

BORDER LEGALIZATION UNDER INTERNATIONAL LAW AS A REGIONAL SECURITY FACTOR IN CENTRAL ASIA

Inomzhon BOBOKULOV

*Ph.D. (Law), Doctoral Candidate
at the University of World Economy and Diplomacy
(Tashkent, Uzbekistan)*

Introduction

The rapid changes occurring in today's world cannot help but have an impact on the traditional perception of the state's role in international relations. While criticizing the principle of state sovereignty (as the central idea of statehood) and presenting numerous facts testifying to its erosion, contemporary researchers are coming up with alternative conceptions such as "a world without borders," "the end of geography," and so on.

However, at the current stage of globalization, the border is still one of the most important fundamental principles of the inviolability of a state's territorial integrity, that is, an indispensable condition of its existence. Despite all the assertions of a "decline in sovereignty," at the beginning of the 21st century, "thousands are prepared to die for the creation of new state borders."¹

From the perspective of international law, the border, while helping to prevent interstate conflicts, on the one hand, is a factor in their emergence, on the other.

As a rule, territorial disputes arise between states over title to a particular territory (or part of it). International law maintains the territorial status quo and strengthens international security; and

it is "the most appropriate moral answer to territorial conflicts."² In contrast to other methods for determining the border line (historical, geographical, economic, ethnic, etc.) or territorial title, legal regulations establish the boundaries of state power over the specified territory. Borders form an essential part of the structure of rules and institutions that enable separate political communities to coexist.³

An analysis of the current state of interstate practice in Central Asia (CA) shows that in addition to the distribution of shared hydropower resources, settlement of the Afghan crisis, and combating current threats to security, unresolved border and territorial issues are the most urgent problems of international law hindering the creation of the necessary conditions for establishing mutually advantageous cooperation in the region.

In our opinion, the following three main factors can be singled out among the factors promoting delimitation and demarcation of state borders in CA.

- First, the fact that independent entities of international law—newly independent states—have formed in the region.

¹ A. Hurrell, "International Law and the Making and Unmaking of Boundaries," in: *States, Nations and Borders: Ethics of Making Boundaries*, ed. by A. Buchanan, M. Moore, Cambridge University Press, Cambridge, 2003, p. 287.

² M.G. Kohen, "International Law is the Most Appropriate Moral Answer to Territorial Conflicts," *Geopolitics* (London), Vol. 6, No. 2, 2001, p. 169.

³ See: R.Y. Jennings, *The Acquisition of Territory in International Law*, Manchester University Press, Manchester, 1963, p. 2 (quoted from: A. Hurrell, op. cit., p. 279).

- Second, the emergence of cross-border threats that make the CA borders vulnerable. Almost all of the joint intergovernmental commissions on border delimitation were established when the well-known Batken, Sariasiya, and Bostanlyk events occurred in 1999-2000. Aggravation of the situation dictated the need to reinforce the state borders, which was with no doubt related to the contractual and legal definition of their status.
- Third, the need to prevent the emergence of territorial disputes, enforce legal regulation of the status of rented land, ensure communication between enclaves and the mainland, and so on.

Principles of *uti possidetis* and the Inviolability of Frontiers

Two principles of international law—*uti possidetis* (“as you possess”) and the inviolability of frontiers—have played a significant role in preserving stability in CA.

The borders of the newly independent states that emerged in the post-Soviet expanse were defined in keeping with the *uti possidetis* principle of international law,⁴ which “is logically connected with the phenomenon of the obtaining of independence, wherever it occurs. Its obvious purpose is to prevent the independence and stability of new States being endangered...”⁵ This principle freezes the territorial title and applies to the State as it is, i.e., to the “photograph” of the territorial situation then existing.⁶

At first, the *uti possidetis* principle was customarily used in international practice with respect to land borders; later it was also applied to maritime borders. Referring to the decision of the U.N. International Court, many researchers say that it also applies to internal water areas and lakes.⁷

