pipeline News*, No. 50 (March 1-7, 1997); and on the accord between Azerbaijan and Turkmenistan, Baku radio Turan in Russian, February 9, 1998, in *Turkistan-Newsletter: Business*, February 13, 1998.

⁷⁷ For a concise discussion of trade flows see Constantine Rizhinashvili, "Poor Prospects for Regional Integration: Dissecting the CIS," *CIS LawNotes*, No. 27 (September 1997): 7-13, 36. On potential Russian pipeline pressure see Ugur Akinci, "Javaichetia: The Bottle Neck of Baku-Ceyhan Pipeline," *Silk Road*, Vol. 1, No. 2 (December 1997).

⁷⁸ For example see "Caspian Sea Balancing Act—Aliiev Walks a Tightrope With Russia," *Pipeline News*, No. 43 (January 11-17, 1997). Kazakhstan and Azerbaijan signed a Treaty of Friendship and Cooperation with Russia in June and July 1997, respectively.

of investment and export routes, it is suddenly possible to resist Russian pressure in ways only imagined before.⁷⁹

In this context the prospects for political and environmental cooperation are mixed. Ingrained wariness accentuates ambivalence over environmental restrictions that might impede development.⁸⁰ In the past, Moscow's proposals for stringent ecological standards and cooperative enforcement have been viewed—to some extent rightly—as a fig leaf for reextending Russian control. Furthermore, the risks of environmental disaster do not threaten powerful interests. Like Russia these states derive income from fish and caviar, but compared to hydrocarbon wealth the proceeds are paltry.⁸¹ Consequently—again like Russia—they have taken steps to halt poaching, but these have been meagerly funded and poorly enforced. Azerbaijan provides a useful example. At least according to official sources, the government makes an effort to limit environmental damage.⁸² Nevertheless the priorities are clear, as reflected in the introduction of more relaxed environmental standards for oil companies operating-offshore.⁸³ Similarly, although the government has promoted replacement sturgeon farming and has imposed a limit on the sturgeon catch, such measures are to little avail since only a small portion of the harvest is done legally.⁸⁴ Although it is easy to be cynical about the sincerity of government efforts, it is also true that the lack of money and the very real development imperative are part of the explanation.

In sum, the prevailing preference structure for the former Soviet states conforms closely to that of the Russian pragmatists. Unfettered extraction is prized, but at the same time there is a widespread recognition that environmental cooperation could offer benefits, assuming it were done in

⁷⁹ A dramatic example is Turkmenistan's ability to defy Gazprom's extortionate demands for transport of gas across Russia. Not only was a compromise agreement reached on fees, but Ashkhabad repudiated Gazprom's 10% share in the project to construct a pipeline across Afghanistan. "Turmenia perekryla gaz Remy Viakhirevu," *Kommersant-daily*, February 6, 1998.

⁸⁰ "Azerbaijan's New Pollution Standards Less Strict Than in Soviet Era," *Pipeline News* No. 62, Part II (May 31–June 6, 1997). Even Kazakhstan's Minister of Ecology and Bioresources acknowledged the economic imperative of developing oil resources. "Caspian Search for Oil To Honor Bird and Beast," *New York Times*, January 13, 1994, p. D2.

⁸¹ "Azerbaycan balikcilikta da onder" (Azerbaijan is a leader in fisheries too), *Zaman Newspaper on-line*, April 10, 1997.

⁸² The Azerbaijani state oil company SOCAR was reported to have increased spending on environmental protection projects, including purchases of new equipment and purification systems as well as decontamination programs. Baku, *Panorama*, April 1, 1997, in *BBC Summary of World Broadcasts: Central Asia*, April 2, 1997, CA1.

⁸³ As compared to standards set during the Soviet era. "Azerbaijan's New Pollution Standards Less Strict Than in Soviet Era," *Pipeline News*, No. 62, Part II (May 31–June 6, 1997).

⁸⁴ "Azerbaijan's Sturgeon Stock under Threat from Oil Production," *Pipeline News* No. 60, Part II (May 17–23, 1997).

such a way as to allow continued energy development and political autonomy. Creating stable rules for fisheries management, pollution control, and navigation are second-order yet still desirable goals. Like public goods everywhere, however, they are likely to be under-provided in the absence of strong leadership, at least until institutionalization is well underway.⁸⁵ The same is true of political compromise. Including Russia will promote political stability, reduce investment risk, and foster mutually beneficial economic contacts. Doing so is desirable, but only if the risks can be managed and the benefits are ensured. Regime building is possible, then, on the basis of state preferences, but this depends on its specific attributes and political management.

