

ETUDES HELLENIQUES

HELLENIC STUDIES

The Aegean Dispute Le différend gréco-turc en mer Égée

Edited by
Sous la direction de
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The Aegean Dispute

Stephanos Constantinides*

Paris Arnopoulos**

1996 will be remembered as the year of the "Aegean Crisis". The old dispute reopened in January with the Imia crisis. It flared up in May with Turkey's diplomatic claim on the island of Gavdos, reheated in August with its military academy's allegation of sovereignty over a hundred islets and islands in the Aegean as far as Crete,¹ and continued unabated throughout the fall, punctuated by Turkish airforce flights over the archipelago.

The Aegean confrontation revolves around three major points of contention: territorial waters, continental shelf, and air space. The origin of this dispute dates from 1973, when Turkey raised the question of delimitation of the continental shelf. The coup d'état organized by the Greek junta against Cypriot president Makarios the following year gave Turkey the opportunity to invade Cyprus. Since then, Greco-Turkish relations have deteriorated from bad to worse and the Aegean issue has flared up periodically, threatening to explode into war.

According to the Turks, the roots of the problem lie in various unfavourable circumstances which had forced Turkey to gradually relinquish the Aegean islands since Greek independence in 1830.² After WWII, Ankara decided not to object to the transfer of the Dodecanese islands to Greece in order to ensure western protection against the Soviet threat.³ For more than a century, Turkey seemingly accepted this status quo in the Aegean and the global strategic balance of power in the region. Only with the aggravation in the Cypriot situation since 1974 did the Aegean issue come to the fore of the diplomatic agenda.

From the Greek point of view, it is the conjuncture of technological, economic and political developments of the past three decades that —adding new value to maritime zones— has given Turkey a pretext to renounce the status quo established formally by the Treaty of Lausanne in 1923.⁴ Turkey accepted Greek control in the Aegean by the Lausanne treaty in exchange for the exodus of more than a million Asia Minor Greek who became refugees in Greece. Under these circumstances Greece insists that any reconsideration of its historic, demographic, geographic and legitimate possession of the Aegean Sea and its islands is

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unfounded. Furthermore the Turkish challenge for Greece seems to be part of a larger strategy to make the Aegean a pawn in the overall conflict which involves Cyprus. This strategy was phrased by former Turkish prime minister Tansu Ciller after the Imia crisis when she declared that the entire Aegean must be negotiated.⁵ Overall, it would seem to many that the successors to Kemal Atatürk abandoned his efforts towards Greco-Turkish rapprochement and instead adopted a policy of expansionism.

On the outside, looking in or away, stand the British and the Americans whose influence cannot be denied. The deterioration of Greco-Turkish relations is also the result of British encouragement to Turkey to oppose Cypriot national aspirations. The former British prime minister Anthony Eden admitted this fact in his memoirs, and even a Turkish academic described it as «a blatant case of divide and rule».⁶ And of course, because of their strategic interest the Americans, «encouraged Turkey's revisionist objectives in the Aegean and in Cyprus».⁷

After a long history of disagreements, the two sides cannot even agree on the form and forum of searching for a solution to their dispute. Greece seeks an international legal decision; Turkey, negotiation between the two countries.

This thematic issue of *Études helléniques/Hellenic Studies* has risen to the occasion by inviting academics with knowledge of both countries to debate the Aegean issue in a scholarly manner. The nine articles which follow treat the question from various aspects and different points of view, thus giving the reader a balanced perspective of this critical conflict.

The first two articles deal with the history and strategy of this crucial problem. This general overview is followed by two articles each on the territorial waters and continental shelf from the Greek and Turkish perspective, as well as an article on the air space conflict. Finally, the last two articles analyze the involvement of the EU and US in the crisis. In this way, the issue is covered as evenly and as fully as possible.

Thanos Veremis opens the discussion with an article that provides readers with some historical background to current Greco-Turkish relations. In this article the Turkish invasion of Cyprus in 1974 is considered the trigger of the Aegean crisis. This event opened a Pandora's box of contentious issues involving ownership of the continental shelf, jurisdiction of territorial waters, and control over the air space. After discussing the historical evolution of the Aegean dispute, Veremis sums up the situation by saying that «in the long-run [its] future will depend on the larger Russo-Turkish antagonism and more so on Russia's relations with the West». With regard to the West's position, the author mentions that «at the end of every incident, the US urges Greece to accept bilateral negotiations» and con-

cludes that “given the declared importance the US attaches to its own relations with Turkey [...] Greek officials view American mediation with great concern”. Veremis also notes the lack of sensitivity from Greece’s European partners who refer to Imia simply as a rock. He points out the fact that one “must still point out [to them] that it is impossible to discriminate between sovereignty in Syntagma Square in Athens and a bare Aegean island.”

Athanassios Platias looks at the broad problems of Greek deterrence strategy in the face of Turkish expansionism. His realistic, up-to-date analysis concludes with a call to greater vigilance and proaction on the part of Greece in order to present a credible deterrent to Turkey.

What is most interesting in this article is the author’s attempt to “examine the calculus of asymmetrical conventional deterrence from the standpoint of a small state, that of Greece”. Comparing external balancing, “the added strength” resulting of alliances and internal balancing, the “mobilization of the country’s own resources”, the author considers the second as the « safest way to increase the cost of aggression to an opponent.” Platias concludes his article on the security of small states observing that: “the anarchical nature of the international system creates a serious security problem for all states and those with limited capabilities operate within narrow margins. Yet, even in asymmetrical confrontations, small states may succeed in dissuading possible aggression provided they adopt certain strategies. [...] Choosing a clever mix of strategies —one that is best tailored to unique conditions and circumstances— is the key to success for small states like Greece.”

In a detailed and well-documented article, Yuksel Inan and Sertaç Baseren focus on the territoriality issue in their analysis of the Aegean situation. Their article deals with the delimitation of territorial waters and the Imian rocks on the basis of international equity in light of historical and legal considerations. The thesis here is that Turkish claims should be understood in the context of the special circumstances. In this context Greece «ought to consider these special features while delimiting or determining the breadth of its territorial waters».

It is interesting that the authors present the Turkish point of view as the one of the international community while noting that “if the territorial waters are extended by Greece, the situation in the Aegean will shift to the advantage of Greece and the disadvantage of both Turkey and the international community”. Furthermore, Inan and Baseren justify the Turkish threat of war —“Turkey pronounced that any extension of Greek territorial waters will create a *casus belli* situation”, “because of this vital situation in the Aegean which strictly limits (in the case of extension) the rights and freedoms of states and also creates an abuse of rights”. The authors conclude that since Turkey’s and the international community’s interests are the same, “we (Turks) and the international community hope that Greece will respect its international obligations arising from interna-

tional law and to its commitments, and will not in any way extend its territorial waters and close the Aegean, thus preventing the international community from enjoying its freedoms”.

On the contrary, Haritini Dipla demonstrates in a solid article that the status quo conforms with both international traditional and conventional law. In adopting the 12-mile rule around its islands, Greece follows the recognized Law of the Sea legislation. Nevertheless, she concludes that a more moderate position of 10 miles could resolve the dispute by giving Turkey some leeway for its claims.

Dipla confronts the inconsistency of Turkish policy in that area and notes that “Turkey’s position on the 12-mile rule is not as consistent as that State claims it to be. Especially since Turkey itself adopted the 12-mile limit on the country’s territorial waters in the Black and Mediterranean Seas, and that it already admitted in 1956 that the “12-mile limit is already sufficiently accepted in practice to be considered a rule of international law.” It seems that “only in the seventies and during the Third Conference did Turkey start to contest the customary value given the 12-mile rule.”

Looking at the continental shelf issue from legal, geographic and historical angles, Aslan Gündüz discusses the discord between Greece and Turkey over the extent of their jurisdiction adjacent to their coasts and islands. His thesis is that large continents have greater weight in the 200-mile rule than small islands. Consequently the Asia Minor coast includes the nearby islands in its exclusive zone. Gündüz has gone one step further in presenting the Turkish point of view on a negotiated rather than a legal solution. He points out that “a third party solution of the Aegean continental shelf dispute is not legally necessary, and it is highly doubtful whether this type of solution would be politically wise”. Further on he suggests that “nevertheless, serious and meaningful negotiations with a view to effecting a delimitation of the continental shelf by agreement is an obligation in international law and would be politically wise”.

According to Gündüz, a negotiated solution is preferable because “the prevailing law of delimitation provides little guidance”. He refers primarily to “geopolitical-geomorphological features of the Aegean Sea” and “special circumstances” to support the point that international conventions are not applicable in this case. This seems to be the main Turkish argument.

In his analysis, Grigoris Tsaltas disagrees with this interpretation of the legal framework of the issue as it evolved between the Geneva Convention of 1958 and that of Montego Bay in 1982. From this analysis, he concludes that these particular treaties, as well as general international law, leave no doubt as to the right of islands, as all coasts, to their adjacent continental shelf. In fact, this is Greece’s position. Furthermore Turkey’s refusal to argue the opposite claim in the International Court of Justice proves the weakness of the Turkish case. As Tsaltas

points out in his article, for Greece, it is a question of respect of its rights in the Aegean as given in international treaties and international law. For Turkey, it is a question of legitimizing unfounded claims in international law. This position explains the country's refusal to go before the International Court of Justice and its desire for political negotiation. Undoubtedly Tsaltas expresses the Greek viewpoint of a legal solution contrary to that of Gündüz who argues for 'meaningful negotiations' and thus expresses the Turkish point of view.

The last aspect of this issue triad is taken up by Angelos Yokaris who discusses the international legal status of the Athens FIR, thus completing the land and water issues with a brief legal and historical review of the air dispute over the Aegean.