In contrast to Iran, which adheres to the condominium principle, that is, joint possession and execution of sovereignty based on agreements that were entered before the new ones were signed, the position of the newly independent states of the Caspian Region (Azerbaijan, Kazakhstan, and Turkmenistan) is based on “the principle of continuity of territorial inheritance—*uti possidetis*.”⁸

In so doing, it should be noted that the *uti possidetis* principle cannot always serve as an effective legal means for resolving the border problems that arise between new states. To a certain extent this is due to the fact that, as a rule, the successor states do not always inherit “firmly established and appropriately secured frontiers,”⁹ which, as we know, should coincide with the resettlement of different ethnicities.

The principle of inviolability of the state border was enforced for the first time at the regional level in the Final Act of the CSCE in 1975. Today, this principle constitutes one of the most fundamental principles of European (regional) and international security.

The newly independent states of the post-Soviet expanse recognized the importance of this principle from the very beginning; it was enforced in the founding documents of the CIS as the legal basis of the interrelations among the Commonwealth’s participating States.¹⁰

⁴ See: N. Polat, *Boundary Issues in Central Asia*, Transnational Publishers, New York, 2002, p. 46.

⁵ International Court of Justice, Reports, 1986, p. 565.

⁶ See: Ibid., p. 568.

⁷ See: F. Humbatov, “On the Applicability of the *Uti Possidetis Juris* Principle During Delimitation of the Caspian Sea among the Littoral States,” *Central Asia and the Caucasus*, No. 6 (60), 2009.

⁸ Ibidem.

⁹ B.M. Klimenko, A.A. Pork, *Territoria i granitsa SSSR*, Mezhdunarodnye otnoshenia, Moscow, 1985, p. 90.

¹⁰ In particular, the Alma-Ata declaration of the Commonwealth of Independent States, available at [http://www.cis.minsk.by/main.aspx?uid=178] and the Charter of the Commonwealth of Independent States of 22 January, 1993, available at [http://www.cis.minsk.by/main.aspx?uid=176].

In contrast to *uti possidetis*, the legal potentialities of the principle of inviolability of frontiers are much broader. Its provisions not only ensure recognition of the existing administrative borders, but are also aimed at preventing physical encroachments on them.

The principle of inviolability of frontiers states that:

- 1) The participating States regard the existing frontiers as legally established in compliance with international law.
- 2) They will refrain now and in the future from assaulting these frontiers.
- 3) They will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of the participating States.¹¹

The principle of inviolability of frontiers has become the foundation for establishing interstate relations; moreover, its application has reduced the possibility of a serious conflict situation emerging between CA states (as has happened in several post-colonial regions of the world).

The Present State of and Problems in Interstate Relations on the Delimitation and Demarcation of the CA's External Borders

Both the external and the internal borders of the CA states have been subjected to contractual and legal registration. With respect to the existing (established) state borders, the legal status of their separate disputed sections had to be defined. Turning the frontiers of administrative-territorial divisions into full-fledged borders of entities of international law was also envisaged.

The Islamic Republic of Afghanistan (IRA),¹² the Islamic Republic of Iran (IRI),¹³ and the People's Republic of China (PRC)¹⁴ are situated along the perimeter of Central Asia's external borders. These borders, which were established in the second half of the 19th century, long served as the line separating "the former Union republics of *Central Asia and Kazakhstan*" from the outside world.¹⁵ Their international legal status has been defined with sufficient clarity in corresponding agreements entered among the competing British, Russian, and Qing empires and later between the U.S.S.R., the U.K., China, and the above-mentioned states.

¹¹ See: *Final Act of the Conference on Security and Cooperation in Europe*, Helsinki, 1 August, 1975, available at [<http://www.ena.lu/>].

¹² The total length of the frontier between the Central Asian states and Afghanistan amounts to more than 2,000 km; 156 km of which are with Uzbekistan; 744 km with Turkmenistan, and 1,206 with Tajikistan.

¹³ Of the Central Asian states, only Turkmenistan has a land border (approx. 1,000 km) with the IRI.