Iran

For Iran, as for the other littoral states, Caspian development projects offer obvious benefits. Iran suffers fuel shortages in the northern section of the country that might be alleviated by deliveries from regional sources, whether directly extracted from offshore deposits or imported from Kazakhstan and Turkmenistan.⁸⁶ Furthermore, Iran's economic and political goals are especially closely related, since participation in Caspian energy development and transportation offers a way to break the US Embargo. Tehran's initial hopes of taking part in joint ventures were thwarted by Washington's policy of linking US investment capital to the exclusion of Iran. A predictable result was the emergence of a limited partnership between Moscow and Tehran.⁸⁷ As part of this relationship Moscow provided weapons and nuclear reactor technology, and Tehran endorsed the Foreign Ministry's position on the Caspian and NATO expansion.⁸⁸ While this avoided the worst-case scenario of complete isolation, it is unacceptable to the more liberal and technocratic elements in Iranian society, which are becoming increasingly powerful.⁸⁹

⁸⁵ Marvin Soroos, "Global Change, Environmental Security, and the Prisoner's Dilemma," *Journal of Peace Research*, Vol. 31(1994). On the key role of leadership in the environmental issue-area, see Todd Sandler and Keith Sargent, "Management of Transnational Commons: Coordination, Publicness, and Treaty Formation," *Land Economics* 71, 2 (May 1995): 145-162.

⁸⁶ Although Iran's presumed sector of the Sea contains only small proven reserves, there is the prospect of receiving gas from Turkmenistan and Kazakhstan, and perhaps also from Azerbaijan. Iran and Kazakhstan have negotiated a swap arrangement whereby Kazakhstan ships oil to northern Iran and Iran-exports an equivalent- amount via the Gulf. The arrangement was suspended for some time due to the high sulphur-content of Kazakh crude, but this problem appears to have been resolved. "KAZAKOIL Chief Says Iranian Swap Deal Will Go Forward," *Energy & Politics*, No. 4, Part I, February 9, 1998.

⁸⁷ "U Rossii net alternativy sotrudnichestvu s Iranom," *Kommersant-Daily*, May 23, 1997.

⁸⁸ On the convergence of interest between Iran and Russia, as well as underlying competitive tendencies, see Robert O. Freedman, "Russia and Iran: A Tactical Alliance," *SAIS Review* Vol. 17, No. 2 (1997): 93-109.

⁸⁹ Jahangir Ainuzegar, "Iran Under New Management," *SAIS Review*, Vol. 18, No. 1 (Winter/Spring 1998): 73-92.

Furthermore, the attempt to exercise a veto over development projects was no more successful for Tehran than for Moscow. Consequently, with the emergence of the Khatarni government, Iran is increasingly inclined to pursue a pragmatic, development-oriented strategy geared to domestic growth and regional calm.⁹⁰

One of the hallmarks of this policy is an attempt to diversify regional diplomatic relations and reduce reliance on Russia.⁹¹ Tehran has solicited foreign investment for development projects, including promotion of an Iranian route for export pipelines (to Europe, the Gulf, or the Indian Ocean).⁹² Iranian officials have also mediated in ethnic strife in Tajikistan and civil war in Afghanistan.⁹³ With regard to the legal debate, Iran has continued to resist the idea of dividing the Caspian seabed into exclusive state sectors, probably due to its relatively small proven reserves.⁹⁴ Yet while the Khatami government calls for consensus in resolving legal and practical problems in the region, the point is no longer to inhibit extraction projects, but rather (much like Russian pragmatism) to increase Iranian participation, and to prevent construction of an undersea pipeline which would circumvent Iranian soil.⁹⁵

Environmental cooperation fits nicely with the new policy as a way of institutionalizing Iran's relations with the other Caspian states. This institutional process itself might facilitate greater Iranian involvement in extraction deals and help overcome friction with Azerbaijan.⁹⁶ It would also address some real and abiding Iranian concerns about the ecological condition of the Sea, including fisheries and water level management.⁹⁷ Iranian officials have consistently sought ratification of a framework

⁹⁰ Stuart Parrott, "Iran Builds Regional Bridges," RFE RL, Central Asia-Caucasus, November 10, 1997; Breffni O'Rourke, "Central Asia: Iran Profiles Itself As A Regional Power," RFEIRL, Armenian-Azerbaijani Services, February 12, 1998.

⁹¹ Following the shift in Russia's legal approach, significant strains have appeared in the Russian-Iranian relationship. "Caspian Sea And New Rivals!" *Resalat* in Persian, February 15, 1998, translated in *Turkistan-Newsletter*, April 10, 1998; "Moskva ishchet podderzhki Tegerana," *Kommersant-daily*, February 25, 1998.

⁹² Iran has eagerly pursued energy transportation agreements with Turkmenistan and Turkey, and has contracted with RoyalDutch/Shell, Gazprom, and Total for exploration and development projects. See "Persian Power Play," *Christian Science Monitor*, April 8, 1997; "Iranian Leader Blames US for Stoking Caspian Dispute," Reuters, Moscow, April 12, 1997.

