
COUNTRY REPORT: AZERBAIJAN BORDERS

Subtitle: Formation of the Borders of Post-Soviet Azerbaijan

Author: Ilgar Hasanli, Centre for National and International Studies (Baku)

Abstract: The formation of the borders of Post-Soviet Azerbaijan was taking place on the basis of the borders that existed in the Soviet Union. Although Azerbaijan had borders with other Soviet republics, they were of a provisional nature, without any entry-resistant engineering constructions. Tsarist Russia's colonial policy of resettlement and Stalin's policy of deportation were important factors in post-Soviet conflicts over borders. Under conditions of almost complete political and economic integration in the Soviet period, border villages and settlements expanded beyond the lines of official borders. Thereby, there appeared so-called enclaves and disputed territories between the former 'fraternal' republics. The case was somewhat different with Iran and Turkey, the borders of which were the state borders of the Soviet Union and had distinct lines.

Keywords: Azerbaijan, borders, conflicts, disputed territories

Contents

1. Introduction to the Problem	...1
2. Physical Environment	...4
3. Basic Characteristics of the Borders of Azerbaijan	...4
4. Determination of the Modern Borders of Azerbaijan: the Azerbaijani-Georgian Border	...6
5. Economic and Political Challenges Facing the Caspian Region	...9
6. Border and EU Policy	...17
7. Prospects for the Future and Conclusion	...20
8. Bibliography	...20
9. Figures	... 22

1. Introduction to the problem

The major attribute of any state is its borders. According to the founding documents of the Commonwealth of Independent States the former Soviet republics recognised existing borders; however, there are local disputes because of the insufficient clarity of delimitation, relations over rent and peculiarities of ethnic localisation.

The specificity of Azerbaijani borders – like the rest of the inter-state borders in the Caucasus as a whole – suggests that they have been created as a result of the territorial reforms carried out either by the government of the Russian Empire or by the Soviet administration. Additionally, many decisions on the formation of borders were subsequently cancelled. Therefore the countries of the region had the possibility to defend their standpoint by referring to the maps of various periods depending on one's own interests. Trans-boundary resettlement of ethnic groups and land problems, which, within the unitary state, were resolved through direct negotiations at the level of the settlements themselves, turned into a problem of inter-state relations after the collapse of the Russian Empire and Soviet Union.

Researchers studying the problems of the development and functioning of the state borders of Azerbaijan name a number of factors, amongst which, in the context of this study, the most important are: the historical antiquity of the border, its relation to cultural and ethnic boundaries, geographical landscape, and the peculiarity of economic and political processes in the border zone. Under specific conditions either one or several of these factors can be considered during the formation of a border. Over time, their significance varies and the subsequent processes may destabilise the situation in the border area. Characteristics of the borders are that during their development they passed ethnic, internal, federal and inter-state stages. In accordance with their typology borders performed certain functions. Therefore, the borders should be explored as a multi-dimensional and dynamic social phenomenon, the basis of which is a system of political, administrative and cultural boundaries.

In this study the term 'state borders' refers to lines and the vertical surface passing along these lines defining the limits of national territory (land, water, sub-surface and air space). The study of borders and border issues are a prospective and relatively new interdisciplinary area of science in Azerbaijan that is developing at the nexus of history, geography, sociology, political science and other disciplines. With a high demand for outcomes of such research in this field there stand a series of serious problems, the major one amongst which is connected to the determination of a methodology. In this regard, the historical approach is one of the most promising, considering that on its basis it is possible to identify the most significant factors that determined and continue to define the evolution of boundaries and development of borderline areas. In Azerbaijan, the interest in studying border problems, particularly the problems of post-Soviet borders, is reinforced by the need to develop conceptual frameworks of border policy and security issues under new conditions.

However, such research is still relatively rare, usually confined to local territories, and in most cases does not rely on a clear methodological basis.

Despite the strong interest in the political, ethnic, economic and other problems of the Caucasus region either in local or foreign research the formation of the state borders of Azerbaijan has not yet become a subject of thorough study. Research regarding the evolution of Azerbaijan's borders should become a basis for the analysis of complex and cross-border issues between the countries of the region. Since many of these problems (ethnic conflicts, informal territorial claims, etc.) are rooted in the past, identifying their causes and characteristics of evolution can help to resolve conflicts and security issues, and lead to the stabilisation of situation in the Caucasus. In this regard, it should be noted that the lines of contemporary borders between Azerbaijan, Georgia, Armenia, Russia, Iran and Turkey have long been the subject of territorial disputes between neighbouring governmental entities and ethnic groups, but at the same time there has long existed close ethnic, cultural and political communication, as well as traditions in economic interactions.

Since 90% of the Georgian-Azerbaijani and Russian-Azerbaijani border runs along the tops of the Caucasian ridge, their shape may seem quite natural and tied to a geological barrier. Nevertheless, even here exist areas in river valleys and in canyons claimed by competing states. Obviously, the modern Russian-Azerbaijani and Russian-Georgian border are related to the geographical axis, but territorial claims and disputes in border areas indicate that some politicians do not agree with the orientation of boundaries with landscape features. It must be taken into account that the Azerbaijani-Georgian and Azerbaijani-Armenian border separates countries traditionally attributed to Christian and Muslim cultural groups although in the border zone ethnic areas are distributed also across boundary lines; that is, there is no clear division by ethnic or religious principles of the extent of such boundaries. The study of the borders of Azerbaijan is of particular interest in light of European enlargement and integration of post-Soviet states into the European space. Today, Azerbaijan is included in the European Neighbourhood Policy and Eastern Partnership, the ultimate goal of which is the integration of several post-Soviet states into the European Union and the creation of a zone of stability on the eastern borders of Europe.

2. Physical Environment

The total length of the border of Azerbaijan is 2657,1km. Azerbaijan's land borders are with Russia (390km), Georgia (480km), Iran (765km), Armenia (1007,1km) and Turkey (15km), and share maritime borders with Iran, Turkmenistan, Kazakhstan, and Russia via the Caspian Sea. Three physical features dominate Azerbaijan: the Caspian Sea, whose shoreline forms a natural boundary to the east; the Greater Caucasus mountain range to the north; and the extensive flatlands in the country's centre. About the size of Portugal, Azerbaijan has a total land area of approximately 86,600km², less than 1 per cent of the land area of the former Soviet Union (Abbasov 2002). Of the three Transcaucasian states, Azerbaijan has the greatest land area. Special administrative subdivisions are the Nakhichevan Autonomous Republic, which is separated from the rest of Azerbaijan by a strip of Armenian territory, and the Nagorno-Karabakh region, entirely within Azerbaijan¹.