¹⁴ The total length of the border of the Central Asian states with the PRC amounts to 3,150 km; 1,782 km of which are with Kazakhstan, 1,072 with Kyrgyzstan, and 450 km with Tajikistan, *Renmin ribao*, 26 April, 1996 (quoted from: A. Khojaev, *Kitaiskiy faktor v Tsentralnoi Azii*, Fan, Tashkent, 2007, p. 135; N. Kerimbekova, V. Galitskiy, "On the State Border between Kyrgyzstan and China," *Central Asia and the Caucasus*, No. 5 (17), 2002).

¹⁵ It should be noted that many present-day problems relating to international legal registration of the state borders in Central Asia have historical roots. The Big Geopolitical Game between empires has made its contribution to violating the logic of administrative-territorial management of the region and a conflict-prone potential has been introduced (see: A. Prokhorov, *K voprosu o sovetsko-kitaiskoi granitse*, Moscow, 1975; A. Khojaev, op. cit.; W. Raczka, "Xinjiang and its Central Asian Borderlands," *Central Asian Survey* (London), Vol. 17, No. 3, September 1998; F. Tolipov, "Granitsy gosudarstva i granitsy samoopredeleniia: politika bezopasnosti i politika natsionalizma v Tsentralnoi Azii," *Khukuk. Pravo. Law* (Tashkent), No. 4 (20), 2000, and others).

But when the newly independent states appeared in CA, several loopholes were found in the contractual-legal definition of the border line. This primarily applies to resolving the problems the states of the region inherited from the past regimes regarding the disputed sections of border with the PRC.

Between 1960 and the end of the 1980s, the Soviet Union and China exerted active efforts to delimit and demarcate their state borders. But the Union republics bordering on the PRC were not included in the talks¹⁶ held mainly by the foreign ministries of both states under the supervision of the Center.¹⁷ By the time the Soviet Union disintegrated, these talks were still going on.

The PRC decided that settling border issues was the best way to establish relations with the newly independent Central Asian states. Talks on the disputed sections of the common border began in 1992. The same year, Kazakhstan and the PRC adopted a joint decision on common principles for settling border issues; the principles set forth in the document formed the basis for China's talks with Kyrgyzstan and Tajikistan.¹⁸ The sides preliminarily agreed that there were 19 disputed border sections constituting a total area of approximately 34,000 sq. km.¹⁹

China put forward several demands as an indispensable prerequisite for continuing the talks with the newly independent Central Asian states: mandatory recognition of the line of the Soviet-Chinese border agreed upon in the past; resolution of the problems on a bilateral basis (with each of the former Union republics); reduction in the size of border troops, and so on. Moreover, protection of the border was to be carried out by the forces of the Central Asian republics, that is, without Russia's participation.

But the bilateral format for holding the talks proposed by the Chinese side did not meet the interests of the CA states for the following reasons.

- *First*, as mentioned above, the talks on defining the state border line were held without the direct participation of the Central Asian republics. So the states of the region could not acquaint themselves with the necessary documental and archive sources (minutes of the talks, maps, and so on) that were used by way of proof for legalizing the border.
- *Second*, compared with China, which has a thousand-year state history and is a permanent member of the U.N. Security Council, the newly independent Central Asian states did not have the necessary diplomatic experience in holding talks.²⁰

So an alternative mechanism envisaging the participation of a united delegation of the CA states and Russia was offered for holding talks with the PRC. In 1993, a committee was formed for discussing and drawing up drafts of agreements on border issues. This committee was created within the framework of a working group formed in accordance with an agreement (adopted in September 1992 during the talks with China) on creating a united delegation of the governments of Kazakhstan, Kyrgyzstan, Russia, and Tajikistan for continuing the border talks with the PRC.

¹⁶ In accordance with Union legislation, the borders of the Union republics were defined as the *state borders of the U.S.S.R.* Consequently, border issues with neighboring states were resolved by the supreme bodies of the U.S.S.R. (see: U.S.S.R. Law on the State Border (quoted from: B.M. Klimenko, A.A. Pork, op. cit., p. 226).