⁹³ Farzad Samadali, "Iran, Oil, Legal Governance of Caspian," Tebran *Resalat* radio in Persian, September 23, 1997, in *Turkistan Newsletter* (November 11, 1997); O'Rourke, op. cit.; Adam Tarock, "Tajikistan, Iran, and the International Politics of the 'Islamic Factor'," *Central Asian Survey*, Vol. 16, No. 2 (June 1997): 185-200.

⁹⁴ "Iran Denies Endorsing Caspian Agreement," RFEI'RL *Newsline*, Part 1, February 22, 1998.

⁹⁵ "Iranian Official Issues Warning on Caspian," RFEIRL *Newsline*, Part I, January 9, 1998.

⁹⁶ "Azerbaijan Iran Caspian Pipeline," Tehran IRNA, January 28, 1998.

⁹⁷ Houman Sadri, "Integration in Central Asia: From Theory to Policy," *Central Asian Survey*, Vol. 16, No. 4 (December 1997): 573-586, at p. 582.

agreement on Caspian environmental cooperation, and the shifts in domestic-and regional political alignment makes such an outcome more likely.

The US in the Caspian Region

Half a world away, policymakers in Washington have become increasingly concerned with Caspian problems. The consequences of this concern are profoundly important. Given America's potent array of financial resources, normative arguments, military power, and political will to influence outcomes, it has been able to affect regional politics as no other international actor can do. America's objectives in the Caspian include the promotion of democracy and free markets, regional peace and cooperation, energy diversification, and American business opportunities.⁹⁸

In practice the focus of such efforts has been on energy issues. Along the way, US policymakers have emphasized bilateral solutions to Caspian problems: issuing invitations to the leaders of the post-Soviet states, promoting the involvement of American firms, and encouraging specific deals for new pipelines and transportation links. While the promotion of democracy is an articulated objective, authoritarian tendencies, procedural irregularities and human rights violations are still rife.⁹⁹ Similarly, despite a stated commitment to free markets, the legal and structural conditions for true marketization are still lacking in many areas, and a yawning gap between rich and poor threatens to grow wider with the influx of Caspian wealth.¹⁰⁰

The benefits of Caspian energy development are often presented in strategic terms, as providing a needed diversification of oil supplies and avoiding excessive reliance on Persian Gulf sources. This is a legitimate claim; America does indeed have a stake in diversification (and in other means of avoiding dependence, such as energy conservation and fuel alternatives). While worthy as a longer-term objective, however, diversification does not require the sacrifice of other key goals in the short

⁹⁸ These objectives have been stressed in major addresses by Deputy Secretary of State Strobe Talbott and Energy Secretary Federico Pena. Transcript of Strobe Talbott's address at the Johns Hopkins School of Advanced International Studies, July 21, 1997; and "Pena Sees Caspian Oil as Key to Region's Prosperity," United States Information Agency, November 19, 1997.

⁹⁹ For analysis of extensive and systematic human rights abuses, official corruption, restrictions on civil liberties, and autocratic practices or "irregularities" in democratic procedure, see US Department of State, *Country Reports on Human Rights Practices for 1997*, Bureau of Democracy, Human Rights, and Labor (January 1998).

¹⁰⁰ Erjan Kurbanov and Barri Sanders, *Caspian Sea oil Riches: A mixed Blessing*, University of Maryland, Center for International Development and Conflict Management, February 1998.

term.¹⁰¹ In this connection it is worth noting that the oil lobby has been powerfully influential in shaping the domestic debate, particularly through the efforts of a large number of former policymakers currently acting as paid consultants for firms operating in the Caspian Sea.¹⁰²

With near unanimity, these individuals have urged immediate revocation of Section 907 of the Freedom Support Act, which prohibits direct bilateral assistance to Azerbaijan. Yet while politically and economically rewarding, a commitment to rapid extraction that overlooks environmental and other sources of regional destabilization would be dangerously shortsighted.

Another concern for policymakers should be the effect of America's Caspian policy on US-Russian relations. To some extent, of course, raising the hackles of Russian hypernationalists has been an unavoidable outcome. American support for democratization is closely tied to a principled interest in resisting Russian encroachments on the sovereignty of former Soviet republics. Military cooperation has provided a practical and symbolic way of furthering this goal. Offering participation in NATO maneuvers and the Partnership for Peace program has been intended to bolster the autonomy of the former Soviet states in the region and hedging against Russian (and Iranian) expansionism.¹⁰³ But beyond NATO enlargement—the lens through which American policy is often viewed—there have been numerous other instances of US intervention specifically in Caspian politics, including the Administration's support for dividing the seabed and endorsement of the Baku-Ceyhan pipeline as the main export route from Azerbaijan.¹⁰⁴

¹⁰¹ In 1997 the Energy Information Administration (EIA) estimated world oil demand would rise from 73.4 million barrels per day to 104.6 million barrels a day by 2015. See EIA, *Annual Energy Outlook, 1997*. However, this was before the full impact of the Asian crisis became clear, which may adjust estimates downward.