Yokaris points out that the limits of the Athinai FIR «were determined during the Regional Air Navigation Meetings of Paris (1952) and Geneva (1958), based on the external limits of the territorial waters and boundaries of adjacent FIRs (Istanbul and Athens). Turkey participated in these meetings without any reserves». On the other hand «the recommendations of the Regional Conferences of 1952 and 1958 were unanimous; there was, therefore, the consent of Turkey. The Athinai-Istanbul FIR border line coincided with the Western Turkish frontiers in the area of the Aegean Sea, as evidenced by the relevant ICAO Map No. 7 and by official Turkish International Air Navigation Map of 1953, published in Ankara.»

Rounding out this discussion, Jean Catsiapis contrasts the passive stand of the EU to the active role of the US, thanks to which the Imia Crisis was defused and war was prevented. Unfortunately, in spite of membership in both the EU and the WEU, Greece did not succeed in getting either of these organizations to guarantee its borders against external threat. Greece only got European Parliament's declaration to that effect and nothing more.

Finally, Van Coufoudakis concludes the debate by examining the implications of American involvement in the deteriorating Greco-Turkish relations. In this light, he attributes the Aegean crisis to Turkey's overall policy in taking advantage of the unsettled international environment of the post cold-war era in order to promote its revisionist policies in the Balkans, the Middle East and Central Asia. By encouraging the dangerous ambitions of its ally in that unstable region, the US must accept part of the blame for the ensuing crisis, and hence the responsibility to contain it. In response to such US initiatives, Greece can best protect its national interests by pursuing realistic, consistent and credible policies.

At this point, it is worth citing the author directly: "What this paper has argued is that American policies have contributed to the inflation of Turkey's ego and self-importance and, thus, to Turkey's revisionism in the Aegean and Cyprus both before and after the Cold War. America's assumptions about Turkey have remained relatively constant since the end of World War II. This is why Athens and Nicosia ought to be realistic about forthcoming American initiatives in the region. Athens and Nicosia can protect their fundamental interests in the post-cold war environment by pursuing realistic, consistent and credible policies. These policies ought to place their national interests above party and personal interests and build on the strengths both countries bring to the post-cold war international environment."

Although no miraculous answer is given, the articles in this issue may provide new insight into the Aegean and highlight the vital need for a resolution of differences between Greece and Turkey.

NOTES

1. Niels KADRITZKE, "Athènes et Ankara se disputent la mer Égée", *Le Monde Diplomatique*, Octobre 1996
2. Semih VANER, *Le différend gréco-turc*, Paris, Editions L'Harmattan, 1986, Introduction, p.15.
3. *Ibid.*, p. 15.
4. Theodoros KATSOUFROS, Les différends gréco-turcs en mer Égée, in Semih VANER (sous la direction), *op. cit.*, p.74.
5. Niels KADRITZKE, *op. cit.*, p. 14.
6. Antony EDEN, *Full Circle*, London: Cassel, 1960, p.400; Tozun BAHCHELI, *Greek Turkish Relations since 1955*, Westview Press, Boulder, San Francisco & London, 1990, p.37.
7. See article of Van COUFOUDAKIS.

Le différend gréco-turc en mer Égée

Stephanos Constantinides*

Paris Arnopoulos**

La mer Égée est de nouveau devenue un dossier chaud depuis la crise d'Imia en janvier 1996. En effet, la Turquie en plus d'attribuer —à la fin mai 1996 et plus précisément par son délégué à une réunion de l'OTAN— un «statut controversé» à l'île de Gavdos, à 35 kilomètres au sud de la Crète, soulève aussi la question d'une "zone grise" en mer Égée dont la souveraineté est incertaine. Enfin, pièce à ajouter au dossier, en août 1996, "un journal d'Istanbul publiait une étude de l'Académie militaire turque revendiquant près d'une centaine d'îles et d'îlots dans l'ensemble de la mer Égée, y compris la mer de Crète".¹

Le litige en mer Égée porte principalement sur trois questions majeures: délimitation des eaux territoriales, du plateau continental et de l'espace aérien. L'origine du contentieux se situe en 1973 quand, pour la première fois, la Turquie a soulevé la question de la délimitation du plateau continental en mer Égée. L'année suivante (1974), profitant d'un coup d'État organisé par la junte grecque contre le président Makarios, la Turquie envahissait Chypre. Dès lors les relations gréco-turques allaient connaître une détérioration accrue et le différend en mer Égée deviendrait par moments explosif.

En fait, c'est une nouvelle conjoncture—révolution technologique et développement des relations internationales—mettant en valeur «la création de nouvelles zones maritimes relevant des États côtiers» qui a donné à la Turquie, selon le point de vue des analystes grecs, «l'occasion unique de remettre en cause un statut établi depuis 1923» avec le traité de Lauzanne.² Selon ce point de vue, «la Turquie veut affirmer un droit de contrôle sur une région maritime à laquelle elle semblait pourtant avoir renoncé avec le traité de Lausanne» en échange du grand exode de l'hellénisme de l'Asie Mineure qui s'est traduit par plus d'un million et demi de réfugiés grecs qui se sont établis en Grèce. C'est donc «dans ce contexte [(que)] la Grèce n'entend que faire respecter le statut que lui valent l'histoire, la géographie et le droit en mer Égée».³

Du côté turc, «l'origine du contentieux en mer Égée est à rechercher dans la question du partage des îles, posée en 1830 dès l'indépendance de la Grèce».⁴ On semble considérer que des conjonctures défavorables à la Turquie ont permis à la Grèce de faire passer les îles égéennes sous sa juridiction. On considère même

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qu'«au lendemain de la guerre (la Seconde Guerre mondiale), la menace soviétique est telle qu'Ankara, soucieuse avant tout d'obtenir la protection occidentale, préfère ne pas soulever d'objection à la cession du Dodécanèse à la Grèce». ⁵ En pratique, cependant, on reconnaît que:

Ce n'est qu'au cours des quinze dernières années, dans la foulée de l'aggravation de la crise chypriote, que le statut de la zone égéenne revient à l'ordre du jour sous l'effet tant d'une transformation du droit international classique de la mer que de la militarisation des îles et les problèmes de l'espace aérien. ⁶

Si on se fie à des analystes tiers, on pourrait parler d'une «stratégie plus large» du côté de la Turquie. Ainsi «les Turcs, chercheraient à multiplier les litiges pour arracher une négociation bilatérale sur le problème de la mer Égée dans sa totalité». Et de citer à cet effet la déclaration de la Première ministre d'alors, Mme Tansu Ciller après la crise d'Imia, qui avait affirmé: «La mer Égée tout entière doit faire l'objet de négociations gréco-turques». ⁷

Il n'y a pas de doute que les relations gréco-turques sont influencées par une série de facteurs tels la géographie, l'histoire, la culture, la religion etc. Aussi contradictoire que cela puisse paraître, il s'agit de facteurs qui rapprochent et en même temps divisent les deux peuples. Néanmoins, après le traité de Lauzanne de 1923, Venizelos et Atatürk, leaders respectifs de la Grèce et de la Turquie, ont fait des efforts louables pour rapprocher les deux nations. Pendant les années 30, ce rapprochement s'est concrétisé par des accords de coopération sur le plan politique, économique et de la sécurité.

Du côté grec, on reproche aux successeurs de Kemal Atatürk d'avoir abandonné sa politique non-expansionniste avec comme résultat de chercher à renverser le statu quo établi par le traité de Lausanne. On signale d'ailleurs que les problèmes majeurs qui séparent les deux pays aujourd'hui ont été soulevés par la Turquie dans un temps record, par une politique agressive et expansionniste. ⁸ Du côté turc, on considère que le climat de coopération créé par Venizelos et Atatürk durant les années trente s'est évaporé après que la question chypriote ait pris le devant en 1954-1955. ⁹ Pourtant, du côté grec, on fait remarquer que la Turquie a soulevé la question de la mer Égée pour la première fois seulement en 1973.

Il ne faudrait pas non plus sous-estimer le rôle des Britanniques et des Américains dans la détérioration des relations entre les deux pays. Dans le cas de Chypre, c'est le Premier ministre britannique Antony Eden lui-même qui avoue, dans ses mémoires, avoir encouragé la Turquie à s'opposer aux aspirations nationales des Chypriotes ¹⁰, et à mettre l'accent sur ses différences avec la Grèce qui, selon le commentaire d'un universitaire turc, «was a blatant case of divide and rule». ¹¹

Quant aux Américains, ils n'ont jamais caché que leur politique dans le conflit gréco-turc tenait compte de leurs intérêts stratégiques. Et il est bien connu, la position américaine, accorde une plus grande importance stratégique à la Turquie qu'à la Grèce, ce que d'autres contestent soulignant que ce pays n'a jamais été un allié sûr.¹²

Les deux parties ont aussi des positions opposées sur la procédure à suivre pour résoudre leurs différends. La Grèce privilégie la voie du droit, persuadée que sa position est solide du point de vue du droit international. Pour cette raison, elle voudrait voir la Cour internationale de justice de La Haye trancher le différend, ce que la Turquie rejette en arguant qu'au delà du droit, le problème de la mer Égée possède des aspects politiques, économiques et stratégiques. En conséquence, la Turquie privilégie la négociation et espère ainsi forcer la Grèce à des concessions qu'elle n'obtiendrait pas par la voie légale.

Dans ce contexte, l'escalade de la tension—stratégie privilégiée par la Turquie—ne peut que la favoriser en créant l'impression qu'effectivement il y a des points à négocier. La stratégie grecque consiste à rappeler que le statu quo en mer Égée résulte des traités internationaux et que par conséquent, si la Turquie le conteste, elle n'a qu'à s'adresser au tribunal international.