¹⁷ See: "T. Usabaliyev vystupil protiv oppozitsii i za territorialnye ustupki Kitaiu," *Slovo Kyrgyzstana*, 16 May, 2002.

¹⁸ An agreement was reached with Kyrgyzstan on 6 May, 1992 and with Tajikistan on 11 March, 1993 (see: Xing Guangcheng, "Security Issues in China's Relations with Central Asian States," in: *Ethnic Challenges beyond Border: Chinese and Russian Perspectives of the Central Asian Conundrum*, ed. by Y. Zhang, R. Azizian, Macmillan, London, 1998, p. 208 — quoted from: N. Polat, op.cit., pp. 38-39).

¹⁹ See: SWB FE/1666 A 1/5, 15 April, 1993 (quoted from: N. Polat, op. cit., p. 39).

²⁰ When emphasizing the importance of regulating the Chinese-Kyrgyz border in the context of Kyrgyzstan's national security, Deputy of the Zhokorgu Kenesh T. Usabaliyev noted that "Kyrgyzstan must have friendly relations with the PRC, which has a population of 1 billion 300 million people and a multi-million army" (*Slovo Kyrgyzstana*, 16 May, 2002).

At present, the legal status of the disputed border sections between the PRC and the CA states has essentially been determined; a corresponding agreement between Kazakhstan and China was reached in November 1999.²¹

During regulation of the disputed sections, Kyrgyzstan entered three agreements: two in July 1996 and another (additional) in August 1999. By 2001, the sides had resolved all the disputed issues and completed delimitation of the state border. On 10 May, 2002, ten years of efforts by both states resulted in the signing of a Memorandum on Demarcation of the State Border Line.²²

An agreement was reached between Tajikistan and the PRC at the beginning of 2011; the size and length of the borders of the disputed territories are what made its adoption such a long and arduous process. In particular, China made demands on more than 300 km of the Tajik-Chinese border,²³ which amounted to 28,000 of the 34,000 sq. km of disputed territory between the PRC and the CA states. Another factor was the civil war in Tajikistan, which prevented the republic from taking direct part in resolving the regional problems (including within the framework of the Shanghai Five). An Agreement on the Tajik-Chinese State Border (1999) and an additional Agreement on Demarcation of the Border and Settlement of Territorial Disputes (2002) were signed between the PRC and Tajikistan. On 12 January, 2011, the republic's parliament ratified an intergovernmental memorandum, according to which approximately 3% of the 28,000 sq. km of disputed territory between the two states was transferred to the jurisdiction of the PRC.²⁴ Thus, definition of the legal status of the borders in this part of the CA was completed.

Defining the international legal status of the Caspian Sea was one of the most urgent issues with respect to delimitation and demarcation of the external borders of the CA republics; two out of the five regional states (Kazakhstan and Turkmenistan) have direct access to it.

The international legal status of the Caspian Sea was defined by the agreements of 1921 and 1940 between the Soviet Union and Iran, while the maritime borders were determined only between these states.

After the collapse of the Soviet Union, the number of Caspian states increased to five (Azerbaijan, Kazakhstan, Turkmenistan, Russia, and Iran), which gave rise to the objective need to re-examine the status of the Caspian Sea. For this purposes, in 1996, a joint Special Working Group was instituted to draw up a Convention on the Legal Status of the Caspian Sea; Azerbaijan, Kazakhstan, and Russia (three of the five Caspian states) settled their territorial disputes on a bilateral basis by entering agreements on the delimitation of maritime zones.²⁵

According to an opinion popular among internationalist lawyers, the provisions of the U.N. Convention on the Law of the Sea of 1982 should be used to define the international legal status of the Caspian Sea. However, official Tehran, referring to the special status of the Caspian Sea (which is the largest lake in the world), does not think the provisions of the 1982 Convention apply; since 1991, Iran's standpoint on this issue has remained unchanged.