¹⁰² The list of influential advisors with a personal stake in Caspian oil includes: James A. Baker (Secretary of State), Lloyd Bentsen (Secretary of the Treasury), Zbigniew Brzezinski (National Security Adviser), Richard Cheney (Secretary of Defense), Richard Perle (Assistant Secretary of Defense), Brent Scowcroft (national Security Adviser), John Sununu (White House Chief of Staff), and William White (Deputy Secretary of Energy). See David Ottaway and Dan Morgan, "Former Top US Aides Seek Caspian Gusher," *Washington Post*, July 6, 1997; and "Armenian Lobby" Aggrieved During Conference," *Horizon Online*, March 3, 1997.

¹⁰³ "Central Asian Battalion Taking Shape," *Jamestown Monitor*, November 8, 1996; "NATO Secretary-General In Baku," *Omri Daily Digest*, February 14, 1997; Bruno Coppieters, "The Relationship Between Internal Cohesion and External Sovereignty in Central Asia and the Caucasus," *Perspectives on Central Asia*, Volume II, Number 2 (May 1997).

¹⁰⁴ In addition to the comments by Secretary of Energy Pena, *op. cit.*, see also "US Backs Multiple Pipelines for Caspian Oil," *Reuters New Service*, November 17, 1997; and *Report on the Caspian Region Energy Development*, US Department of State Washington, DC, April 15 1997.

It is difficult to escape the conclusion that America's Caspian policy has been predicated on the illusion of a "unipolar moment:" the notion that Washington can orchestrate, and subsequently maintain, a convivial alignment of international forces. The implication is that it is possible to fashion relations in the Caspian region so as to constrain Russian decision-making with little or no blowback from Moscow. Regardless of whether such an outcome would be desirable, there is no reason to believe it is true. US intervention is widely resented in Russia, both for its perceived arrogance and for its marginalization of Russian concerns.¹⁰⁵ In recognition of such wounded feelings, Administration insiders have increasingly voiced the desire that Russian firms be included in oil and gas transportation deals.¹⁰⁶ Yet in the absence of any larger framework for systematically addressing Russian concerns, such concessions are unlikely to propitiate many.

An additional plank of the Clinton Doctrine is preventing the spread of Islamic fundamentalism and terrorism. In practice, this means containing Iranian influence abroad while pressing for a domestic political transformation. President Clinton has pursued these goals by signing the Iran and Libya Sanctions Act of 1996 (amended in 1997), which imposes sanctions on companies investing over \$20 million per year in Iran. Washington's reticence to impose sanctions on construction of a pipeline from Turkmenistan through Iran to Turkey does not signal any basic departure in US strategic thinking. Likewise, despite the apparent softening of American policy in 1998, a host of well-placed officials have emphasized that the United States remains committed to the blockade of Iran.¹⁰⁷ Unfortunately, as many of the Administration's supporters have come to recognize, this is a case of trying to have one's cake and eat it, too.¹⁰⁸ America's Iran policy undermines the logic of the much-publicized commitment to "multiple pipelines." The inability to fully pursue an

¹⁰⁵ A good example is the exchange between the author and Viktor Kotliar, senior consultant to Primakov on Caspian affairs, as reproduced in Valentin Aleksandrov, "Nef: sokrovishche ili pogibel Kaspiia," *Mezhdunarodnaia zhizn*, 10 (October 1997), pp. 2–3. For additional evidence see "Statement of the State Duma on the Sea Breeze-97 Exercises," *Rossiiskaia gazeta*, September 9, 1997, reprinted in RIA Novosti, September 10, 1997; and "Nefteprovod proidet cherez Gruziiu?" *Izvestiia*, February 14, 1998.

¹⁰⁶ For example see the remarks by Jan Kalicki, US Ombudsman for Energy and Corrunerical Relations with the New Independent States and Counselor to the Department of Commerce, before the conference "Caspian Pipelines: The Keys to the New Oil Rush," sponsored by the US-Russia Business Council, Cambridge Energy Research Associates, and the USAzerbaijan Chamber of Conunerce, Washington, DC, November 19, 1997; and the testimony of Robert Gee, Assistant Secretary of Energy for Policy and International Affairs, before the US House of Representatives, Washington, DC, Federal News Service, February 12, 1998.

¹⁰⁷ David Ottaway and Dan Morgan, "US Backs Non-Iranian, 'Eurasian' Corridor West for Caspian Sea Oil," *The Washington Post*, November 20, 1997.

¹⁰⁸ See the testimony of S. Frederick Starr before the US House of Representatives, Washington, DC, Federal News Service, February 12, 1998.