Located in the region of the southern Caucasus Mountains, Azerbaijan borders the Caspian Sea to the east, Georgia and Russia to the north, Iran to the south, and Armenia to the south-west and west. A small part of Nakhichevan also borders Turkey to the northwest (See Figure 1).

3. Basic Characteristics of the Borders of Azerbaijan

Since ancient times Azerbaijan has been at the intersection of the interests of great powers. Until the 19th century Azerbaijan's border was often formed as dictated by superpowers such as Iran, Russia and Turkey. While in the Middle Ages Azerbaijanis established such states as the Aghgoyunlu and the Safavid Empires, the geographical borders of Azerbaijan were not stable and constantly changing depending on the military successes or failures of these empires. The history of the formation of the modern borders of Azerbaijan should be studied with the conclusion of the Gulistan and Turkmenchay treaties between Iran and Russia. The Treaty of Gulistan (1813) established the Russian-Persian border roughly along the Aras River, and the Treaty of Turkmanchay (1828) awarded Russia the Nakhichevan khanates

¹ The status of Nagorno-Karabakh has been under negotiation since 1994. Despite the fact that the borders of Azerbaijan were internationally confirmed at the time of the country being recognised as independent state in 1991, the territory of Nagorno-Karabakh and seven surrounding territories have been occupied by Armenian military forces. Today, Armenian forces and the forces of the self-styled 'Republic of Nagorno-Karabakh' (which is not recognised by any government) continue to occupy 20 per cent of Azerbaijan's territory.

(along the present-day border between Armenia and Turkey) in the region of the Talysh Mountains. The land that is now Azerbaijan was split amongst three Russian administrative areas - Baku and Elizavetpol Provinces and part of Yerevan Province, which also extended into present-day Armenia (See Figure 2). It should be noted that the border between North and South Azerbaijan, the latter being an area within Iran, determined by the above-mentioned documents virtually remained unchanged until today. Moreover, since these events the major changes in the formation of boundaries took place in North Azerbaijan, which was associated with the colonial policy pursued by Russia in the Tsarist and Soviet periods.

Historical studies show that in the 20th century the borders of Azerbaijan repeatedly changed. The Azerbaijan Democratic Republic existed between 1918-1920 and though the areas including Karabakh, Zagatala, the Mugan Soviet Republic, and Nakhichevan were consolidated within Azerbaijan's territory, this period handed Erivan (Yerevan), Igdir and Vedi to Armenia, and most of Garayazi, Akhalkalaki and Signaghi to Georgia. It should be noted that the territory of the Azerbaijan Democratic Republic was 120,000km², while the territory of Azerbaijan today is 86,600km²².

In late 1921, the Russian leadership dictated the creation of a Transcaucasian Federated Republic, composed of Armenia, Azerbaijan, and Georgia, which in 1922 became part of the newly proclaimed Soviet Union as the Transcaucasian Soviet Federated Socialist Republic (TSFSR). In this large new republic, the three sub-units ceded their nominal powers over foreign policy, finances, trade, transportation, and other areas to the unwieldy and artificial authority of the TSFSR. In 1936 the new 'Stalin Constitution' abolished the TSFSR, and the three constituent parts were proclaimed separate Soviet republics³.

In mid-1920 the Red Army occupied Nakhichevan, an Azerbaijani enclave between Armenia and north-western Iran. The Red Army declared Nakhichevan a Soviet Socialist Republic with close ties to Azerbaijan. In early 1921, a referendum confirmed that most of the population of the enclave wanted to be included in Azerbaijan. Turkey also supported this solution. Nakhichevan's close ties to Azerbaijan were confirmed by the Russo-Turkish Treaty of Moscow and the Treaty of Kars amongst the three Transcaucasian states and Turkey, both

² How much Azerbaijani territory has been lost due to the combined 'efforts' of Russian communists and Armenian nationalists can be seen when comparing the official map of the ADR from 1920 and the present map of the Azerbaijan Republic which are shown in Figure 3.

³ *Parlamentin tarixi* (History of Parliament). Available at:
http://www.azerbaijan.az/portal/StatePower/LegislativePower/legislativePower_01_a.html.

signed in 1921 (Kocharli 2005)⁴. Lenin and his successor, Josef Stalin, assigned the pacification of Transcaucasia and the delineation of borders in the region to the Caucasian Bureau of the Russian Communist Party (Bolsheviks). In 1924, despite opposition from many Azerbaijani officials, the bureau formally designated Nakhichevan an autonomous republic of Azerbaijan with wide local powers, a status it retains today⁵. As a result of these policies, today Azerbaijan has inherited a lot of border issues with neighbouring states.

4. Determination of the Modern Borders of Azerbaijan: the Azerbaijani-Georgian Border

Two neighbouring states can be considered strategic partners of Azerbaijan with which Azerbaijan has had close relations – Turkey and Georgia. In many respects, such a close rapprochement with Georgia is promoted by several very important factors.

First, the main factor for bringing together the two countries was the question of territorial integrity. After the collapse of the Soviet Union, both of countries faced the problem of preserving their territorial integrity. Conflicts in Nagorno-Karabakh, South Ossetia, Abkhazia and the ambiguous position of Russia in the region were an incentive for deeper strategic co-operation between Azerbaijan and Georgia. This co-operation was officially incorporated through the establishment of GUAM⁶ in 1997. In Russia GUAM is sometimes seen as a way of countering Russian influence in the area, and as a part of a strategy backed by the United States.

Secondly, pipelines vital for Azerbaijan pass through the territory of Georgia: Baku – Tbilisi – Dzhejhan and Baku – Tbilisi – Erzurum. The very existence of these pipelines literally ‘binds’ Azerbaijan to Georgia at least until 2025, the date of the prospective termination of the extraction term for hydrocarbon raw materials within the project the “Contract of the Century”⁷.

⁴ Also available at:

<http://www.kocharlitofiq.com/docs/Naxcivan%20uydurmalar%20ve%20tarixi%20heqiqetler.pdf>.

⁵ Determination of Borders and Status, Country Studies, 1994, available at:

[http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field\(DOCID+az0020\)](http://lcweb2.loc.gov/cgi-bin/query/r?frd/cstdy:@field(DOCID+az0020)).

⁶ GUAM (Georgia, Ukraine, Azerbaijan and Moldova) was established in Strasbourg in 1997, but the four members only signed the organisation’s charter in Yalta in 2001. The objectives for co-operation include the promotion of democratic values, ensuring stable development, enhancing international and regional security and speeding up European integration. In 2006, it was renamed the GUAM Organisation for Democracy and Economic Development, with its headquarters in Kyiv, Ukraine. See: <http://www.guam-organization.org/node/242>.