²¹ This agreement was preceded by the Treaty on the State Border between the two states of 26 April, 1994 and additional agreements signed in July 1996, September 1997 and July 1998 (see: *Kazakhstanskaia pravda*, 11 March, 1999).

²² See: A. Khojaev, op. cit., p. 140.

²³ See: V. Kasymbekova, "Kak uregulirovat territorialnye spory. Tadzhikskiy opyt," 30 April, 2009, available at [<http://www.centrasia.ru/newsA.php?st=1241090940>].

²⁴ See: O. Gritsenko, "Tadzhikistan zakonchil tsarskiy spor s Kitaem," available at [<http://www.centrasia.ru/newsA.php?st=1294994040>]; A. Dakli, "Tadzhikistan ustupaet 1 tys. kv. km Kitaiu," available at [<http://www.centrasia.ru/newsA.php?st=1295129040>].

²⁵ In 1998, Kazakhstan and Russia entered an agreement on demarcating the bed of the northern part of the Caspian Sea and signed a memorandum to it in 2002. A similar agreement (2001) and memorandum (2003) were entered between Kazakhstan and Azerbaijan. On 14 May, 2003, Kazakhstan, Azerbaijan, and Russia signed an agreement on the point of intersection of the lines delimiting the contiguous sections of the bed of the Caspian Sea (see: "Text of the Convention on the Legal Status of the Caspian Sea is 70-80% ready—Russian Federation Ministry of Foreign Affairs," available at [<http://xronika.az/sng/print:page,1,3423-tekst-konvencii-o-pravovom-statuse-kaspijskogo.html>]).

The IRI, Azerbaijan, Turkmenistan, and Kazakhstan (four of the five Caspian states) have not yet acceded to the above-mentioned agreements. Iran suggests dividing the Caspian Sea and its bed equally among the Caspian countries (that is, 20% to each of the littoral states),²⁶ which the neighboring states do not agree with.

If we proceed from the present political reality, the borders between CA and the Russian Federation should be recognized as external, while during the time of the Soviet Union they were of an administrative-territorial nature.

Of all the Central Asian republics, only Kazakhstan had a common border of more than 7,500 km with the Russian Federation (the longest land border in the world); its international legal registration proved to be a difficult process.²⁷ Delimitation of the land border of the two states was enforced by the Agreement on the Russian-Kazakhstan State Border of 18 January, 2005. The creation of a joint demarcation commission in 2007 meant the beginning of the final phase in the contractual and legal registration of this part of the region's borders.²⁸

Legalization under international law of the border of each of the states taken separately could serve as the topic of an independent scientific study. So in this article we decided to restrict ourselves to an analysis of legalization of the state border of the Republic of Uzbekistan with its neighboring countries.

Uzbekistan— Other CA Countries

Uzbekistan is situated in the heart of Central Asia and borders on all the regional states.²⁹ As of the present, the contractual-legal registration of the state border of Uzbekistan with three of the states bordering on it—Afghanistan, Kazakhstan, and Turkmenistan—has been completed.

In the case of Afghanistan, the international agreements entered by the predecessor state retain their legal force on the basis of legal succession and are applied to the regulation of interrelations in this area.³⁰ Corresponding agreements on delimitation and demarcation of the state border were en-

²⁶ See: Iran Wants Equal Caspian Division of Waters, Seabed [http://www.upi.com/Science_News/Resource-Wars/2009/10/09/Iran-wants-equal-Caspian-division-of-waters-seabed/UPI-10581255113679/].

²⁷ The total length of the Kazakhstan state border amounts to approximately 14,000 km; 7,590 km of which are with the RF, 2,376 km with Uzbekistan, 1,782 with China, 1,241 km with Kyrgyzstan, 426 km with Turkmenistan, and 600 km of maritime borders along the Caspian Sea (see: E. Idrisov, "Uztoichivye tranitsy—zalog stabilnosti gosudarstva," *Diplomatičeskij kurier* (Publication of the Ministry of Foreign Affairs of the Republic of Kazakhstan—Astana), No. 1, 2000, p. 101; "Delimitatsia i demarkatsia gosudarstvennoi granitsy," available at [<http://portal.mfa.kz/portal/page/portal/mfa/ru/content/policy/issues/delimitation>]).