Iranian export option only makes Azerbaijan, Kazakhstan, and Turkmenistan more vulnerable to pressure from Russia, particularly in the form of exorbitant fees for transporting oil and gas. Moreover, the currently evolving political context in Iran makes American policy outdated as well.

Finally, there are the opportunity costs. America's pattern of bilateral initiatives has affected political calculations by providing Azerbaijan, Kazakhstan, and Turkmenistan with an alternative to institutionalized collaboration, at least with unpleasant neighbors. Until recently it has been fairly easy for Washington to avoid painful value tradeoffs in pursuing this policy, since the former Soviet states bordering the Sea have been anxious to offset Russian dominance and eager for outside investment capital. At the same time American policy worked to bolster the sovereignty (and perhaps also the domestic legitimacy) of the former Soviet states in the face of Russian resistance.¹⁰⁹ However, under present conditions the policy is counterproductive, since it exacerbates the competitive dimension of regional politics and facilitates excessively rapid extraction of hydrocarbon deposits. On both counts, too, it inhibits the establishment of a regime for political cooperation and sustainable development.

In sum, the greatest shortcoming of America's official Caspian policy is lack of clear prioritization among stated goals. This is especially troubling when, as suggested above, ostensibly complementary goals are incompatible in practice. It will be crucial as well to differentiate between long- and short-term objectives, and between means (such as multiple pipelines) and ends (such as peace and prosperity). From this perspective the primary American interest in both the short and long haul is regional stability, and there are good reasons to encourage democratic-political and market-economic reforms likely to further that end. Environmental integrity—and institutionalized international cooperation to achieve it—is desirable for the same reason. Gaining proceeds from oil exploitation, while significant, is a distinctly second-order national interest. While it should be pursued, this should not be done to the detriment of other key goals.

Prospects for Caspian Cooperation

As we have seen, state interests are conducive to the emergence of multilateral cooperation in the Caspian Sea region, and international legal precedent suggests a firm foundation for it. The failure of such cooperation to arise thus far is not due to deadlock, but rather to the fact that state elites have pursued their ideal preferences to the exclusion of

¹⁰⁹ "Kazakhstan nameren samostoiatelno osvaivat resursy Kaspiiskogo moria," *Segodnia*, on-line ed., November 15, 1996; "Russian-Turkmen Differences Persist," *Jamestown Monitor*, October 16, 1996.

second-order (yet still beneficial) compromise outcomes. Clearly, anxieties about autonomy and the lingering weight of unpleasant historical memories are obstacles that must still be surmounted. Yet the likelihood that unilateral strategies will yield suboptimal results, and the high degree of uncertainty which surrounds Caspian development and environmental problems, makes multilateral cooperation a potentially attractive prospect. A key missing variable is the emergence of political leadership to support the idea of building institutional bridges.

In the abstract, the benefits of a multilateral sustainable development regime to address Caspian problems appear unequivocal. Such a regime would combine the principles of private ownership and public accountability, within a system of regulatory measures to encourage entrepreneurs as well as social and environmental guarantees.¹¹⁰ Along the way it would help address rational investment concerns in the Caspian by reducing uncertainty, guaranteeing secure transit, and solidifying contractual arrangement.¹¹¹ In the unsettled Caspian context, formal regime structures and rules might be crucial for initiating and sustaining cooperation.

Yet despite their allure in the abstract, regimes cannot be built in a political vacuum. Conceptions of national interests—and the geopolitical tensions they generate—constitute the framework within which cooperative international agreements must be crafted if they are to have any hopes of viability. At a minimum, the post-Soviet states demand economic and political autonomy, and this carries over to cooperation on the environmental. Such concerns are not unfounded: as we have seen, Russian proposals for environmental regime creation in the past have been largely a fig leaf for geopolitical goals. Yet cooperation is essential for the survival of the Caspian ecosystem, which as already discussed affects other essential state interests. In fact, if it could be established, a wide-

¹¹⁰ The literature on regimes is vast, and the debate over their effectiveness is ongoing. On the importance of relative gains and state interests, including willingness to comply and report, see Joseph Grieco, *Cooperation Among Nations: Europe, America, and Non-Tariff Barriers to Trade* (Ithaca: Cornell University Press, 1990); and Peter Liberman, "Trading with the Enemy," *International Security*, Vol. 21, No. 1 (Summer 1996): 147–176; on regime effectiveness in reshaping preferences see especially Robert Keohane and Lisa Martin, "The Promise of Institutional Theory," *International Security*, Vol. 20, No. 1 (Summer 1995): 39–52; on regime design and effectiveness see Kenneth Oye, ed., *Cooperation Under Anarchy* (Princeton: Princeton University Press, 1986); on the importance of transparency and problems in achieving it see Ronald Mitchell, "Sources of Transparency: Information Systems in International Regimes," *International Studies Quarterly*, Vol. 42, No. 1 (March 1998): 109–130; and Martin List and Volker Rittberger, "Regime Theory and International Environmental Management," in Andrew Hurrell & Benedict Kingsbury eds., *The International Politics of the Environment* (Oxford: Clarendon Press, 1992).