⁷ The so-called “Contract of the Century” was signed in 1994 involving Azerbaijan and consortium of leading world oil companies.

Thirdly, today about 500,000 ethnic Azerbaijanis live on the territory of Georgia, in frontier areas with Azerbaijan⁸. Under the former Georgian president, Z. Gamsakhurdia, ethnic Azerbaijanis living in Marneuli and Bolnisi faced the threat of mass deportation. The situation improved when Eduard Shevardnadze came to power and signed oil contracts with Azerbaijan. With Saakashvili's terms in office, relations between Baku and Tbilisi have solidified even more. Today no serious problems remain between the two countries, except for one – border delimitation.

The border between Azerbaijan and Georgia was defined for the first time in 1938 at the scale 1:500000 and was co-ordinated by both republics. Subsequently, however, Georgia did not recognise a more exact delimitation, defined in 1942 at a map scale of 1:100000. By this account, today the borders along the river Ganykh and Mazymchaj, as well as the 17th Channel and Red Bridge are disputed territories undergoing a process of delimitation (Hamidov 2009).

Georgia's borders with Azerbaijan stretches for 480km along seven districts of Azerbaijan – Gazah, Agstafa, Tovuz, Samuh, Gah, Zaqatala, and Balaken *rayons*. According to official figures, up to now the parties have agreed upon 2/3 (about 65 per cent) of the state border, or about 300km⁹. The main factor contributing to the ongoing delimitation and demarcation question involves the destiny of one of the most important cultural and religious sites of the South Caucasus – the mediaeval monastic complex of Keshikchi. Azerbaijanis consider it to be part of their Caucasian Albanian heritage, whereas Georgians refer to it as their church of David Gareja (see Photo 1). According to Garib Mamedov, Chairman of Azerbaijan State Committee for Land and Cartography, the Azerbaijani-Georgian state border delimitation issue is a result of differences between maps of 1905 and 1938, when the territory of Azerbaijan and Georgia was divided into Tiflis and Elizavetpol Provinces of the Russian Empire¹⁰.

Work on delimiting the border has been conducted since 1996. State commissions of both parties are working on settling these issues. Work on delimitation are held on the basis of maps with the scale 1:100000. Khalaf Khalafov (Deputy Minister of Foreign Affairs), Garib Mammadov (Chairman of the State Committee of Land and Cartography of the Azerbaijan Republic), Lieutenant-General Elchin Guliyev (Chief of the State Border Service), Orudj Zalov

⁸ Statistical data available at: <http://www.borchali.ge/main.htm>.

⁹ This is correct as of 2010, see: <http://anspress.com/index.php?a=3&lng=az&pid=63091>.

¹⁰ *Azerbaijan and Georgia delimitate their border according to the Russian Empire maps of early XX century* (2010), available at: http://abc.az/eng/news_06_02_2009_32023.html.

(Deputy Interior Minister) and Azad Nagiyev (Deputy Chairman of the State Committee of Land and Cartography of the Azerbaijan Republic) are the Azerbaijani members of this commission¹¹.

The dispute between both Georgian and Azerbaijani scientists and diplomats over the part of the border where the ancient monastery is located has continued already for over ten years. There is also the opinion that the parties are failing to reach agreement over this territory due to its strategic importance for both sides¹². For Baku the site has an important military value, whereas for Georgia the monastic complex is a functioning monastery of the Georgian Orthodox Church. This complex of cave monasteries is located 60km to the south-east of Tbilisi, covering three Georgian districts: Gardabani, Sagaredzhoand, and Signahi (Orujev 2010). However, a number of monastery buildings are on Azerbaijani territory: the border passes over the top of Udabno mountain, named in honour of one of the monasteries. About 20 monasteries carved out of the rocks are part of the site. St. David's Monastery, situated on the northern slope of the mountain dividing Georgia and Azerbaijan, is considered to be the main one. The unique VIII-XIV century frescos have remained in functioning monastery chapels. According to Georgian sources, amongst them are unique images of the Georgian Tsarina Tamara and Tsar David the Constructor¹³. The fact that a part of the monastic complex is located on Azerbaijani territory sometimes causes misunderstandings between the Georgian pilgrims and the Azerbaijani frontier guards protecting the country's borders. Based on available data, a few years ago the Georgians suggested shifting the border from the mountain top (at a height of 813m) to a line at the bottom cave (800m) on the southern slope. Officially Tbilisi offered Baku a part of Georgia's territory in exchange for the architectural complex of David Gareja, but this was not accepted by Azerbaijani officials¹⁴.

The core of the question is that the origins of the given monastery is challenged by historians of the two countries. For many years Azerbaijani historiography has insisted that this complex was related to the Caucasian Albanian church. Azerbaijani scientists recognise

¹¹ *Azərbaycan Respublikası ilə Rusiya Federasiyası arasında dövlət sərhədinin delimitasiyası və demarkasiyası üzrə Dövlət Komissiyası haqqında Azərbaycan Respublikası Prezidentinin sərəncamı* (Decree of the President of Azerbaijan on the State Committee for Delimitation and Demarcation of Borders between Azerbaijan and Russia), available at: http://e-qanun.az/files/framework/data/1/f_1008.htm.

¹² *Georgia, Azerbaijan Debate Control of Ancient Monastery's Territory* (2006), available at: <http://www.eurasianet.org/print/55556>.

¹³ *David Gareji Monasteries and Hermitage, World Heritage Convention* (2007), available at: <http://whc.unesco.org/en/tentativelists/5224/>.

¹⁴ Deputy Minister of Foreign Affairs Khalaf Khalavof said that there is no question on the transfer of part of our territory to another state. *Hafta Ichi* (newspaper), 13 October 2010, available at: <http://www.haftaichi.com/newv/pre.php?id=6254>.

that afterwards it passed to the Georgian Orthodox church. However the matter is currently very sensitive for Azerbaijanis, as the Caucasian Albanian question is in itself a key issue in Azerbaijan's relations with other countries, related to the resolution of the well-known Karabakh problem.

Despite the existing problems concerning the demarcation and delimitation of borders, the frontier between Azerbaijan and Georgia is considered the most stable. In September 2010, the *Supporting Integrated Border Management Systems in the South Caucasus Countries* project officially began to be implemented jointly by the UNDP with the government of Azerbaijan, financed by the European Union¹⁵. Within the frame of the project it is envisaged to create 'a green zone' at the border of Azerbaijan with Georgia and to set up a system of integrated border management¹⁶.