Entretemps, les deux pays s'arment lourdement au dépens de leur développement économique et du bien-être de leurs populations. Cependant, le risque d'une confrontation militaire nuit beaucoup plus à la Grèce et à ses efforts de se rapprocher sur le plan économique de ses partenaires européens. A cela s'ajoute une autre faiblesse grecque: son potentiel démographique limité par rapport à celui de la Turquie. Au contraire, celle-ci semble s'accomoder avec la situation actuelle et semble même en tirer profit. Il est évident cependant que l'on joue avec le feu et qu'à long terme les conséquences pourraient être désastreuses pour les deux pays.

Dans cette édition d'*Études helléniques/Hellenic Studies* un nombre considérable d'universitaires, spécialistes dans divers domaines, tentent chacun d'éclairer le conflit actuel de son point de vue.

Thanos Veremis suit l'évolution du conflit de près et note que l'«invasion de Chypre a ouvert la boîte de Pandore en mer Égée». Trois issues majeures ont fait leur apparition: la question du plateau continental, le contrôle de la circulation aérienne et la responsabilité opérationnelle pour la mer Égée et son espace aérien dans le cadre de l'OTAN.

Après avoir suivi l'évolution historique du différend Égéen, Veremis considère «qu'à long terme le conflit dépendra de l'antagonisme turco-russe et de l'évolution des relations de la Russie avec l'Ouest». En ce qui concerne la position de

l'Ouest, il mentionne qu'«après chaque incident les États-Unis pressent la Grèce d'accepter des négociations bilatérales» et conclut: «Étant donné l'importance que les États-Unis accordent à leurs relations avec la Turquie, le bail d'avions-ravitailleurs permettant le ravitaillement constant des avions turcs en vol et la vente des ATACMs, les officiels grecs voient la médiation américaine avec beaucoup d'inquiétude». Par ailleurs, Veremis signale le manque de sensibilité des alliés européens de la Grèce—se référant à Imia comme un simple rocher—et le fait qu'elle «doit encore argumenter qu'il n'y a pas de différence quand il est question de souveraineté entre la place Syntagma au centre d'Athènes et un îlot perdu en mer Égée».

Athanassios Platias examine les problèmes de la stratégie grecque de dissuasion face à l'expansionnisme turc. Son analyse réaliste et bien documentée est conclue par un appel à la vigilance du côté grec pour permettre au pays de présenter une dissuasion crédible face à la Turquie. L'auteur examine la question de la dissuasion pour un petit pays, la Grèce. En analysant les facteurs de dissuasion externes—résultat des alliances—et internes—mobilisation des ressources propres d'un pays—Platias remarque que le second «est une façon d'augmenter le coût d'une agression par un ennemi. Élaborant sur la sécurité des petits pays, Platias en arrive à la conclusion: «En définitive, la nature anarchique du système international crée un sérieux problème de sécurité pour tous les États et en particulier ceux dont les capacités sont limitées. Néanmoins, même dans des situations de confrontation asymétriques les petits États peuvent avoir une dissuasion crédible s'ils adoptent un certain nombre de stratégies.» Le succès ou l'échec des stratégies nationales de sécurité dépend donc de la manière dont elles sont adoptées. «Choisir une combinaison intelligente de stratégies mixtes, adaptée à des conditions et des circonstances uniques, est la clef du succès pour des petits pays comme la Grèce».

Dans un article détaillé et bien documenté, Yuksel Inan et Sertaç Baseren traitent la question de la délimitation de la mer territoriale et celle d'Imia. L'examen de ces questions se fait à partir des considérations légales et historiques. Les revendications de la Turquie sont situées dans un contexte de «circonstances spéciales» qui, selon les auteurs, sont spécifiques à la mer Égée.

Les auteurs présentent le point de vue de la Turquie comme coïncidant avec celui de la communauté internationale. Ainsi, ils notent que «si la Grèce élargit sa mer territoriale, la situation en mer Égée va changer à l'avantage de la Grèce et va désavantager la Turquie et la communauté internationale».

Inan et Baseren justifient la menace turque de guerre —«la Turquie a proclamé que toute extension de la mer territoriale du côté grec sera considérée comme un *casus belli*»— «à cause d'une situation vitale [en mer Égée] qui limite [en cas d'extension] de façon absolue les droits et les libertés des États et crée des abus de droits».

Les auteurs concluent leur article en considérant toujours qu'il y a coïncidence des intérêts de la Turquie avec ceux de la communauté internationale: «Nous et la communauté internationale espérons que la Grèce respectera ses obligations internationales dérivant du droit international et de ses engagements et qu'elle n'étendra pas sa mer territoriale et ne fermera pas l'Égée, privant la communauté internationale de ses libertés».

La question de la mer territoriale est développée par Haritini Dipla du point de vue du droit international, des conventions internationales (1958, 1982) et de la pratique internationale en la matière. Dipla, dans un article bien étoffé, soutient que la Grèce serait en conformité autant avec le droit international coutumier qu'avec la Convention de 1982 si elle décidait d'élargir sa mer territoriale à 12 milles. Notant que «la position de la Turquie face à la règle des 12 milles n'est pas aussi constante que prétend cet État» (la Turquie a elle-même adopté la limite des 12 milles pour sa mer territoriale dans la mer Noire et la Méditerranée et elle a admis en 1956 que «la limite des 12 milles est déjà suffisamment acceptée en pratique pour être considérée comme une règle de droit international»), elle signale que «c'est seulement à partir des années 1970 et pendant la négociation qui s'est déroulée au sein de la Troisième Conférence qu'elle a commencé à contester la valeur coutumière de la règle des 12 milles». Réfutant la position turque des «circonstances spéciales» pour ce qui est de la mer Égée, Dipla signale que l'article 3 de la Convention (1982), qui règle la délimitation de la mer territoriale vers le large reflétant le droit coutumier, est d'une applicabilité générale et ne contient pas d'exception à l'application de la règle des 12 milles».

L'auteur constate que la Grèce, tout en ayant le droit international de son côté, a été «piégée dans une politique qui se définit par rapport aux actions et aux réactions de la Turquie» et «n'a su... saisir l'occasion qui lui était offerte par le nouveau droit de la mer» pour élargir sa mer territoriale. «Enfin, conclut l'auteur, à côté de la solution maximaliste de l'élargissement à 12 milles, une autre solution plus modérée consisterait à un élargissement à dix milles marins en mer Égée, ce qui y laisserait des portions supplémentaires de haute mer, tout en permettant d'harmoniser la largeur de l'espace aérien avec celui des eaux de la mer territoriale grecque».

La question du plateau continental est examinée par Aslan Gündüz dans un long article du point de vue légal, historique et géographique. D'après lui, les îles en mer Égée constituent des «circonstances spéciales» et par conséquent, on ne peut pas appliquer la méthode d'equidistance pour délimiter le plateau continental Égéen.

Faisant évoluer son argumentation dans la même direction, Gündüz présente le point de vue turc en faveur de négociations politiques au lieu d'une solution de nature légale. Il soutient que «des négociations sérieuses et significatives pour la délimitation du plateau continental constituent une obligation découlant du droit international et politiquement sage».

La solution négociée est aussi préférable parce que «le droit qui prévaut de délimitation n'est pas concluant». Même s'il considère que «la jurisprudence, la pratique des États et des opinions académiques» ne justifient pas la position grecque, il se réfère aux «caractéristiques géologiques et morphologiques de la mer Égée» et aux circonstances particulières—un des principaux arguments de la Turquie—pour soutenir que les conventions internationales ne sont pas applicables dans le cas du plateau continental Égéen. Il introduit d'ailleurs le principe d'équidistance contenu dans les conventions internationales, ainsi que celui de «proportionnalité», découlant de la jurisprudence, et ajoute que les tribunaux internationaux ont donné, en matière de délimitation, une importance spéciale à la géographie.

Grigoris Tsaltas présente un point de vue opposé à celui de Gündüz. Dans son article sur la question du plateau continental, il présente le cadre juridique du problème depuis la convention de Genève de 1958 jusqu'à celle de Montego Bay en 1982. Il se réfère également à la pratique juridique internationale en matière de plateau continental ainsi qu'à l'aspect géopolitique de la mer Égée. Après de longs développements du point de vue du droit international, Tsaltas conclut:

Le droit international, tel qu'il est développé par la pratique internationale et plus particulièrement, par les accords sur la délimitation du plateau continental ne laisse aucune ambiguïté quant au fait que les îles, comme les autres parties riveraines, ont droit à un plateau continental propre et complet. De même la jurisprudence internationale est d'accord sur ce point.

Et l'auteur d'enchaîner:

Pourtant, au coeur de la crise gréco-turque se trouve la délimitation du différend compte tenu des considérations différentes. Pour la Grèce, il s'agit du respect de ses droits en mer Égée consacrés par les traités internationaux et le droit international. Pour la Turquie, il s'agit de la légitimation générale de revendications non fondées en droit international. D'ailleurs, c'est pourquoi elle refuse d'aller devant la Cour internationale de justice et exige des négociations politiques. Voilà, tout est dit, au moins du point de vue hellénique.

Angelos Yokaris traite le dernier aspect du différend gréco-turc en mer Égée, soit le statut du FIR d'Athènes. Yokaris se réfère à la délimitation du FIR d'Athènes «qui a été déterminée pendant les rencontres régionales de Paris (1952) et de Genève (1958) et qui a été basée aux limites extérieures des eaux territoriales et aux frontières du FIR adjacent (Istanbul et Athènes) de pays voisins. La Turquie a participé à ces rencontres régionales sans réserve. Pendant ces rencontres a été adoptée la carte européenne de navigation aérienne». De plus, Yokaris note que «les recommandations des conférences régionales de 1952 et de 1958 étaient unanimes; en conséquence, il y avait consentement de la Turquie. La frontière du FIR Athènes-Istanbul coïncide avec les frontières maritimes turques

dans la mer Égée comme cela apparaît de façon évidente sur la carte de l'OACI num. 7 et sur la carte internationale officielle turque de navigation aérienne de 1953, publiée à Ankara».