²⁸ Information on delimitation and demarcation of the state border of the Russian Federation, available at [<http://www.rosgranitsa.ru/about/international/countries/delimitation>].

²⁹ The total length of the state border of the Republic of Uzbekistan amounts to approximately 7,000 km; 2,376 km with Kazakhstan, 1,878 km with Turkmenistan, 1,283 with Tajikistan, 1,295 with Kyrgyzstan, and 156 km with Afghanistan. The data regarding the length of the state border line are not final. During delimitation and demarcation, they could undergo certain changes.

³⁰ The legal regime of the state border between the Republic of Uzbekistan and Afghanistan has been established by the Agreement on Border Issues (1946), the Treaty on the Regime of the Soviet-Afghan State Border (1958), the Treaty on Friendship, Good-Neighborly Relations, and Cooperation (1978), and the Agreement on the Status and Procedure for Operating and Maintaining the Road and Rail Bridge over the Amu Darya River (1982), and so on (see: P.A. Makkambaev, "Pravovoi režim Gosudarstvennoi granitsy Respubliki Uzbekistan i problemy ego sovershenstvovaniia: Synopsis of thesis for a candidate of law," University of World Economy and Diplomacy, Tashkent, 1997, pp. 16-17).

tered with Kazakhstan and Turkmenistan. As for Tajikistan and Kyrgyzstan, delimitation of their joint border with Uzbekistan has entered the final phase.

Turkmenistan was the first neighboring state with which Uzbekistan reached an agreement on delimitation of the state border. The Memorandum of the Intergovernmental Commission on Delimitation set forth the absence of mutual territorial demands and recognition by the sides of the former inter-republican administrative border as the state frontier. On 22 September, 2000, the Treaty between the Republic of Uzbekistan and Turkmenistan on Delimitation of the State Border was entered on its basis.³¹

It should be noted that as early as 16 January, 1996, an Agreement on Cooperation in Protection of the State Border was signed between Uzbekistan and Turkmenistan. From the viewpoint of preserving regional stability and security, two provisions of this document deserve special attention.

1. The Agreement confirmed recognition by the Sides of the border line on the basis of the administrative-territorial delimitation of the former Uzbek S.S.R. and Turkmen S.S.R.
2. Effective interception of the penetration of terrorist groups and other criminal elements, as well as the illicit transfer of weapons, was defined as the main objective of the international legal act.³²

The Treaty on Delimitation not only enforced these provisions, it also had a positive effect on developing the legal base for ensuring border security.

In our opinion, the key provision of the above-mentioned treaty is confirmation by the sides of the absence of any territorial demands against each other and settlement of all issues relating to drawing the state border line between the two neighboring states.³³ This same document paved the way to the talks on demarcation of the state border in correspondence with topographical maps and drawing the border line between the two states based on their descriptions.³⁴

In so doing, it should be noted that in addition to the contractual-legal registration of the Uzbek-Turkmen state border, there were also several other urgent bilateral cooperation issues concerning the operation of waterworks situated in the territory of Turkmenistan,³⁵ entry and exit procedures for residents of border districts, and so on. These issues are still on the agenda and are discussed at meetings of the heads of state.

Delimitation of the Uzbek-Kazakh border was carried out in two stages—from 1999 to 2001 and from 2001 to 2002. During these periods, the joint commission on regulation of the legal status of the common border created in 1999 drew up and adopted an agreement and two complementary documents were entered.