5. Economic and Political Challenges Facing the Caspian Region

The emergence of four new independent states (the Russian Federation, Kazakhstan, Azerbaijan and Turkmenistan) along the shores of the Caspian Sea after the dissolution of the Soviet Union necessitated the delimitation of new marine borders in the region. In 1970 the Soviet Ministry of Oil divided the Caspian Sea amongst its republics for operational purposes in the Soviet sector of the sea. As the very boundaries were notional and uncertain, in the 1990s the Caspian coastal states challenged the existing regime of the sea and generated disputes with respect to ownership and development rights. Additionally, the lack of legally delimited water boundaries between the USSR and Iran, including among the Newly-Independent States (sometimes called the FSU republics), as well as an overpowering passion for the sea's rich resources, made matters worse and exacerbated the problem amongst the littoral states. In legal and historical terms, the Caspian Sea was controlled by only two states – Persia/Iran and Russia/USSR. In fact, the sea's legal status and regime had been regulated by the Treaty of Friendship between the Russian Socialist Federal Soviet Republic (RSFSR) and Persia (26 February 1921) and the Soviet–Iranian Treaty of Commerce and Navigation (25 March 1940) until 1992 (Hamidov 2009, 59). As the treaties

¹⁵ *Support to Integrated Border Management Systems in the South Caucasus (SCIBM)* (2010), available at: <http://www.enpi-info.eu/maineast.php?id=299&id type=10>.

¹⁶ <http://www.voanews.com/azerbaijani/news/Cnubi-Qafqazda-srhd-idarciliyi-layihsi-dstklNir----105681533.html>.

above failed to comply with international law¹⁷, as well as to assert the political and economic interests of the Newly-Independent States that were not party to these treaties in the capacity of independent states and take into account the requirements of the contemporary geopolitical situation in the region, it was therefore necessary to develop and agree upon a new international legal status for the Caspian Sea. The sea's favourable transport opportunities, coastal resort-recreational resources, as well as the unique biological and energy resources in the basin not only have been the highest foreign policy priority of the five littoral states, but also of the world's leading powers.

The 1921 Treaty that encompassed questions relating to fisheries, navigation and security did not contain any provision on maritime borders between the Soviet Union and Iran. Geopolitically, this document was aimed against the United Kingdom, which was seeking to consolidate its power and influence in the Caspian region and eyeing Baku oil. The Soviet-Iranian Treaty of 1940 contained all the basic provisions of the 1921 Treaty¹⁸, providing both states the freedom to fish throughout the entire Caspian Sea except within a ten-mile zone along the respective coastlines, thus affording the grounds for the existence of national and international zones within the Caspian water basin. This particular provision proves that the sea was not subject to a condominium regime (*vis-à-vis* common use)¹⁹. In 1949 the USSR began offshore drilling at the Neftianie Kamni (Oil Rocks) field without any confrontation with Iran. In the 1950s Iran did the same along its own shore without consulting the USSR. In fact, these operations contradicted a condominium regime. As both the 1921 and 1940 treaties did not touch upon questions relating to the definition of the legal status and regime of the Caspian Sea, the states' sovereignty regimes, principles for delimitation legal borders, or use of rivers and channels that link the Caspian with global oceans, their enforcement is groundless in light of the present political situation. Namely, both the USSR and Iran in their doctrines specified the Caspian as a border lake *sui generis*, i.e. a lake with a special international legal status. Although the USSR and Iran defined it as a closed Russian–Iranian sea in legal terms, they had not specified whether the Caspian was a sea or lake. In 1991, after the disintegration of the USSR, the Caspian's Newly-Independent States challenged the legal validity of the Caspian treaties, proclaimed their sovereignty over certain areas of the

¹⁷ It is worth noting that the United Nations' Convention on the Law of the Sea, which is now commonly referred to as simply UNCLOS or the 'Law of the Sea Treaty', was first signed in 1982, i.e. 42 years after the 1940 Treaty was signed.

¹⁸ Trend Agency, 5 November 2009, available at: <http://az.trend.az/print/1573848.html>.

¹⁹ Caspian Sea. *Kommersant*, 28 July 2003, available at: <http://www.kommersant.ru/doc.aspx?DocsID=399465&print=true>.

sea, and started to make claims in the national sectors of the other littoral states. In international practice there are examples of such disputes common to post-colonialism within the International Relations: consider the disputes between Guatemala and Honduras (1821)²⁰, Ecuador and Peru (1829)²¹, Cambodia and Thailand (1904), Burkina-Faso and Mali (1986), Guinea-Bissau and Senegal (1989), El Salvador and Honduras (1992), and Malaysia and Indonesia (2002)²².

Within the framework of the inter-governmental conference ECO (Economic Co-operation Organisation, 17 February 1992, in Tehran), the Islamic Republic of Iran put forward the idea to establish an Organisation of Caspian States Co-operation (OCSC) in order to promote co-operation in exploiting the region's riches. This initiative stemmed from Iran's desire to consolidate its presence in the Caspian region, including amongst the Caucasian/ Central Asian republics in particular. The Final Communiqué, accepted by the conference, urged the Caspian states to create a reliable regional mechanism of co-operation in order to resolve issues related to the use of the Caspian Sea and its resources. According to the protocol signed at this conference, the Caspian's legal status addressed:

- territorial water boundaries and legal framework
- navigational issues
- use of biological resources
- ecological issues
- development of mineral resources²³

The key factor that defines the geopolitical situation in the Caspian region is its oil resources. By estimates, recoverable oil reserves in the Azerbaijani sector of the Caspian Sea are equal to 3.5-4 billion tonnes, while Kazakhstan, Turkmenistan, and Russia, respectively, hold 7/ 2/ 0,3-0,7 billion tonnes. Proven hydrocarbon reserves in the Caspian are estimated at 7,8 billion barrels in total. The region is expected to produce 3,8 million barrels per day (b/d) in 2012, which is equal to 60 per cent of the North Sea's daily production²⁴.

²⁰ *Reports on International Arbitral Awards: Volume II* (United Nations 2006, 1321-1322), available at : [http://untreaty.un.org/cod/riaa/cases/vol II/1307-1366.pdf](http://untreaty.un.org/cod/riaa/cases/vol%20II/1307-1366.pdf).