¹¹¹ Patrick Crow, "Competition for the Caspian," *Oil and Gas Journal*, December 2, 1996, pp. 40–1. At the same time the states of the region should be urged to endorse the Energy Charter Treaty, thus providing a unified legal framework for investment in energy. "Energy Charter Needs Russia," *The Week in Europe*, February 20, 1997.

ranging regime would be beneficial in helping to check arbitrary Russian behavior. At the same time, Russian economic and environmental concerns and anxieties about isolation could all be addressed within such a framework.

The recent agreements on stratified ownership between Russia and Kazakhstan (involving individual state ownership of seabed resources and shared ownership of fishing stocks in the central aquatorium) could provide a solid legal foundation for a sustainable development regime, if they are ultimately accepted by other Caspian states. Such a regime would underscore state interdependence by establishing functional issue-linkages between fishing, energy extraction, pollution control, transportation, and sea-level management. For fishing, this would involve establishment of a quota system in which the portion allotted to each state (and its domestic harvesters) would be determined in relation to a set of variables reflecting each state's contribution to total stocks.¹¹² Necessary components would include monitoring (to determine stocks and their movement and to identify actual catch practices, both legal and illegal) and enforcement powers.¹¹³ Instituting such measures would not only help stabilize fish stocks, but would help reduce the rampant corruption—so inimical to democratization—linked to poaching in the Caspian basin.

Fishery management is closely related to pollution control, since stock viability and human consumption standards are at risk. Given the closed nature of the Caspian system, pollution affects all social and commercial activities around the basin and requires vigorous intervention.¹¹⁴ Yet a

¹¹² As currently established on paper, the primary factors affecting national contribution to sturgeon stocks are: 1) supply of fresh water (including nearly 75% from the Volga and 20% from the Ural); 2) the national source of organisms for fish to eat (which also reflects water supply); 3) natural replacement from river spawning grounds (again partly reflecting water supply); 4) artificial replacement through farm spawning and restocking operations (Russia has seven of the eleven operations currently functioning, while two are in Iran and two in Azerbaijan); and 5) the amount of time fish spend in the territorial waters of each state during the migration cycle. Interview with Vladimir P. Ivanov, Director of the Caspian Fishery Research Institute, Astrakhan, June 1996. While this system is presently somewhat biased in favor of Russia, the variables themselves (with the partial exception of 5) are objectively valid, and the critical issue is the relative weight to be accorded to each. Similar quota arrangements have been devised for sprat and other species, but lack enforcement.

¹¹³ On the general requirements of fisheries regimes see Peter Sand, *The Effectiveness of International Environmental Agreements: A Survey of Existing Legal Instruments* (Cambridge: Grotius Press, 1992); on quotas see Martijn Wilder, "Quota Systems in International Wildlife and Fisheries Regimes," *Journal of Environment & Development* 4, 2 (Summer 1995): 55-104.

¹¹⁴ For an argument that international law implies an obligation to protect pollution in international lakes, see Nisuke Ando, "The Law of Pollution Prevention in International Rivers and Lakes," in Zacklin and Caflisch, eds., *Legal Regime of International Rivers and Lakes*, op. cit., pp. 331-370. Critics of strict regime controls focus on the open seas. See, e.g., R.L. Swanson, J.R. Schubel, and A.S. West-Valle, "Are Oceans Being Over Protected from Pollution?" *Forum for Applied Research and Public Policy*, 9, 1 (Spring 1994): 38-44.

truly comprehensive regulatory effort would be a vast undertaking, involving point-specific sources around the Caspian basin, riparian effluent regimes for the major estuaries, and offshore sources including rigging, drilling, and shipping. While such an effort would be worthwhile, measures dealing with economic activity within the aquatorium itself would be a more manageable focus for multilateral negotiation at the start. Formulating specific rules would be helpful here: tankers should be required to use double-hulling and to meet international standards for ballast and waste water discharge equipment, and pipelines should be regulated as regards location, thickness, depth, monitoring technology, and bed structure.¹¹⁵

It is important to acknowledge that ecological standards would impose restrictions on certain oil and gas exploitation, including specific technical requirements for drilling and transportation, especially in the northern “shallow-water” zone. The existence of such restrictions need not prevent states (or multinational oil companies) from supporting the regime. As long as the prospect of developing significant fuel deposits is ensured along with the political and other intrinsic benefits of environmental security, concessions of this sort may well be acceptable. It might even be possible to explore compensation agreements once the reciprocal benefits of cooperation have been well established.¹¹⁶ But the key benefits of compliance would come in the form of reciprocal agreements for energy transportation, including open access to pipelines, and shipping lanes, and port facilities, and uniform transit fees. Finally, an optimal arrangement would build on the concept of “multiple pipelines,” with its original political accent. Rather than basing the decision on export routes