On 16 November, 2001, an Agreement on Delimitation of the State Border was signed, which meant that the sides had come to terms on 96% of the common border line. But another extremely acute problem relating to the territorial title of several border population settlements (approximately

³¹ See: "Resolution of the Oliy Majlis of the Republic of Uzbekistan on Ratification of the Treaty between the Republic of Uzbekistan and Turkmenistan on Delimitation of the State Border No. 176-II of 15 December, 2000," *Legislation Code of the Republic of Uzbekistan* (Tashkent), No. 11, 2000, p. 167.

³² See: *Agreement between the Republic of Uzbekistan and Turkmenistan on Cooperation in the Protection of the State Border*, Arts 1 and 3, Current Archive of the Ministry of Foreign Affairs of the Republic of Uzbekistan.

³³ See: *Treaty between the Republic of Uzbekistan and Turkmenistan on Delimitation of the State Border*, Art 1, Current Archive of the Ministry of Foreign Affairs of the Republic of Uzbekistan.

³⁴ See: *Treaty between the Republic of Uzbekistan and Turkmenistan on Delimitation of the State Border*, Art 4, Current Archive of the Ministry of Foreign Affairs of the Republic of Uzbekistan.

³⁵ The matter concerns such canals of interstate significance as the main Karshi and the Amu-Bukhara canals. In addition to the border population of Uzbekistan, they are used by certain districts of Turkmenistan.

4% of the joint border) still had to be resolved. Their legal status was defined by entering a Treaty on Separate Sections of the Uzbek-Kazakh State Border on 9 September, 2002.

The Treaty envisaged that the village of Bagys and the district of the Arnasai reservoir (where ethnic Kazakhs compactly resided) belonged to Kazakhstan. Areas of the Southern Kazakhstan and Kzyl-Orda regions of Kazakhstan, which are mainly populated by ethnic Uzbeks, were used in land swap deals; the village of Turkestanets remained under the jurisdiction of Uzbekistan.³⁶

So the residents of the CA countries were given the opportunity to exercise the right of option (choose their citizenship in the event of a change in the state affiliation of a territory in compliance with international law). Gradual settlement of the issues and taking into account the will of the residents of the border districts is having a very favorable effect on the relations among the states of the region.

In February 2003, the Joint Commission approved a plan for demarcating the Uzbek-Kazakh state border, and in the spring of 2004, the sides began field work to designate the state border.

Within the framework of the Joint Commission on Delimitation of the Uzbek-Tajik State Border formed in 2000, the sides agreed to proceed from the decision of the Presidium of the Supreme Soviets of the Tajik S.S.R. and Uzbek S.S.R. adopted in 1961. This was a very important step with respect to coordinating the sides' standpoints regarding the regulatory-legal basis of border legalization.

In October 2002, at a meeting of the heads of state of the members of the Central Asian Cooperation Organization held in Dushanbe, a Treaty on the Uzbek-Tajik State Border was signed. This document was highly appraised by the leaders of the region's countries.

The Uzbek-Tajik treaty came into force on 24 March, 2009. In accordance with its provisions, the sides approved the line of most of the state border between the two states.

The next stage in the work of the intergovernmental commission will be completing delimitation of the remaining small sections and demarcation of the Uzbek-Tajik state border.³⁷

According to official data, the Uzbek-Tajik intergovernmental commission is currently working to establish the border line of the remaining sections, which are less than 60 km in length.³⁸

Studies show that the strongest contradictions in current interstate relations of the CA countries with respect to contractual-legal registration of the state border are found within the Uzbekistan-Kyrgyzstan-Tajikistan triangle.

This is explained not only by legal problems, but also by issues largely related to the historical and physical-geographical features of the region.

- *First*, it should be noted that since the national-territorial demarcation carried out in the 1920-1930s, territorial title to specific sections of the border has remained one of the controversial issues in the interrelations of the former Union republics. This situation was aggravated even further by the existing practice of transferring territory from one republic to another for land tenure, building industrial facilities, and so on. The activity of commissions engaged in land swaps has not always led to the desirable results.
- *Second*, there is no coordination in defining the legal foundations for regulating border problems, which is particularly characteristic of Uzbek-Kyrgyz relations. For example, Uzbekistan proposes proceeding from national-territorial demarcation; the Kyrgyz side, on the other hand,

³⁶ See: The President of Kazakhstan meets with the President of Uzbekistan (according to the information of President.kz), available at [<http://missions.itu.int/~kazaks/rus/archive/0209/n0209a.htm>].