L'Union européenne, «dont la Grèce est membre et à laquelle la Turquie est associée a été, signale Jean Catsiapis, un observateur passif lors du déroulement de la crise d'Imia». L'auteur se réfère à l'intervention des États-Unis qui, à elle seule, a réussi à désamorcer la crise et à éviter un conflit armé entre les deux pays. Ce n'est, observe Jean Catsiapis, «qu'à l'issue de cette crise que les différentes institutions de l'Europe des Quinze ont pris position sur ce différend gréco-turc». L'auteur examine la position de la Commission, celle des États membres de l'Union européenne, la position de la présidence de l'UE, celle du Conseil des affaires générales, et finalement celle du Parlement européen».

Jean Catsiapis signale la position ambiguë de divers organes de l'UE qui ont cherché à ménager la Turquie. La Grèce n'a pas réussi à obtenir une garantie des ses frontières, comme étant celles de l'Union européenne. De toutes les instances européennes, le Parlement «est celui qui s'est rangé le plus ouvertement aux côtés de la Grèce». On souligne, entre autres, dans la résolution du 15 février 1996, «que les frontières de la Grèce constituent également une part des frontières extérieures de l'Union européenne» ce qu'Athènes a vainement essayé d'obtenir de ses associés européens.

Van Coufoudakis conclut le débat en se penchant sur les implications américaines dans le différend gréco-turc. Coufoudakis attribue la crise Égée aux politiques révisionnistes de la Turquie dans les Balkans, le Proche-Orient et l'Asie centrale. En effet, celle-ci tente d'obtenir des avantages d'un environnement instable depuis la fin de la guerre froide. En encourageant les ambitions dangereuses de son allié dans cette région instable, Washington doit donc accepter une partie du blâme pour la crise qui s'ensuit ainsi que la responsabilité de la contenir.

Face à cette politique américaine, Athènes et Nicosie, conclut l'auteur, «peuvent protéger leurs intérêts fondamentaux dans un environnement d'après-Guerre froide en poursuivant des politiques réalistes, consistantes et crédibles».

Les analyses qui ont précédé n'apportent sûrement pas de solution au différend gréco-turc en mer Égée. D'ailleurs, ce n'est pas la tâche du sociologue, du politologue ou du juriste. Néanmoins, elles procurent matière à réflexion, éclairent certains aspects de ce contentieux d'une lumière nouvelle et proposent sans doute quelques itinéraires qui pourraient faciliter un règlement pacifique. Elles montrent l'urgence pour les deux pays de rechercher des solutions pacifiques basées sur les règles du droit international et la pratique qui en découle.

NOTES

1. Niels KADRITZKE, "Athènes et Ankara se disputent la mer Égée", *Le Monde Diplomatique*, Octobre 1996.
2. Theodoros KATSOUFROS, "Les différends gréco-turcs en mer Égée", in Semih VANER (sous la direction). *Le différend gréco-turc*, Paris, Éditions L'Harmattan, 1986, p.74.
3. Ibid, p.74.
4. Semih VANER, "Le différend gréco-turc", *op. cit.*, Introduction, p.15.
5. Ibid, p. 15.
6. Ibid, p. 15.
7. Niels KADRITZKE, "Athènes et Ankara se disputent la mer Égée", *Le Monde Diplomatique*, Octobre 1996, p.14.
8. Alexander PHILON, "Greek-Turkish Relations" in *United States Foreign Policy Regarding Greece, Turkey and Cyprus, The Rule of Law and American Interests*, American Hellenic Institute, Washington, 1989, p1-4.
9. Tozun BACHCHELI, *Greek Turkish Relations since 1955*, Westview Press, Boulder, San Francisco & London, 1990, p.16.
10. Antony EDEN, *Full Circle*, London: Cassel, 1960, p.400.
11. BACHCHELI, *Greek Turkish relations*, *op. cit.*, p.37.
12. Voir par exemple Eugène ROSSIDES, ancien secrétaire adjoint du Département américain du trésor sous l'administration Nixon, "American Foreign policy and the Rule of Law - The Aegean and Cyprus", in *United States Foreign Policy Regarding Greece, Turkey and Cyprus*, *op. cit.*, p. 76 et suiv.

Greek-Turkish Relations

Crisis in the Aegean

Thanos Veremis*

RÉSUMÉ

L'invasion de Chypre a ouvert la boîte de Pandore en mer Égée si bien que des issues contestées ont fait périodiquement surface. Dès lors les choses sont prévisibles: à chaque fois qu'est introduite avec vigueur une nouvelle question à l'ordre du jour du différent gréco-turc, des invitations sont lancées pour des négociations bilatérales. La crise de janvier 1996 autour d'Imia constitue la première revendication de la Turquie d'un territoire grec de la mer Égée. La position grecque selon laquelle cette dispute devrait être référée à la Cour internationale de justice a été contrecarrée par la proposition turque de renvoyer à la Haye tous les litiges, y compris celui de la démilitarisation des îles grecques.**

Le gouvernement de Erbakan a exposé la Turquie aux critiques des Occidentaux. Mais cette conjoncture ne devrait pas diminuer la vigilance grecque en mer Égée.

ABSTRACT

The Cyprus invasion opened the Pandora's box of the Aegean and one after another the contested issues flew out in periodic succession. The pattern has since become predictable: Every so often a new item is forcefully introduced onto the Greek-Turkish agenda by Turkey. Invitations to bilateral negotiations follow. The January 1996 crisis over the Imia rock constitutes Turkey's first claim on Greece's Aegean land territory. Greece's position that the dispute should be referred to the International Court of Justice was countered by a Turkish proposal that all issues, including the demilitarization of the Greek islands, should be taken to the Hague.

The Erbakan government has exposed Turkey to Western criticism, but this situation should not diminish Greek vigilance in the Aegean.

To a great extent the Aegean problems that erupted in the 1970s can be attributed to the waning of the cold war. Although Turkey had demanded the exclusion of the island of Lemnos from NATO exercises as early as 1965, Greece's operational responsibility within the Aegean had not been challenged yet. Such issues as the continental shelf (CS), the Flight Information Region (FIR), and the incompatibility between the ten-mile limit of Greece's air space with the six-mile limit of its territorial waters were raised by Turkey between 1973-74.¹

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**La Grèce considère que le statut juridique de la mer Égée est défini par les conventions internationales. Par conséquent, la seule chose qu'elle considère devoir régler avec la Turquie est la délimitation du plateau continental.

The ambiguity that governed the transition from cold war entrenchment to the relative freedom of movement within the climate of détente, spurred Turkey to pursue a more autonomous policy within NATO. The Middle East crisis of 1967, which increased the value of their country in the American agenda, convinced the Turkish policy-makers that the vulnerable adjacent regions were no longer off limits. Furthermore, the Soviet-American détente minimized the probability of Russian military involvement in regions of high priority for US interests and, therefore, what appeared unthinkable to President Johnson in 1965, was condoned by Foreign Secretary Kissinger in 1974.²

The invasion of Cyprus in 1974 constituted a landmark in Turkish foreign policy because it was the first case of conquest since the Turkish army marched into the Syrian province of Alexandretta (now Hatay) in 1938. In both cases a *fait accompli* was established with little international outcry. The lesson that war can promote foreign policy objectives through other means has thus made a lasting impression on the military and the diplomatic establishments—the two immutable factors in Turkey's policy-making.

As the cold war and its deterrent effect on regional conflict waned, the agenda of Turkish demands on Greece expanded. A sense of self-worth in terms of size, military might and strategic value became the determining factor in Turkey's view of its western neighbour. Even moderate Turkish analysts have not escaped the temptation of using power as the major criterion in resolving Greek-Turkish differences.³

The invasion also opened the Pandora's box of the Aegean and one after another the contested issues flew out in quick succession. Besides the Cyprus issue, three other critical questions gave rise to serious tension between Greece and Turkey: 1) Aegean continental shelf; 2) control of the air traffic over the sea; and 3) allocation of operational responsibility of the Aegean and its air-space within the framework of NATO.⁴

The Continental Shelf

Concerning the first issue, Turkey considered its continental shelf to be an extension of the Asia Minor land mass into the sea to the west of certain Greek islands, to which Turkey denied possession of a continental shelf. It follows that the islanders can only exploit the sea bed of their islands within the territorial sea limit of six miles. Greece, while referring to the Geneva Convention which recognizes the right of islands to a continental shelf, also reserved the right (following general world practice) to extend the Greek territorial sea limit to twelve miles. Such a decision would automatically solve the continental-shelf controversy in Greece's favour. Yet, according to Turkey, this would constitute a *casus*

belli because it would limit Turkish access to international waters. Retreating from an earlier commitment, Turkey insisted that the question of the continental shelf should be solved through political negotiations between the two interested parties, while Greece, although submitting to negotiations, believed that the dispute necessitated a settlement by international legal arbitration.⁵ The advantages of such a solution are obvious. International arbitration would save the politicians of both countries from loss of face; furthermore, a decision made by the International Court of Justice would be easier to accept.

Throughout the summer of 1976 the Turkish ship *Sismik* conducted research in areas of the Aegean shelf appertaining to Greek islands. Because of opposition at home and the danger of an armed confrontation with Turkey, the Greek Government appealed to the UN Security Council and simultaneously sought arbitration unilaterally through the International Court of Justice. The Security Council did not attempt to deal with the substance of the dispute but tried to lessen the tension by asking both sides to abstain from hostile acts. On 11 September 1976 and 19 December 1978 the International Court indicated its inability to come to a decision on the substance of the Greek application.

The 1978 Karamanlis-Ecevit meeting in Montreux diminished tension on this specific issue. Both sides agreed to discuss the problem and to abstain from activities (e.g. magnetometric studies for discovering oil in disputed areas) which would cause friction between them. Although bilateral discussions did not lead to a solution they did at least lessen the possibility of recourse to violence. Turkey continued to reject the median line between the islands and the mainland and insisted on the Turkish formula of equity, but refrained from pressing the argument.