²¹ *Boundary & Territory Briefing* (1999). International Boundaries Research Unit, Vol. 3, No. 1, available at: [http://books.google.az/books?id=E9CyhGb66zQC&pg=PA5&lpg=PA5&dq=disputes+between+Columbia+and+Peru+\(1829&source=bl&ots=WAFdAFptr&sig=HIXzKznCZ1vqZoYagH9n0lwqfLI&hl=azffv=onepage&q&f=false](http://books.google.az/books?id=E9CyhGb66zQC&pg=PA5&lpg=PA5&dq=disputes+between+Columbia+and+Peru+(1829&source=bl&ots=WAFdAFptr&sig=HIXzKznCZ1vqZoYagH9n0lwqfLI&hl=azffv=onepage&q&f=false).

²² List of territorial disputes, available at: http://en.wikipedia.org/wiki/List_of_territorial_disputes.

²³ Rustam Mamedov (2001). International Legal Status of the Caspian Sea: Issues of Theory and Practice. *The Turkish Yearbook*, Vol XXXII, 221-222. Available at: <http://dergiler.ankara.edu.tr/dergiler/44/672/8561.pdf>.

²⁴ Interview with the economist Sabit Bagirov, former president of the State Oil Company of the Republic of Azerbaijan.

The Caspian region has the opportunity of rivalling oil regions such as Norway, Brazil and the Gulf of Mexico in a short-term perspective. At a spring session in 2003, the Council of Europe Parliamentary Assembly (PACE) called the Caspian region as the main supplier in terms of ensuring Europe's energy security. At present the United States controls 16 per cent of oil reserves and 11 per cent of gas reserves in the Caspian Sea; if one included joint US-British corporations, this figure would equal 27 per cent and 40 per cent accordingly²⁵. A variety of Western oil companies control about 73 per cent of proven oil reserves in Kazakhstan alone. The oil volumes Azerbaijan, Turkmenistan and Kazakhstan export are less dependent on OPEC prices, owing to the fact that they are non-OPEC exporting nations. This key factor makes the region more attractive for the US and Western Europe (Hamidov 2009, 61-62).

After Kazakhstan (1993) and Azerbaijan (1994) started off-shore oil and gas developments, the struggle for the division of the Caspian Sea became more aggravated. In 1995 the five littoral nations made an agreement on the establishment of a working group at the level of heads of legal departments of their Ministries of Foreign Affairs (later at the deputy minister level) with a view to defining the international legal status of the Caspian Sea. Moreover, the parties also decided that all agreements relating to this issue would be based on the principle of consensus. However, Russia and Kazakhstan started bilateral discussions on the sea's division, considering that multi-lateral negotiations would end with no result mainly due to Iran's position. Later on 6 June 1998, Russia and Kazakhstan signed an agreement to delimit the northern seabed in order to facilitate the development of oil fields in their respective zones²⁶. Thus, the delimitation process between the five littoral countries began. Iran was compelled further to accept the principle of sectoral delimitation in the Caspian. During the meeting of the working groups in 1998, the sides officially declared their own positions on this agreement, but could reach no common position on the principle of delimitation. Each nation pursued its own political-economic and military interests on the Caspian issue.

Azerbaijan submitted a draft convention consisting of a preamble and 12 clauses regarding the sea's legal status during a Moscow conference with special representatives from the five littoral countries. According to the convention, Azerbaijan believes that the

²⁵ Lester W. Grau (2001). *Hydrocarbons and a New Strategic Region: The Caspian Sea and Central Asia*. Fort Leavenworth, KS: Foreign Military Studies Office. Available at: <http://www.globalsecurity.org/military/library/report/2001/hydrocarbons.htm>.

²⁶ Trend Agency, 8 January 2010, available at: <http://az.trend.az/print/1614295.html>.

Caspian Sea should be considered an international frontier lake without a link to the ocean, surrounded by the territory of five states²⁷. As such, it should be divided along a median line, according to the common international practice applicable to international frontier lakes (e.g., Russia-Iran, USSR-Iran).

In such a way Azerbaijan proposed the division of the Caspian Sea into five national sectors. The concept of Caspian sector is understood as part of the water area, seabed and the zone adjacent to the coastal country that is surrounded by a state border across the water and which is directly under the sovereignty of a coastal country. According to the proposal of Azerbaijan, the borders between the states had to be divided along a median-line principle. In addition, the draft document proposed the establishment of state borders based upon a conventional line between the riparian states in the Caspian, a continuation of the land border that draw lines perpendicular to the general direction of the coast or the bisection of an angle formed by the coastlines of two states. Besides, Azerbaijan proposed that the Iranian sector be divided according to the Astara – Gasan Kuli line. In this Azerbaijan was guided by the principle of recognising borders: there can be no problem if there are borders that have not been officially confirmed in international contracts, but are actually developed and recognised by the two parties. The coastal countries have faced exactly such a situation in the Caspian. The *de-facto* Soviet-Iranian border that passed along the Astara – Gasan Kuli line is nowadays under official inspection by Tehran and thus, Azerbaijan insists on the *de jure* recognition of the Astara – Gasan Kuli line.

State officials were guided by the principles of the Soviet sectors' division as drawn by the Soviet Ministry of the Oil Industry in 1970 and by the resolutions of this Ministry and the Azerbaijani government about transferring the oil produced in the Azerbaijani sector of the sea to the latter government in 1991. Azerbaijan has over the past 30-40 years studied and surveyed deposits in the 'Turkmen and Iranian sectors', a fact that Turkmenistan surprisingly keeps silent about even now. This silence can be interpreted as Turkmenistan's recognition of Azerbaijan's activity in the area that it claims and that the area belongs to Azerbaijan. Applying the principle of 'Consent through Silence', it is obvious that all the deposits in the disputed zones had been discovered by the Azerbaijan SSR and present-day Azerbaijan, and have always been at the disposal of Azerbaijan.

²⁷ Rustam Mamedov, *op.cit.*, 225.

During the ensuing periods of negotiations, Azerbaijan suggested the possibility of a compromise approach to the use of surface water, biological resources, etc. by following the delimitation principle for the seabed and sea shelf. Later, Azerbaijan pursued its foreign policy on the Caspian issue in accordance with this convention and has not changed its position both in multi-lateral and bilateral negotiations in terms of delimitation. Dissatisfied with the intentional delay in multi-lateral negotiations by Iran and Russia, Azerbaijan strengthened its position in the Constitution adopted in 1995 by documenting the sectoral lake status of the Caspian Sea.