¹¹⁵ Important institutional precedents exist, including the International Convention for the Prevention of Pollution from Ships. Ronald Mitchell, “Regime Design Matters: International Oil Pollution and Treaty Compliance,” *International Organization* 48 n3 (Summer 1994): 425–458. States could also use the IMO as a forum for discussion of shared responsibility in related areas. Gabriella Kutting and Gotthard Gauci, “International Environmental Policy on Air Pollution from Ships,” *Environmental Politics* 5,2 (Summer 1996): 345–353. For a reasoned argument on the need to balance ecology and navigation, see D.M. Bodansky, “Protecting the Marine Environment from Vessel-Source Pollution: UNCLOS III and Beyond,” *Ecology Law Quarterly* 18, no. 719 (1991): 764–777.

¹¹⁶ Depending on the severity of such restrictions and the extent to which they affected a state’s potential income, such “losses” could be partially offset by redistribution of profits from other states’ extraction projects. Something close to a precedent for such redistribution existed for a time in the Caspian with regard to national sturgeon quotas: since fishing has been prohibited anywhere but in the river systems since 1964, Azerbaijan and Turkmenistan were allowed to harvest their quotas in the Volga and Ural, respectively. While the situation is different for a non-quota regime like oil and gas, the principle of collective reimbursement is broadly similar. (Martin 1993 and Zurn 1992) On the role of compensatory mechanisms in inducing actors to cooperate despite asymmetric resource endowments and seemingly incompatible starting preferences, see Michael Zurn, “Intra-German Trade: An Early East-West Regime,” in Volker Rittberger, ed., *Regime Theory and International Relations* (London: Pinter Press, 1990), pp. 151–188.

strictly on economic criteria (as the US urges and as Azerbaijan has pledged), political concerns should be factored also. From a cooperative standpoint, such a “positive sanctions” approach would give the smaller ex-Soviet states valuable leverage. Including Russia and Iran as significant (but not preponderant) export outlets would give these potentially troublesome actors a stake in cooperating, and thereby strengthen the viability of the regime as a whole. Diversification would be fostered as well.

In addition, issue-linkage within a sustainable development regime would extend to sea level management, in view of its indirect impact on fish stocks and direct impact on the fishing and energy industries in areas affected by flooding. Such efforts would focus on the concerted construction of canals and sluices to regulate fluctuations, and again might involve compensatory arrangements.¹¹⁷

Cooperation for sustainable development is a crucial first step, offering significant benefits in its own right and promoting a broader pattern of multilateral governance. But it is only a first step. Establishment of this regime could provide a foundation for more extensive collaboration in the future. Benefits from cooperating within a stable framework of environmental norms could eventually lead to cooperation across a wide range of areas: infrastructure development; military cooperation for limited security objectives; and coordinated customs arrangements, including communications and freight transportation through the Eurasian corridor (TRASEC).¹¹⁸ Ultimately this might include the emergence of a regional common market in energy and other trade in goods and services.¹¹⁹

Finally, a formal institutional component is involved as well, since international experience suggests that a central agency can play an invaluable role in monitoring compliance, sharing information, and exerting political pressure.¹²⁰ An open forum which incorporated

¹¹⁷ Since the location of such construction would be unequally distributed, states on whose territory reservoirs were constructed (such as Kazakhstan) could receive compensation from other states. See Sh. Gasanov, A. Murtazaliev, and S. Monakhov, “Politiko-pravovye aspekty resheniia ekologicheskikh problem prikaspiia,” *Melioratsiia i vodnye khoziastvo*, (January–February, 1994), pp. 26–27.

¹¹⁸ It is noteworthy in this connection that several of the littoral states have increased their military capabilities in the Caspian region. ‘Lack Of Decisions Around Caspian To Cause Crisis,’ *Russkii telegraf*, March 20, 1998, excerpted in *Turkmenistan-Newsletter*, April 10, 1998; “Kazakh Navy to Patrol Caspian Sea,” *RFEJRL Newslines*, Part I, March 11, 1998.

¹¹⁹ For an argument endorsing the initial creation of a EurAsian Oil and Gas Association, see Robert M. Cutler. “Towards Cooperative Energy Security in the South Caucasus,” *Caucasian Regional Studies*, no. 1(1996): 71–81.