Air Traffic Control

While refusing to accept an extension of Greece's territorial waters, Turkey pointed out that the existing six-mile limit should set the standard for Greek air space, which since 1932 has extended four miles beyond the limit of Greece's territorial sea. Since 1974 Turkey has constantly violated the ten-mile limit of Greek air space with Turkish fighter planes. Turkey has thus embarked on the dangerous practice of unilaterally redefining the Aegean air space. This systematic testing of nerves has repeatedly caused deadly accidents and could lead to general conflagration.

A regional convention of the International Civil Aviation Organization (ICAO) in Paris decided in 1952 that the Aegean controlled air space (except the band of Turkish national air-space off the coast of Asia Minor) should form part of the Athens Flight Information Region (FIR) for air traffic control purposes. All planes flying west (civil or military) were required to file flight plans and to

report positions as they crossed the FIR boundary after leaving the coast of Turkey. Planes coming from the opposite direction were required to report to the control centre in Istanbul as they entered the Turkish FIR. As author Andrew Wilson has pointed out: «To have placed the FIR boundary further to the west would have obliged Greek aircraft to pass through a Turkish zone of control on flights to the Greek islands. To this extent the arrangement was consistent with geography and seems to have worked well for 22 years.»⁶ On 6 August 1974, the Turkish Authorities issued NOTAM 714 (notice to ICAO for transmission to air users) demanding that all aircraft reaching the median line of the Aegean report their flight plan to Istanbul. Greece refused to accept this contravention of ICAO rules and, on 14 August 1974, issued NOTAM 1157 declaring the Aegean area of the Athens FIR dangerous because of the threat of conflicting control orders. All international flights in the Aegean between the two countries were suspended. On 22 February 1980, Turkey withdrew its claim to air-traffic rights in the eastern half of the Aegean, and the air corridors were subsequently reopened.

The NATO Framework

Greece's withdrawal from NATO's military structure after the failure of the western alliance to react to the captivity of northern Cyprus, was more of a trial separation than a divorce as the country remained in the political arm of the Alliance. As early as August 1975, and after the normalization of Greece's return to a democratic regime, Karamanlis' government expressed its willingness to re-enter the military structure of NATO. However reintegration attempts were vetoed by Turkey, which having raised a claim over the reallocation of the Athens FIR, was in effect also demanding a reallocation of the operational control zones of the Aegean air space. According to the pre-1974 arrangements, NATO has ceded the military control over the Aegean air-space (Greek and international sea waters) to Greek command. Any other arrangement would result in placing Greek territories under Turkish protection.

The reintegration of Greece into the military structure of NATO in October 1980 was achieved after Turkey was persuaded to postpone claims on the operational status quo in the Aegean. In his interview with the *Financial Times* (24 February 1982), Andreas Papandreou admitted that, as Turkish pressure had diminished since the advent of military rule in Ankara, Greece could perhaps exchange its right to extend Greek territorial waters for the withdrawal of Turkish objections to the pre-1974 operational responsibilities in the Aegean. Such operational arrangements that exist within the NATO framework, however, are without international legal status, and if Greece had chosen to ignore Turkish demands, Turkey could do nothing to impose its claims, short of war.⁷ All Greek governments have made clear the fact that they can not tolerate arrangements which would affect the air space of the Greek islands.

George Rallis, Greek Foreign Minister at the time, expressed his country's fundamental concern over the Aegean problem in his September 1979 Harvard speech: «Claims that could result in the enslavement of the Greek islands of the Eastern Aegean in a Turkish continental shelf and in a Turkish controlled air-space are obviously unacceptable to Greece, all the more so since such claims have no basis either in international law or in international practice.»⁸

The most persistent Turkish demand in the Aegean is the demilitarization of the Greek islands of Samothrace, Lemnos, Lesvos, Chios, Samos and the Dodecanese. Turkey invokes the relevant provisions of the Lausanne Treaty and Convention (1923) as well as the Paris Treaty (1947); however, Greece argues that Samothrace and Lemnos were relieved of their demilitarized status through the Montreux Convention of 1936 and the other islands were fortified after the establishment of the Turkish Fourth Army based in Izmir. According to US estimates,⁹ the Fourth Army had had a peacetime force of 35,000 combat personnel and is equipped with landing craft and an amphibious capability which is the second largest among NATO members.

In the past Greece has repeatedly cancelled its participation in Aegean NATO exercises, refusing to accept the exclusion of the Lemnos air-field from NATO scenarios. In an attempt to overcome the deadlock, Papandreou attempted another approach by the end of 1984. Greece officially notified the presence of its forces on the island in the Defence Planning Questionnaire (DPQ) and asked that they be placed under NATO command but failed to override Turkey's veto.¹⁰

Throughout the late seventies and early eighties, Turkey pursued an opening towards the Islamic east. The loss of Iran to Western interests is the single most important gain for Turkey, which inherited the entire geostrategic value of its neighbour. The subsequent Iran-Iraq war, increased Turkey's versatility in the region because as a non-Persian and a non-Arab Muslim country, it was able to maintain relations with both adversaries throughout the war. Furthermore the Turkish military took part in the Islamic Summits and established relations with the oil-producing Arabs. Relations with Israel were inversely proportional to Turkey's Arab priorities. The Turkish policy-makers in fact attempted to replace Israel in some of its western functions in the Middle East.

On 27 March 1987, Greece and Turkey came closer to an armed confrontation than they had been in years. The cause of the crisis was Turkey's decision to send a research vessel escorted by warships to explore for oil in the disputed continental shelf around Lesvos, Lemnos and Samothrace.¹¹ This author had been to Turkey a few days before the crisis and realized that the Turks were misreading Papandreou's pronouncement that he would nationalize the North Aegean Petroleum Company (NAPC) consortium prospecting for oil in the

northern continental shelf of Greece. As the late Evangelos Averoff pointed out to this author,¹² Papandreou was clearly trying to prevent NAPC from drilling in a disputed area in order to avoid trouble with Turkey. The crisis was defused after Greece's firm stand, but both sides agreed to abstain from oil exploration in a large part of the Aegean continental shelf.

The question of Turkey's relationship with the West is a recurring theme in Turkish history, especially at times when the Middle Eastern option appeared to recede. Turgut Ozal made his own western preference clear from the outset of his term in power but the end of the Iran-Iraq war, the Soviet withdrawal of Soviet forces from Afghanistan and the declining fortunes of the oil producers, relieved his foreign policy from its eastern distractions and made the European Community a more desirable prospect.

The meeting of Papandreou and Ozal in Davos in February 1988 heralded a brief but significant détente in Greek-Turkish relations. The move elicited relief from the Greek public and was based on a consensus among the Greek political parties. In Turkey its acceptance was less obvious. Ozal's Motherland Party had only secured 35% of the electorate in November 1987 while the position of the other political forces on Davos remained unclear.¹³

There was also confusion between the two sides. Before the meeting, Papandreou had declared his commitment a) to a «compromise» between Greece and Turkey which was the sine qua non for referring the Continental Shelf dispute to the Hague and b) to the withdrawal of the Turkish forces from Cyprus, as preconditions to any progress in Greek-Turkish relations. These, according to Papandreou, were the only two issues he intended to discuss in Davos. Instead he agreed with Ozal to create two committees that would, a) review all pending problems between the two states and b) would deal with questions of cooperation in commerce and tourism.

On the Turkish side, Foreign Minister Mesut Yilmaz, appeared to be in tune with his Ministry's establishment when in the spring of 1988 he reiterated standard Turkish positions on the «Turks» of Greek Thrace and refused to consider a troops withdrawal from Cyprus before the two communities came to an agreement. On the Greek side, there was increased reluctance to discuss issues which threatened the status quo, although they constituted points of friction between the two states and technically belonged to the mandate of the first committee.

After a short interval of improved relations, the credibility gap that plagued Greek-Turkish relations since 1974, began to widen again. In the autumn and winter of that year, the allegations of scandals that paralyzed the PASOK government hampered any initiative to salvage the «spirit of Davos». By 1989, when détente between East and West was in full spring, it was already too late for a revival of the Greek-Turkish rapprochement.

The demise of communism and the unity of the Soviet Union temporarily deprived Turkey of its vital role in the western alliance. The prospect of a withdrawal of US interest brought Europe into Turkish focus. The year 1989 therefore could have been a good one for a genuine Greek-Turkish rapprochement. Turkey was preparing for the final attempt to enter the European Community and Greece was looking for a principled solution to the problems that strained relations with her neighbour and burdened her own ailing economy. Unfortunately the Davos process between the two Prime Ministers—Papandreou and Ozal—came a year too soon and the détente generated by it had expired by the time (20 December 1989) that the Turkish government received a negative reply from the European Commission to its 14 April 1987 application for full membership in the EC. Since further negotiations for entry were deferred, a major incentive for seeking immediate improvement of relations with Greece was removed from Turkish desiderata.

The Gulf crisis, which commenced in the summer of 1990, was yet another turning point in Turkish foreign policy. Between the winter of 1989 and fall of 1990, there was considerable change of attitude on the part of Turgut Ozal, who had already secured his election as President of the Republic through the majority of his Motherland Party in parliament. Whereas in the past Ozal had projected the image of a moderate technocrat, dedicated to his country's European vocation and therefore open to a Greek-Turkish détente, during the Gulf crisis he was transformed into a gambler who pursued opportunity wherever it occurred in order to establish Turkey's role as a peripheral power. At the same time, he continued to give the Islamic element in Turkish society a free hand in areas which had been off limits to fanatical Moslems under the Atatürk tradition. He thus managed to extend his country's influence in Azerbaijan as part of Turkey's old Turanian claims to the inhabitants of Transcaucasia and used this foothold as leverage to extract Soviet compliance on such items as the exclusion of the Southeastern part of Turkey from the CFE disarmament talks in Vienna. Ozal also began to appeal to the Balkan Moslems.