³⁷ See: Treaty on the Uzbek-Tajik State Border comes into force, available at [http://mfa.uz/rus/pressa_i_media_servis/news/250309r_1.mgr].

³⁸ See: Cooperation between the Republic of Tajikistan and the Republic of Uzbekistan, available at [<http://www.mfa.tj/index.php?node=article&id=498>].

refers to the provisions of later documents that did not go through the corresponding approval procedure by competent republican and Union structures.³⁹

- *Third*, contractual-legal registration of the state border is complicated by the existing objective physical-geographical and demographic conditions.

The thing is that the most of the common border line among Uzbekistan, Kyrgyzstan, and Tajikistan requiring legalization runs through the Ferghana Valley. According to researchers, this sub-region is the “geopolitical nucleus” and “Achilles’ heel” of Central Asian security. National-territorial demarcation in the Ferghana Valley is a Central Asian reality with its cultural, ethnic, and linguistic communality and, at the same time, diversity.

- *Fourth*, definition of the status of state borders under international law is closely related to resolving other problems, to which such issues as the efficient operation of joint transport routes, water use, trade development, and so on also apply.
- *Fifth*, delimitation and demarcation of the state border of the three neighboring states is significantly complicated by the existence of enclaves, and they are all (8) situated in the Ferghana Valley: Barak (Kyrgyzstan) is on Uzbek territory, the enclaves of Uzbekistan (Sokh, Shakhimardan, Tosh-tepa, and Chongara) and Tajikistan (Vorukh and Kalacha) are on Kyrgyz territory, and Sarvak (Tajikistan) is in the Pap district of the Namangan Region of Uzbekistan.

So another positive step in resolving regional problems could be entering a corresponding agreement on the status of the enclaves existing in CA under international law. In so doing, in contrast to the agreement on border delimitation, which directly regulates the legal status of the state border line, this document should contain an entire set of issues relating to the vital activity of the enclave: provision of a transport corridor, state border protection issues, deployment of military contingents, and so on.

Conclusion

Delimitation and demarcation of the state borders of the CA countries is a current imperative; if this issue is not resolved, it is highly likely that conflicts will emerge among the states of the region and external forces will interfere in their internal affairs.

International law legally binds the members of the global community to observe the corresponding regulations and principles that ensure order and stability. The efforts of the CA states aimed at legalizing their state border lines under international law are primarily prompted by a desire to preserve and maintain regional stability and security.

Enforcing title to borders and territory by means of international law will guarantee long-term stability in the region. By entering international agreements, the states are pledging to recognize the border lines being established and, more important, the absence of mutual territorial demands. This is

³⁹ The Kyrgyz side proposed determining the state border on the basis of the results of the work of the Joint Land Swap Commission of the Governments of the Kirgiz S.S.R. and Uzbek S.S.R. of 1955 and defining the state border that was approved by a Decree of the Presidium of the Supreme Soviet of the Kirgiz S.S.R. of 30 March, 1961. But it should be noted that the corresponding reports by these commissions were not approved by the Presidiums of the Uz.S.S.R. and the U.S.S.R. (see: A. Kozhikhov, “Bezopasnost v Tsentralnoi Azii. Ochagi mezhetnicheskogo napriazheniia v Tsentralnoi Azii,” available at [<http://www.cvi.kz/text/Safety/Etnic/html>]; “Kyrgyzstan i Uzbekistan iz 1 400 km uchastka obshchei granitsy soglasovali 290 km,” available at [www.kabar.kz]).

the only way the states can prevent loopholes in security and ensure a certain amount of stability in interrelations.

In terms of settlement by the CA states of territorial and border issues stability has been achieved throughout the entire spectrum of bilateral relations.