Holding a non-constructive position on the Caspian issue until 2000, Russia and Kazakhstan put forward a proposal that included condominium status, 45 mile-sectors, the validity of the 1921 and 1940 treaties, application of the 1980 Convention, and the like. Russia's official stance on the legal status of the Caspian Sea is of great importance since Russia is the leading country in the region both in economic and political terms. Russian President Vladimir Putin, after winning the 2000 elections, completely changed his country's position. Russia voiced the idea to divide the sea into utilisation zones, with the joint use of seabed and surface areas. Kazakhstan immediately supported Russia's position. All these ideas were included in the agreements between Kazakhstan and Russia (1998) and Russia and Azerbaijan (2002). According to the terms and conditions of the agreements, Russia and Kazakhstan will jointly exploit the contested hydrocarbon structures 'Xvalyn', 'Centre', and 'Kurmangazy, and Russia and Azerbaijan will jointly exploit the Yalama-Samur structure. In this way, having gained a juridical position, the northern portion of the Caspian Sea has completely turned into a favourable maritime area for business and investments.

Over the past 16 years, Turkmenistan has repeatedly changed its position on the Caspian issue. Earlier, Turkmenistan considered the Caspian as a lake, yet approved the law on state borders in 1993. First amongst the coastal countries, in accordance with international sea regulations, it extended its coastal rights to a vast area of the Caspian Sea by claiming a 12-mile area and exceptional economical zone. Later, officials in Turkmenistan tried to prove that the treaties between Iran and the USSR were still valid, and called in the coastal countries to comply with the previous legal regime prior to the signing of a new treaty.

To prevent a dispute between Turkmenistan and Azerbaijan, in January 1998 the presidents of both nations announced the creation of a Task Force to divide the national

portions on a median-line basis²⁸. However, officials in Ashgabat disputed the work of the expert groups. According to the median-line model proposed by Turkmenistan, all or part of the Azeri, Chirag, Kapaz, and Sherg fields – called ‘Khazar’, ‘Osman’, ‘Serdar’ and ‘Altyn Asyr’ by Turkmenistan and also claimed by Iran – in the Azerbaijani sector of the sea would now fall within the Turkmen sector. Official circles in Turkmenistan still lay claim to these areas. Relations between the two states did shift in a positive direction after Gurbanguly Berdymuhamedov was elected Turkmen president in 2007, yet there has been no progress in the Caspian issue since then.

Despite accounting for 14 per cent of its coastline, Iran insists on enforcing the provisions of the 1921 and 1940 Soviet-Iranian treaties, which considered the Caspian a shared sea to be exploited on a condominium basis, or alternatively wants the Caspian Sea divided into equal shares of 20 per cent each. The idea of enforcing these treaties seems to be absurd until the coastal nations sign new agreements. After 1921, there was no boundary line between the USSR and Iran in the Caspian Sea. The Caspian was divided in two along the Astara – Gasan Kuli line, which became a state boundary of the USSR. Although most of the Caspian is beyond Iran’s economic interests, it cannot stand trans-national corporations’ active participation in oil and gas projects in the region, on the one hand, and Azerbaijan’s economic achievements, on the other. Iran claims that the trilateral agreement between Russia, Azerbaijan and Kazakhstan are in contravention to documents governing legal issues relating to the Caspian Sea. Such agreements (on joint development) cannot be applicable in respect to Azerbaijani-Iranian relations. The two countries cannot explore jointly the Alov deposit, a component of the Araz-Alov-Sherg offshore block (which Iran calls ‘Alborz’), due to the fact that ExxonMobil holds a 15 per cent stake in this complex, making co-operation impossible under the United States’ *Iran and Libya Sanctions Act (ILSA)* of 1996. Moreover, Iran has been reiterating that it will bar activities by any state within its portion of the sea, in which it claims to have a 20 per cent share. Iran’s wait-and-see policy reduces its influence in Caspian negotiations. Iran seeks to use military pressure after the failure of its ownership claims to the disputed fields. On 23 July 2001, an Iranian warship buzzed the Geophysic-3 vessel that had been chartered by BP Amoco to begin exploring the Araz-Alov-Sherg offshore block – the operator had to suspend operations in the disputed field. The other littoral states,

²⁸ Kamyar Mehdiyoun (2000). International Law and the dispute over ownership of Oil and Gas resources in the Caspian Sea. *The American Journal of International Law*, 9. Available at: http://www.morganlewis.com/pubs/F029F2DA-64A5-46BD-BB046D6957423655_Publication.pdf.

along with Iran, also started to deploy their naval forces to the sea. After building a military airfield at Kaspiisk, Russia deployed a naval infantry brigade there, while Kazakhstan created a higher naval school of the Defence Ministry in Aktau. There is no escaping the impression that the military situation is tense in the sea, owing to the fact that Turkmenistan inherited the largest military aviation fleet in Central Asia, while Azerbaijan inherited 25 per cent of the Caspian Fleet's surface vessels and a considerable part of the infrastructure after the breakup of the Soviet Union.

For the purpose of fostering its economic power in the Caspian, Iran suggested the idea of constructing a Caspian-Persian Gulf (Trans-Iranian) Canal. Although the USSR and Iran had reached an initial agreement on the construction of such a canal back in 1962, under the influence of the United States, which was not interested in the improvement of Soviet-Iranian relations or in the loss of transit revenues for Turkey, officially Iran had to freeze this project. With changes in the geopolitical situation 40 years later, both states upheld the idea to construct the canal in 1998 and Iran deemed the canal feasible. This canal of 1600km in length would connect north-west (Caspian coast) and south-west Iranian rivers, as well as the Shatt Al-Arab River located at the Iraqi border. The project was estimated at US\$6,5-7 billion. An integral part of the north-south corridor, the duration of construction work for the canal was to be four years, with repayment within 5 years of its operation. It was designed to expand relations between Eastern Europe and the Arabian Peninsula and South Africa, allowing the Russian Federation to have an outlet to the Persian Gulf and Indian Ocean, bypassing the bottlenecked Bosphorus, Dardanelles and Suez. However, the unstable situation and lack of financial support in the Persian Gulf is delaying the realisation of this project.

The only reason why the Caspian Sea's international legal status has remained undefined to date is that it has been impossible to specify the sea's geographical name – is it a sea or lake? It is vital to classify the Caspian as a sea or lake, as it can have an impact on the delimitation principles amongst the coastal countries. Back in the 1950s, when there were no political reasons to falsify his results, the Soviet Academician K. Gul claimed that “the Caspian Sea is the largest lake in the world. It was called a sea in ancient times due to its size, water content and fauna” (Gul 1956, 90-91). The legal status of international boundary lakes is regulated by agreements signed between coastal states. The most popular principles for delimitating international lakes are the following three: thalweg, coastal line and middle line (median).