Throughout the Gulf war, Ozal succeeded in becoming a standard bearer for the cause of the alliance against Saddam. Via CNN television broadcasts, he championed western values, lectured on democracy and liberalism and admonished the Germans for their passivity throughout the conflict. This stance won him points with the American administration which were soon turned into economic benefits.¹⁴ Despite Atatürk's policy, Turkey in the post-war period had often vacillated between a Middle-Eastern and a European vocation according to opportunities arising in each instance. Criticized for his departure from neutrality by a small westernized élite, by the military, as well as by fanatical Moslems, Mr. Ozal chose to appeal to his wider public's instincts by promising a windfall of benefits for his contribution to the war effort. He also might have hoped that a disintegration of Iraq would yield the oil-rich province of Mosul to Turkish influence.

Mr. Ozal's image as a dynamic politician with a daring foreign policy has prompted such statements as the one of March 1991 questioning the status of the Greek Dodecanese islands. Mr. Ozal was also quick to embrace the initiative of the UN Secretary General on Cyprus in order to 1) counter the EC Presidency's (Luxembourg) effort at a solution, and 2) provide a justification to members of the State Department and Congress trying to abolish the 7:10 ratio in military aid to Greece and Turkey.¹⁵ After his death it became apparent that Ozal had facilitated a major transformation in Turkish society and politics that would have a profound impact on relations with Greece.

Ozal's successor as Prime Minister (and later as President) Suleyman Demirel, was an old conservative who deplored his predecessor's innovations. His presence in power was conducive to a rapprochement in Greek-Turkish relations. On February 1, 1992, he met with Prime Minister Constantine Mitsotakis in Davos. Their joint communiqué stated that they had agreed to prepare a «friendship, good-neighborliness, cooperation treaty» and pledged support for UN efforts in Cyprus. Although Mitsotakis was criticized at home for not insisting that a Cyprus settlement was the precondition to improved relations with Turkey, he insisted that bilateral disputes and a solution of the Cyprus problem must follow separate, but parallel paths. The friendship treaty however did not materialize. Demirel's moderating influence did not alter the predicament of his successors who were absorbed by Turkey's internal metamorphosis. Transition, from the Atatürk legacy into an era of Islamic influence became the main challenge for the new generation of center-right politicians.¹⁶ Ms Ciller and Mr. Yilmaz were too preoccupied with domestic developments to bother with striking an improved relationship with Greece. Ciller in fact encouraged and exploited a strain in relations as a diversion to her own insoluble problems at home.

In March 1995, Greece raised its objections to Turkey's entry into the EU Customs Union agreement, with the understanding that the application of Cyprus for membership would be discussed after the Intergovernmental meeting of 1996. Greece's move, although celebrated in Turkey, elicited no positive response from Ms Ciller's government towards Greece. A series of incidents between the two states that began in 1994, over the twelve-mile issue, reached their high point on 8 June 1995, when the Turkish parliament granted the government license to take whatever action it deemed necessary (including military) if Greece exercised its right, foreseen by the International Law of the Sea Convention, to extend its territorial waters. Although such a decision had not been made, Greece refused to give up a potentially important bargaining chip by relinquishing its right to extend its territorial waters.

When a Turkish vessel ran into a reef near the islet of Imia on 26 December 1995, and refused to be tugged by Greek boats insisting that this was Turkish territory, the Mayor of nearby Kalymnos decided to plant a Greek flag on the

islet. The flag was subsequently removed by a team of *Hurriyet* journalists in January 1996, and a Turkish flag was hoisted on the barren islet. Greek soldiers replaced the Greek flag and the incident was deemed as innocuous by the Foreign Minister Theodore Pangalos until Prime Minister Tansu Ciller herself laid an official claim on Imia. This was the beginning of an escalation that added another yet negative item to the already burdened agenda of Greek-Turkish relations. Was the Turkish move designed to bring the Greeks to the negotiating table over all the Aegean claims raised by Turkey, or an opportunity to allow Ms Ciller a way out of her political impasse? Since 1994, «*casus belli*» threats became the Turkish Prime Minister's favourite expression when addressing relations with Greece. During the Imia crisis the number of disputed islets and islands increased in Ms Ciller's estimates, from under one hundred, to three thousand and became yet another *casus belli*.

The problems over the Imia issue continue to surface.¹⁷ This is the first occasion that Turkey has laid claims on Greece's land territory and has chosen to do so within the Dodecanese islands whose regime has been described in the 1932 treaty between Italy and Turkey. The sea border agreed upon was a continuous median line from north to south, between the islands and the coast of Turkey. After the Dodecanese were ceded to Greece, the latter, as the successor state inherited the regime of 1932.

The pattern has become predictable. Every so many years since 1973, a new item is forcefully introduced into the Greek-Turkish agenda, followed by invitations to bilateral negotiations. In 1973 Turkey refused to accept that Greek islands are entitled to a continental shelf. In 1974 the territorial integrity of Cyprus was violated and the island was divided in two. The same year, the Turkish aviation authorities challenged the 1952 ICAO decision, according to which, for air-traffic control purposes, most of the Aegean airspace was considered part of the Athens Flight Information Region (FIR). At the same time, the violation of Greece's ten-mile air space (established in 1931) began in earnest by Turkish aircraft and this practice continues to this day. Fighters traversing Greek islands off the coast of Turkey has become a routine. In 1978 Turkey refused to abide by the 1964 NATO decision that the operational responsibility of most Aegean air-space was assigned to Greece. Far from considering the Aegean a Greek sea (since much of it consists of international waters and air-space) the above arrangements were based on the rationale that between Greece and Turkey flights had to go over the Greek islands. In March 1991, none other than Turgut Ozal began to question past treaties and expressed his regret that President Ismet Inonu had not been forceful enough in denying Greece possession of the Dodecanese islands in 1947.

Questions and objections concerning the regime of the islets can only be brought to the International Court of Justice, since this is obviously a legal question. If Turkey would agree to submit the issue to the Court, the Greek government has stated its willingness to take part actively in the procedure. However, Turkey's refusal to accept international litigation on one issue is not new. In 1976, Greece applied to the International Court of Justice over the question of the Continental Shelf, but Turkey insisted on bilateral negotiations. The bilateral talks held between 1976-1981 failed to produce a tangible result. It was Greece's view then and now that international legal processes will preclude confrontational attitudes and will spare politicians on both sides from going back on their word.

According to Greek perceptions, Turkey is forever burdening the agenda with new claims so that if bilateral negotiations occur it will be only on Turkish demands. Of course this strategy precludes any credible discussion and inches towards armed conflict with each passing incident. The most recent, following the Imia crisis, was centered on the inhabited Greek island of Gavdos. During the planning of NATO exercise «DYNAMIC MIX 1996» in Naples (Italy) to take place in the area of Crete, the representative of the Turkish General Staff submitted a statement (dated May 30, 1996), according to which Turkey opposed the inclusion of the Greek island of Gavdos (situated Southwest of Crete) in the exercise «due to its disputed status of property». The Turkish Representative also suggested that NATO officials should refrain from becoming involved in what he termed a Greek-Turkish dispute. The claim was endorsed in the following days by senior officials of the Turkish Government and Prime Minister Yilmaz himself. Seventy three years after the signing of the Lausanne Peace Treaty, Mr. Yilmaz referred to unspecified islets of the Aegean and questioned Greece's sovereignty over the island of Gavdos, the legal status of which was defined in 1913, by the Treaty of London. According to that document, Turkey renounced all sovereign rights over Crete (and Gavdos in this respect), with article 4 of the London Peace Treaty. As far as the Aegean Sea is concerned, the Treaty of Lausanne stipulates that Turkish sovereignty extends only to those islands that lie within 3 miles from the Turkish coast as well as on Imbros, Bozcaada and the Rabbit Islands. By signing the same Treaty, Turkey renounced all rights and titles over all territories and islands beyond the three-mile limit.

On August 7, 1996, the Turkish daily *Cumhuriyet*, printed excerpts of a Turkish academy report, according to which any Aegean island under six miles from the Turkish coast «by law belongs to Turkey, a successor of the Ottoman empire» and «Turkey still retains sovereignty over the islands which were not given to Greece under article 12 of the 1923 Lausanne Treaty.»¹⁸ Greece is accused of allegedly «claiming all of the Aegean islands that are not mentioned in

the Treaty and the 1947 Treaty of Paris», which decided on the sovereignty over the Dodecanese islands. Although the content of the academy report (most probably addressed to cadets and officers) has been neither affirmed nor refuted by the government, it appears to reflect accurately a sense of disappointment from international reaction to the Imia incident. According to the same report, «Greece has succeeded in disputing the Turkish sovereignty over Kardak (Imia) which is Turkish territory according to international law. Turkey must persuade Greece to sit at the negotiating table about the status in the Aegean.»¹⁹

After the Erbakan-Ciller government of July 1996 was formed, widespread criticism against various aspects of Turkish policy, previously downplayed by the western media, was finally unleashed. Jim Hoagland of the *Washington Post* turned his guns against Ciller for striking a «cynical» deal to save her skin and because it was during her term in power that Erbakan's Welfare party went from 7 percent of the national vote to 21 percent. «Ciller never attempted to gain control over the Turkish military, still a dominant force in the country's politics. The military has in fact been throwing its weight around in this time of domestic uncertainty, stoking the fires of nationalism by aggressively courting confrontation with Greece and smacking around Turkey's own citizens and guerrillas in Iraq and Iran.»²⁰

Western coverage of the murder of two Greek Cypriots at the hands of Turkish soldiers and «Grey-Wolf» paramilitary groups in mid-August of the same year also constitutes a departure from the relative apathy of the Western media to similar phenomena in the past. No doubt Erbakan's decision to visit Iran in the midst of President Clinton's advisory to US allies that they should abstain from relations with the maverick state added fuel to the fire. It is true that American policymakers agree on at least three issues concerning US-Turkish relations: «defending Muslim Bosnia, whose army is to be supplied and trained by Turkey, among others; building a bridge between the West and the Caucasian and Central Asian republics; and containing any Russian push toward the strategically important waters of the Mediterranean.»²¹ Ultimately the course of US-Russian relations will also determine the future of Turkey in western strategic evaluations. The advent of the Islamists in Turkish politics has granted Greece a brief respite in the Aegean, in the sense that Mr. Erbakan will surely attract more western invective should he decide to continue his predecessors' Aegean policy. In the long-run, however, the future of the Aegean will depend on the larger Russo-Turkish antagonism and even more so on Russia's relations with the West.