¹²⁰ Mark Zacher, “The Development of Regimes for Nonterrestrial Spaces,” in John Ruggie, ed., *Multilateralism Matters: The Theory and Praxis of an Institutional Form* (New York: Columbia University Press, 1995): 399–439; C. Ford Runge, *Freer Trade, Protected Environment: Balancing Trade Liberalization and Environmental Interests* (Council on Foreign

independent expert analyses could also help overcome objections which otherwise might arise on self-serving political or economic grounds.¹²¹ This could have political benefits by facilitating the emergence of local environmental NGOs, which offer important independent sources of technical and institutional support.¹²² Direct linkage with local citizen's lobbies and NGOs is key to the long-term feasibility of such an ambitious regime, inasmuch as the latter are central to democratization and the emergence of civil society.¹²³

Conclusion

Happiness in the Caspian Sea is not, as the bumper stickers would have it, simply about multiple pipelines. Alternate pipeline routes are indeed important for ensuring stable access to outside markets. The political benefits are at least as important: guaranteeing that part of the oil flows north to Novorossiisk and south from Turkmenistan through Kurd Kui would help gain Russian and Iranian support and give pragmatists in both states a greater stake in cooperative outcomes. But even this falls short of the mark. Rather, happiness—if it must be reduced to such terms—involves multilateral cooperation for sustainable development ends. Establishing a set of clear legal guidelines for ownership, passage rights, natural resource management, and national jurisdiction would facilitate cooperation on a wide range of key issues. Moreover, sustainable development offers a possible solution to Caspian geopolitical problems. Reconciling the legitimate environmental concerns of coastal states with their development needs could promote stable political relations and help prevent hypernationalistic, anti-democratic tendencies from becoming dominant.

The Caspian problem, like most problems, represents an opportunity for progress—but only if policymakers understand the options. There is nothing wrong with the objectives of promoting regional stability,

Relations: New York, 1994). In addition to the World Bank and the Global Environment Facility, UNEP has taken an active role in attempting to develop a framework convention for the Caspian. See *UNEP Update*, vol. 3 no. 5 (May 1997).

¹²¹ An excellent example is Oran Young, "Negotiating an International Climate Regime: The Institutional Bargaining for Environmental Governance," in Nazli Choucri, ed., *Global Accord* (Cambridge: MIT Press, 1993): 43 1–452. See also Phillippe Sands, "Enforcing Environmental Security," *Journal of International Affairs* 46 (Winter 1993): 367–390; and O.A. Sankoh, "Making Environmental Impact Assessment Convincible to Developing Countries," *Journal of Environmental Management*, 47, 2 (June 1996): 185–190.

¹²² Peter Willetts, *The Conscience of the World: The Influence of Nongovernmental Organizations in the UN System* (Washington, DC: Brookings Institution, 1996). On NGOs as a contribution to state capacity, see Kal Raustiala, "States, NGOs, and International Environmental Institutions," *International Studies Quarterly*, Vol. 41, No. 4 (December 1997): 719–740. The existence of a local initiative in Astrakhan is an encouraging prospect.

¹²³ For a broad treatment of this question see Ronnie Lipschutz, *Global Civil Society & Environmental Governance* (Albany: State University of New York Press, 1996).

democracy, free markets, energy diversification, and American business opportunities. But the latter goals—US business opportunities and diversification—must not be pursued to the detriment of the former. Nor are these goals exhaustive: environmental issues cannot be overlooked in debating Caspian policy. Far from being an irrelevant sideshow, environmental cooperation can help stabilize the benefits of the energy boom and contribute to regional stability.

Obviously, most of the work of regime building must be done by the Caspian countries themselves. Initiatives already undertaken by the World Bank, UNEP, and other international organizations can dramatically accelerate such collaborative work, and early expressions of interest in the region's capitals give grounds for encouragement. But the hard decisions lie ahead. Given the possibility of unilateral gain and the lingering obstacles to cooperation, it is questionable whether elites in these states will take the necessary steps to implement a stable regime, even if this might offer greater benefits over time. Still, while the international community's actions cannot be decisive, they can create or inhibit new options.

What has been lacking so far is a powerful enough set of incentives to tip the balance away from competitive, intensive extraction toward a more balanced, far-sighted approach. A well-institutionalized regime governing collaboration in energy, transportation, and environmental management would provide such payoffs, and could thus help shift preferences accordingly. By offering expert advice, selective financial assistance, and political support for this outcome, the international community can help push on the other end of the scale. The US in particular can exercise leadership through the artful use of public and private diplomacy. This would involve, among other things, lifting the blockade and opening diplomatic relations with Iran, working to engage rather than contain Russia, and avoiding lopsided support of Azerbaijan, Kazakhstan, and Turkmenistan. Along with other key state and organizational actors, America can promote the enterprise of regional cooperation based on the twin pillars of development and sustainability. Yet this is only possible if the US, and the international community in general, is willing to place long-term political and environmental stability ahead of the short-term pursuit of oil wealth.

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