The thalweg is usually applied to border rivers. The thalweg is a line drawn to join the lowest points along the entire length of a stream bed or valley in its downward slope, defining its deepest channel. The thalweg thus marks the natural direction (the profile) of a watercourse. The thalweg is almost always the line of fastest flow in any river. When the thalweg changes its position, then all boundary states also change their borders. This principle has been applied also to Lake Mirim located at the Peru and Bolivia border along with its tributaries. But the size of the Caspian Sea does not allow the application of this principle.

The coastal line principle was mostly applied during the period of colonisation. This method considered drawing lines perpendicular to the general direction of the coast to delimit water between adjacent states. This principle was applied to the southern portion of the Caspian Sea in 1828-1940. The Turkmanchay Treaty provided Russia's full ownership over the Caspian Sea. Furthermore, the 1940 Treaty defined the Caspian Sea as a Soviet-Iranian Sea and established a border along the Astará – Gasan Kuli line, which *de facto* divided the Caspian Sea into two national sectors.

According to the principle of median-line, the territorial water of states with opposite or adjacent coasts must not extend 'beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the [two] States is measured'. Geographical (Tanganyika, Dead Sea, Malawi, Lugano, Constance), astronomic (Victoria), and modified (the northern part of the Caspian Sea) median-line methods also have been applied in international practice.

Signing a treaty on the sea's legal status on the basis of a principle of fairness will promote and facilitate the effective development of prospective oil fields and bio-resources; resolving all disputes in the Caspian with create favourable conditions for the riparian states to embark on comprehensive initiatives in the transport and ecological spheres.

6. Border and EU Policy

Azerbaijan and the EU have a history of co-operation starting in the early 90s with the signing of the Partnership and Co-operation Agreement (PCA)²⁹. The inclusion of Azerbaijan in the European Neighbourhood Policy in 2004 was a qualitatively new stage in bilateral relations

²⁹ PCAs were signed with all three countries of the South Caucasus in 1996 and entered into force in 1999. They formed the basis of bilateral relations of each of the three countries with the EU.

and indicated the EU's willingness to engage in deeper relations, moving beyond existing PCA frameworks.

The challenges and opportunities that emanate from the South Caucasus, affecting the security and even the political and economic integrity of Europe, have to date been poorly understood within the EU's political establishment. This is natural given that the EU has long viewed the South Caucasus as an obscure and distant periphery. In 2003, when the EU launched its European Neighbourhood Policy (ENP), the South Caucasus was not even initially included, reflecting not only the geographical, but also the mental distance separating the region from EU policymakers. According to some political analysts, the process of eastern enlargement helped attract the EU's attention to the South Caucasus region. The European Security Strategy adopted in December 2003 stressed the need to avoid new dividing lines in Europe and, in this context, called on the EU to "take a stronger and more active interest in the problems of the Southern Caucasus" (European Council 2003, 8).

Since 2004 the EU has progressively increased its involvement in its eastern neighbourhood, including in Azerbaijan, by establishing new bilateral and multi-lateral co-operation frameworks. This can be seen in the union's increased engagement with Azerbaijan within its European Neighbourhood Policy (ENP – 2004), the Black Sea Synergy initiative (BSS – 2007) and the Eastern Partnership initiative (EaP – 2009).

Rashad Shirinov, director of the AN Policy Center and member of the Azerbaijan National Committee for European Integration, considers energy policy as the most important area for the government of Azerbaijan in its relations with the EU. However, "it is also worth mentioning that the energy projects that do not involve large political support from the EU do not attract the Azerbaijani government's attention" (Rashad Shirinov 2010, 4).

However, Leila Aliyeva, political analyst and president of the Centre for National and International Studies, rightly considers that Azerbaijan is attractive for the European Union not only in the light of energy security. The Caucasus has common borders with influential regional powers, such as Russia and Iran, who are the focus of international attention. The South Caucasus as a historical bridge between cultures and civilisations and promoter of modernisation farther to the east and south bears no less significance for the EU, than as an energy producer or military hub (Aliyeva 2006). However, Aliyeva also recognises that the "EU's arrival to the area was impeded by the internal/ institutional problems of the EU and the foreign policy priorities in the Caspian" (Aliyeva 2009a, 13)

In his article, the EU Rapporteur Yevgeni Kirilov stressed that the EU should increase regional co-operation in the South Caucasus and continue efforts towards the introduction of visa-free travel to the EU and the conclusion of a comprehensive free trade agreement (Yevgeni Kirilov 2010). Nevertheless, EU policy on borders has not been defined yet. The main reason for this, first of all, is the passivity of the EU in this policy. Until now only two projects were initiated by the EU on integrated border management.

The first project, ‘Establishment of Integrated Border Management Model at the Southern Borders of Azerbaijan’, was launched in 2006 and was implemented within the TACIS programme framework. The aim of this two-year project was to establish a replicable Integrated Border Management (IBM) system at the southern border of Azerbaijan with Iran. The project was implemented by the International Organisation for Migration (IOM) with financial support received from the European Union³⁰. The implementation of the project was launched in June 2006 and incorporated relevant approaches from the EU’s experience, through co-operation amongst and capacity building of border, customs and other authorities involved in border management so as to enhance intra-service and inter-agency co-operation in Azerbaijan and to pilot a methodology for IBM.

However, the strategic position of Azerbaijan – being located in the ‘Silk Road’ transit corridor – turns the management of Azerbaijani borders into a very important issue. In September 2010, the second project on “Support to Integrated Border Management Systems in the South Caucasus” (SCIBM) officially started to be implemented jointly by the UNDP with the government of Azerbaijan, and financed by the European Union³¹. The project is aimed to improve co-operation amongst the national agencies in the area of border management, expand bilateral and regional co-operation with neighbouring border states (except Armenia), EU member countries and other international organisations, ensure border security and development of strategic management capacity and develop a proper document taking into account Azerbaijani legislation. The project is worth €6,3 million and is expected to be completed by 2012.

³⁰ See: <http://iom.az/projects/complete/ibm/>.

³¹ See: http://www.enpi-info.eu/maineast.php?id=299&id_type=10.

7. Prospects for the Future and Conclusion

Although the recent EU project is regional in nature, only two countries of the South Caucasus will be involved in the project's activities – Azerbaijan and Georgia. Co-operation with Armenia is out of the question unless the Armenian-Azerbaijani conflict over Nagorno-Karabakh is settled and the occupied Azerbaijani lands are liberated, as the deputy chief of the State Frontier Service of Azerbaijan Farhad Tagizadeh stated: “Due to the Armenian occupation of 20 per cent of Azerbaijani lands, we are unable to control 132km of borders with Iran and 733km with Armenia and this complicates the programme's implementation. Therefore, we will implement it only on the national level and within the framework of co-operation with Georgia”³².