In the meantime, Greek vigilance must focus on the protection of the Greek islands off the Turkish coasts. In an August 1996 article of *Air Force Monthly*, three options of a Turkish attack on Greek territory were aired: «The first would be to occupy some of the inhabited Greek islands close to mainland Turkey.

Kastelorizo, the most easterly of the Dodecanese chain and barely two miles (3 km) from the Turkish mainland, is an obvious choice, but seems hardly worth the effort. The much larger islands of Lesbos, Chios and Samos would give much greater long-term strategic gains by opening up a far larger portion of the Aegean.»²² The second Turkish option, according to the author of the article «would be a limited offensive in mainland Thrace. While this seems unlikely, the fact is that both countries are better equipped to fight a series of massive land battles than anything else.»²³ The third option, «which would hurt Greece badly, would be the conquest of the remainder of Cyprus ... (however) should Turkey seek to occupy the whole island, it would be faced with a hostile population and an extremely active resistance movement. The game is simply not worth the candle.»²⁴ In conclusion, the same author does not exclude an attack on a couple of the larger Greek islands which «might well prove to be a useful bargaining counter for the future, if they can be taken at a reasonable price».²⁵ What not too long ago appeared to western commentators as Greek paranoia is now being discussed in earnest.

Greece's position that the «Imia» dispute should be referred to the International Court of Justice, was countered by the then Turkish Prime Minister, Mesut Yilmaz proposal that all issues, including the demilitarization of the Aegean islands, be taken to the Hague. To exchange successful litigation over the ownership of a rock for the demilitarization of Chios, Lesbos and Samos, would certainly constitute a disaster of the first order for Greek security. As Costas Melakopides suggests, Greece must point out that Turkey could not be threatened by the militarization of the islands unless the Turkish military can prove «that in spite of its military superiority over Greece, (Turkey) is threatened...»²⁶

At the end of every incident, the US urges Greece to accept bilateral negotiations over Aegean questions with Turkey. Given the declared importance which the US attaches to its own relations with Turkey, the leasing of flight refuelling tankers that allow constant refuelling of Turkish planes in the air, and the sale of ATACMs, Greek officials view American mediation with great concern. At the same time the EU partners of Greece have made few efforts to mediate and, in fact, some British TV stations asked this author if fighting over a rock in the Aegean made any sense. Images of the armada sailing across the globe to affirm British rights in the Falklands, and the solidarity displayed then towards a fellow member by all Community states, immediately spring to mind. Yet Greece must still point out to fellow EU states that it is impossible to discriminate over sovereignty, whether in Athens' Syntagma Square or a barren Aegean islet.

NOTES

1. For a full discussion of the legal problems in the Aegean, see Christos ROZAKIS, «An Analysis of the Legal Problems in Greek-Turkish Relations 1973-88» *Yearbook* 1989, ELIAMEP, 1988, pp. 193-251.
2. Van COUFOUDAKIS, «Turkey and the United States: The Problems and Prospects of a Post-War Alliance», *Journal of Political and Military Sociology*, Vol. 9, No. 2, Fall 1981, pp. 179-194.
3. Tozun BAHCHELI, *Greek-Turkish Relations Since 1955*, Boulder: Westview Press, 1990, p. 193.
4. Andrew Wilson, *The Aegean Dispute*, *ADELPHI Papers*, No. 155, London, IISS, Winter 1979/80.
5. See joint Brussels Communiqué of 31 May 1975 to resolve problems peacefully «by means of negotiations and as regards the continental shelf (through) the International Court». In February 1976 Turkey rejected a Greek proposal for a non-recourse-to-force pact.
6. Wilson, *op. cit.*, p. 6.
7. Christos ROZAKIS «Dyo yposimioseis sti sizitisi yia epanentaxi», *Ikonomia kai Kinonia*, No. 15, December 1980, pp. 42-3.
8. The speech was circulated by Greek Ministry of Foreign Affairs, in 1979 with no other indication.
9. US Senate, *Turkey, Greece and NATO: The Strained Alliance*, Washington DC: US Government printing office, 1980, p. 57.
10. T. VEREMIS, «Greece and NATO: Continuity and Change» in John Chipman (ed) *NATO's Southern Allies: Internal and External Challenges*, London: Routledge, 1988, p. 270.
11. *New York Times*, 28 March 1987.
12. Interview with Evangelos Averoff in his home in Kifissia, 1 March 1987.
13. P. Loukakos, «Sti gonia I kikloi tou poleμου», *Eleftherotypia*, 1 February 1988.
14. «Since the beginning of this crisis Turkey has received grants and low interest loans totalling \$ 1.9 billion and modern weapons and equipment totalling some \$ 8-9 billion». In addition to the \$ 553.4 million budgeted for this, Turkey is to receive an additional 4x82 million in US aid. James BROWN, «Turkey and the Persian Gulf Crisis», *Mediterranean Quarterly*, Vol. 2, No. 2, Spring 1991, p. 48.

15. As Bruce Kuniholm put it, «the high proportion of grant assistance to Turkey (as distinguished from concessional loans to Greece) essentially cancelled any semblance of the seven-to-ten ratio» «Turkey and the West», *Foreign Affairs*, Spring 1991, p. 38.

16. For Turkey's ideological crisis and its implications on relations with the West see, Shireen T. HUNTER, *Turkey at the Crossroads: Islamic Past or European Future*, Brussels: CEPS Paper, No. 63, 1995.

17. The Citizens' Movement & ELIAMEP, *Borders Sovereignty and Stability*, New York: Melissa Media Associates, 1996. See also Ekavi ATHANASOPOULOU, «Greece, Turkey, Europe: Constantinos Simitis in Premiership Waters», *Mediterranean Politics*, Vol. 1, No. 1 (Summer 1996), p. 113-117.

18. *Athens News*, 8 August 1996.

19. *Ibid.*

20. Jim Hoagland, *Washington Post*, 11 July 1996, p. A25. Having admonished the Clinton administration for pretending «that instability is not stalking this vital country» he concludes that «The Turks cannot be allowed to think their cynical machinations go unnoticed and uncensured». The 16 August 1996, *Wall Street Journal* «Get Serious about Turkey» makes no bones about its author's view of democracy: «While the West waits for the seemingly inevitable collapse of this government (Erbakan's), its strategy should be to reaffirm its commitment to a Western-oriented Turkey without conferring undue legitimacy on its titular head. That includes affirming in every way possible to Western commitment to Turkey's military, which strongly values its relationship to NATO».

21. Eric Rouleau, «Turkey Beyond Atatürk», *Foreign Policy*, Summer 1996, p. 84.

22. Mike Spick, «Aegean Crossroads». *Air Force Monthly*, August 1996, p. 42.

23. *Ibid.*, p. 43.

24. *Ibid.*

25. *Ibid.*

26. Costas MELAKOPIDES, «Making Peace in Cyprus. Time for a Comprehensive Initiative», *Martello Papers*, no. 15, Centre for International Relations, Queen's College, Kingston, Ontario, 1996, p. 85. The author draws attention to the importance of the «Moral Dimension» of the Cyprus issue and counters the school of realism with principled argumentation.

Greek Deterrence Strategy

Athanassios G. Platias*

RÉSUMÉ

L'objectif principal de cet article est de présenter un profil de la pensée stratégique grecque actuelle. Une compréhension de la pensée stratégique grecque permettra d'expliquer le comportement stratégique de la Grèce en période de paix, de crise ou de guerre.

L'article fait le point sur la menace principale telle que perçue par les décideurs grecs, notamment la menace provenant de la Turquie. La pensée stratégique grecque inclut une vision intensive et extensive de cette menace. Basée sur cette perception, la Grèce a adopté une stratégie incluant un nombre d'éléments importants tels: la dissuasion, la dissuasion extensive, la réassurance, la crise, la stabilité, le contrôle des armes et alliances.

Finalement, cet article tente de démontrer comment les décideurs grecs s'efforcent de créer une stratégie de dissuasion crédible et stable.

ABSTRACT

The main objective of the following article is to present a profile of current Greek strategic thinking. An understanding of Greek strategic thinking may help explain Greek strategic behaviour in peace, crisis and war.

This article deals with the main threat perceived by Greek policy-makers; in other words, the threat from Turkey. Greek strategic thinking includes an intensive and extensive view of this Turkish threat. Given this perception, Greece has adopted a strategy which combines a number of important elements; for example, deterrence, extended deterrence, reassurance, crisis, stability, arms control and alliances.

Lastly, this article seeks to demonstrate how the Greek policy attempts to design a deterrence strategy that is both stable and credible.

The main objective of this article is to present a profile of current Greek strategic thinking.¹ This article attempts to capture what Greek officials and analysts seem to believe about their security problems and about the role of military power in managing their security problems. An understanding of Greek strategic thinking can help explain the strategic behaviour of the country in peace, crisis and war.

«Military strategy» has traditionally referred to the planning and employment of military resources to win major campaigns against a foe or to achieve victory in war itself.² The traditional emphasis in military victory is today insufficient.