As part of the ENP, the EU has pledged greater political involvement in ongoing efforts to resolve regional conflicts peacefully. However, despite its stated goals, the EU has largely remained a secondary player in conflict resolution efforts, including the conflict over the Nagorno-Karabakh. Without the active participation of the European Union in resolving the conflicts in the South Caucasus, there is no possibility to increase cross-border co-operation amongst the three countries of the region.

8. Bibliography

8a. Publications

- Abbasov, C.R. (2002). *Economic and Social Geography of the Republic of Azerbaijan*. Baku: BDU (in Azerbaijani).
- Aliyeva, Leila (2009b). Azerbaijan: Power in the Petro-State. In M. Emerson and R. Youngs (eds.), *Democracy's Plight in the European Neighbourhood*. Brussels: Centre for European Policy Studies, 112-119.
- Gul, K.K. (1956). *Kaspiiskoe more*. Baku.
- Gul, K.K. (1960). Iz istorii geograficheskikh issledovaniy Kaspiiskogo moria. *Izvestiia AN Azerb. SSR: Seriya geol.-geog. nauk*, No. 2, 90-91.
- Hadjiyev, K.S. (1997). *Geopolitika Kavkaza*. Moscow: Mezhdunarodnie otnosheniia.
- Huseynov, Tabib (2009). The EU and Azerbaijan: Destination Unclear. In Tigran Mkrtchyan, Tabib Huseynov and Kakha Gogolashvili eds., *The European Union and the South*

³² See: <http://www.news.az/articles/politics/25274>.

- Caucasus: Three Perspectives on the Future of the European Project from the Caucasus*. Europe in Dialogue 2009/01. Gütersloh: Bertelsmann Stiftung, 49-89.
- Hamidov, Vahid (2009). *Political and Geographical Problems in Azerbaijan and their Solutions*. Baku (in Azerbaijani)
- Mamedov, R. (2000). Mezhdunarodno-pravovaia delimitaziia Kaspiiskogo moria. *Mezhdunarodnoe pravo*, No. 5, 27-75.
- Mamedov R. (2001). International Legal Status of the Caspian Sea: Issues of Theory and Practice. *The Turkish Yearbook*, Vol. XXXII, 217-259. Also available at: <http://dergiler.ankara.edu.tr/dergiler/44/672/8561.pdf>
- Mammadov, R.M. (2000). About the legal status of the Caspian Sea. *AMEA News*, No. 3, 29-34 (in Azerbaijani).
- Manafli, R. and Abasov, N. (2008). ES ne gotov okazat podderzku Azerbaidzhanu. *Ekho*, 20 September 2008.
- Orujev, R. (2010). Third of the border with Georgia has not yet agreed. *Zerkalo*, 24 September 2010.
- Piriyev, V.Z. (2002). *Historical Geography of Azerbaijan*. Baku: Araz (in Azerbaijani).
- Safarov S.M. (2000). *Strategy of Policy*. Baku.

8b. Electronic Sources

- Aliyeva, Leila (2006). *EU and the South Caucasus*. Discussion Paper, CAP/Bertelsmann Group for Policy Research, Berlin. Available at: http://www.cap.lmu.de/download/2006/2006_Aliyeva.pdf
- Aliyeva, Leila (2009a). *The EU Policies and Sub-Regional Multilateralism in the Caspian Basin*. eu4seas papers. Available at: http://www.eu4seas.eu/images/stories/projects/publications/barcelona/eu4seas_leila_alieva.pdf
- European Council (2003). *A Secure Europe in a Better World: European Security Strategy*. Brussels, 12 December 2003. Available at: www.consilium.europa.eu/uedoc/cmsUpload/78367.pdf
- Kocharli, T. (2005). *Nakhichevan: fictions and historical truth* (in Azerbaijani). Available at: <http://www.kocharlitofiq.com/docs/Naxcivan%20uydurmalar%20ve%20tarixi%20heqiqetler.pdf>

Shirinov, Rashad (2010). *Debating Eastern Partnership: a comparison of perspectives and expectations - The case of Azerbaijan*. Friedrich Ebert Stiftung. Available at: http://www.feswar.org.pl/fes2009/pdf_doc/Azerbaijan.pdf

9. Figures

Figure 1. Modern Azerbaijan.

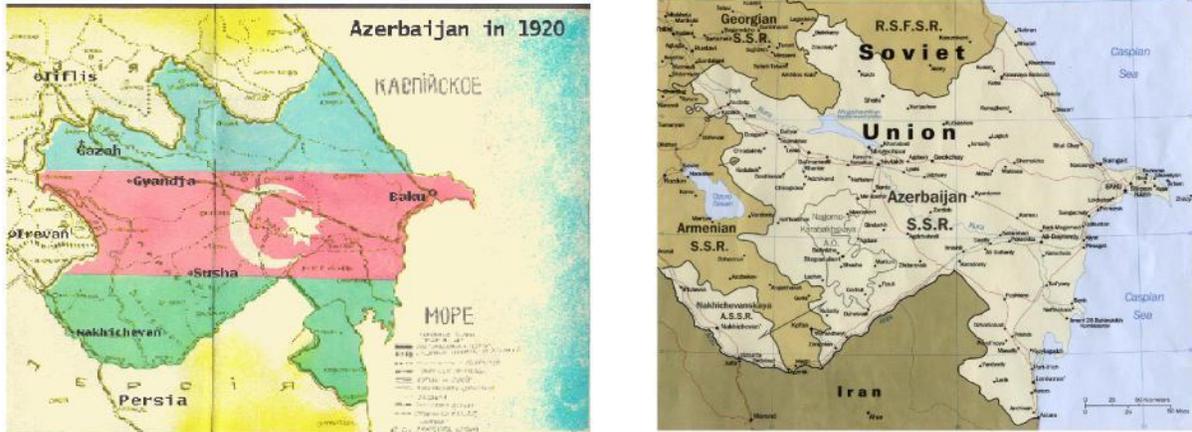


<http://wpp.greenwichmeantime.com/time-zone/asia/azerbaijan/images/aj-map.gif>

Figure 2. Azerbaijan in the Russian Empire.



Figure 3. Comparative Maps of Azerbaijan Democratic Republic and Azerbaijan S.S.R.



http://www.lib.utexas.edu/maps/commonwealth/azerbaijan_ssr.90.jpg

Photo 1. Keshikchi (David Gareja) Monastery Complex



http://upload.wikimedia.org/wikipedia/commons/b/b1/David_Gareja_monastery_complex.jpg