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Military strategy should be viewed not only as a narrow guide to combat activities but as a guide to achieve security objectives in a broader sense.³ As Basil Liddell Hart has noted, «it is essential to conduct war with constant regard to the peace you desire. This is the truth underlying Clausewitz definition of war as “a continuation of policy by other means”—the prolongation of that policy through the war into the subsequent peace must always be borne in mind.»⁴ It follows that deterrence; i.e., the prevention of war, is directly related to military strategy.

Deterrence consists of an effort by one actor to persuade an opponent not to take action against his interests by convincing the opponent that the costs and risks of doing so will outweigh the benefits he hopes to secure.⁵ Under certain conditions, the mounting of permanently mobilized conventional forces in peacetime could deter attack by even a stronger enemy power (viz. asymmetrical conventional deterrence).⁶ This insight has influenced Greek strategic thinking.

Military strategy is, of course, a component of «grand strategy». Grand strategy represents a still more inclusive notion that incorporates economic, psychological, demographic and other factors upon which security is based in various ways.⁷ Thus, «grand strategy considers all the resources (domestic and international) at the disposal of a nation (not just military ones), and it attempts to array them effectively to achieve security in both peace and war».⁸ This article is not concerned with «grand strategy» but more narrowly with military strategy and its connection with political objectives such as deterrence.

A military strategy must identify threats and devise remedies for those threats. In this article we will first examine the Greek perceptions of threat and the asymmetries that magnify these perceptions. We will then discuss the remedies that Greece has devised to respond to the perceived threats (viz. strategy of deterrence).

Since military strategies often develop in haphazard ways and are not fully fleshed out right from the beginning, they need to be inferred from a variety of sources. To develop this profile we have relied on four types of sources: first, official declarations, speeches and documents; second, studies on Greek defense policy written by civilian and military analysts and decision-makers; third, study of the diplomatic and military practice (especially in crisis); and fourth, from the examination of the evolution of the force posture of the Greek armed forces. While discrepancies between military strategy and force posture are possible, some permanent features can provide insight into Greek strategic thinking.

Last, a word of caution is in order. For the purposes of presentation, we may have imposed more coherence on Greek strategy than is actually the case. Yet, there is a remarkable degree of continuity in Greek military strategy since 1974.⁹ Discussion of these elements of continuity is particularly useful in understanding Greek strategic thinking.

This article is divided into two parts. The first part deals with the threat perceived by the Greek policy-makers, in other words, the threat from Turkey. The second part discusses the strategy that Greece has devised to deal with the Turkish threat.

I. Threat Analysis

1. Regional Instability

The collapse of the Soviet Empire and the end of the Cold War have been heralded as a harbinger for improved stability and peace throughout the world. A well-quoted article by Francis Fukuyama has announced the «end of history» and the victory of the peaceful virtues of liberal democracies.¹⁰ Others have argued that war has become obsolete.¹¹

Yet, the breakdown of the post-World War II bipolar system has actually increased instability. The erosion of the bipolar order has generated suitable conditions for the emergence of nationalism. Moreover, there is no evidence of decline in the use of force in the international system. Indeed, armed conflicts have increased in some areas; i.e., the Gulf War, the Balkan war and the war in Central Asia/Caucasus.¹² In fact, Greece and its rival Turkey are both located in the centre of what became the post Cold War triangle of instability: the Middle East, Balkans, and Central Asia.

2. Challenge from the Dominant Regional Power

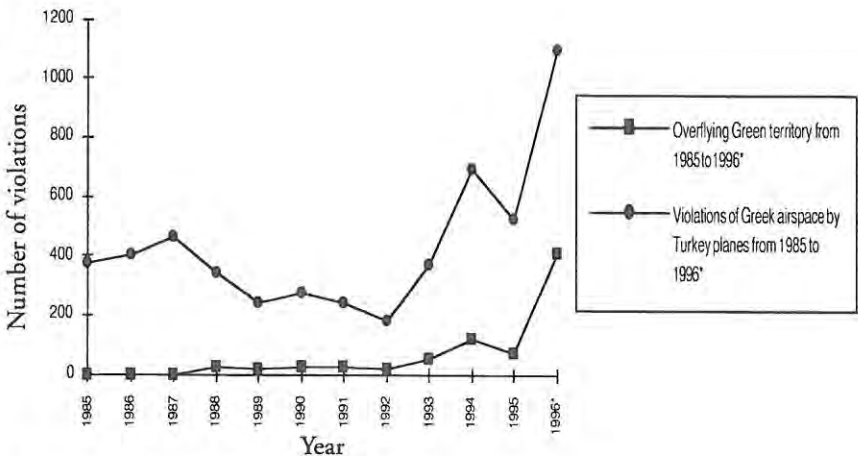
In response to perceived changes in Turkish regional and domestic environments since the early 1970s, the Turkish government has adopted a revisionist foreign policy. Its policy seeks to alter the regional balance of power in its favour, and to ensure a more important role for Turkey as a regional power within the Western Alliance and in the Eastern Mediterranean.¹³

In the eyes of Greek political analysts, this policy has assumed the dual form of a persistent challenge to the territorial status quo governing the Aegean (continental shelf, sea islands and airspace), coupled with a continuous call for renegotiation of the status quo through bilateral agreements. With the exception of the intractable Cyprus problem, these issues have dominated the agenda of Greek-Turkish relations over the past twenty years.¹⁴

Greek strategic analysts point to the current tension in Greek-Turkish relations, centering on the Muslim minority in Western Thrace as an indication that human rights—an issue with great and ever-growing international appeal at the moment—have been added to the panoply of resources used by Turkey to promote its broader revisionist policy in the region.¹⁵

This conceptualization of Greek-Turkish relations reflects two basic Greek policy premises. The first premise is that Greece has considered itself a status quo country since the end of World War II. The second is that since the early and mid-1970s a number of Turkish signals, statements and actions have lent themselves to an interpretation implicitly or explicitly prejudicial to Greek security interests. These include: a) statements by leading Turkish political figures concerning Greece or Greek-Turkish relations, that are considered threatening to Greek interests, b) Turkish diplomatic initiatives designed to undermine Greek sovereignty in the Aegean and in Western Thrace; and c) Turkish military actions regarded as having negative security implications for Greece. Examples of such actions include the overall deployment of the Turkish armed forces, as well as the creation in 1975 of a new Turkish army corps (the Aegean Army), which is equipped with a large number of landing craft, is excluded from NATO command, and is positioned primarily along Turkey's Aegean littoral.¹⁶ Turkey, also, challenges Greece's national air space, backing up its claims by frequent and at times massive and provocative violations of the Greek air space by its military aircraft (see Table 1).

Table 1
Violations of the Greek Air Space



*It includes data from the first six months of 1996.

Data: Ministry of Defense quoted in *Kathimerini* (Daily), 12 July 1996, and *Ta Nea* (Daily), 12 July 1996.

Recently Turkey has escalated its claims and has intensified its coercion and intimidation: a) on January 31, 1996 Turkey used military force to occupy a Greek islet, named Imia. For the first time ever, Turkey is questioning Greek sovereignty over a portion of its territory, namely Imia, and a large number (approximately 100) of Aegean islets,¹⁷ b) in June 1995 the Turkish parliament passed a resolution authorizing the Turkish government to use military force, should Greece exercise its legitimate rights concerning the extension of territorial waters from six to twelve miles (*casus belli*),¹⁸ c) it has intensified violations of Greek air space and has increased the provocation by overflying Greek territory and thereby increasing the right of inadvertent escalation (see Table 1).

Based on these threatening signals and the recent historical experience—the 1974 Turkish invasion in Cyprus—Greek strategic analysts think that Turkey is likely to adopt *fait accompli* diplomacy against Greece when the following two pre-conditions are fulfilled: a) the opening of the «window of vulnerability» for Greece, that is, when Greece will not be capable or willing to resist Turkish encroachment, and b) the opening of the «window of opportunity» for Turkey, that is, when it is unlikely that major powers with interests in the region will oppose a Turkish invasion.

Greek strategic analysts expect the Turkish military threat to be manifested in Cyprus (e.g. a Turkish attempt to occupy the rest of the island or to extend the existing occupation zone), the Aegean (e.g. an attempt to occupy Greece's easternmost islands) and in Thrace (e.g. an attempt to «liberate» the Muslim minority there).

Related to Greek concerns regarding Turkey's perceived role as a revisionist power in the region is the view currently held in Athens that Turkey has emerged as a beneficiary of recent international developments.¹⁹ Most frequently mentioned in this context are the second Gulf War, the breakdown of former Yugoslavia and the former Soviet Union that have allowed Turkey to penetrate the Balkans and Central Asia and the transfer of allied weapons from the central front to the flanks. All of these events have adversely affected Greek interests. Such developments have enhanced Turkey's role as the dominant regional power and for as long as Greek-Turkish problems remain unresolved, they have commensurately enhanced Greece's sense of vulnerability. In addition, the balance of power in the eastern Mediterranean is rapidly changing in Turkey's favour as demonstrated in four key dimensions of power: economic resources devoted to defense, armaments, military-industrial base, infusion of modern military technology. More specifically, in the early 1990s Turkey started to implement an ambitious and wide ranging modernization and restructuring program for its armed forces, while its indigenous military-industrial base was enlarged and can now build fighters (e.g. F-16s) and transport aircraft, armoured fighting vehicles, frigates and electronic equipment. Efforts are currently being made to develop production capacity for tanks, missiles and helicopters.²⁰

In short, current Greek thinking includes an intensive and extensive view of the Turkish threat. The perception of Turkish objectives and their implications for Greece cuts across party lines and forms part of a notable foreign policy consensus on the subject. This is quite remarkable for a country in which partisan differences have long been reflected in sharply divergent party orientations in foreign policy matters.

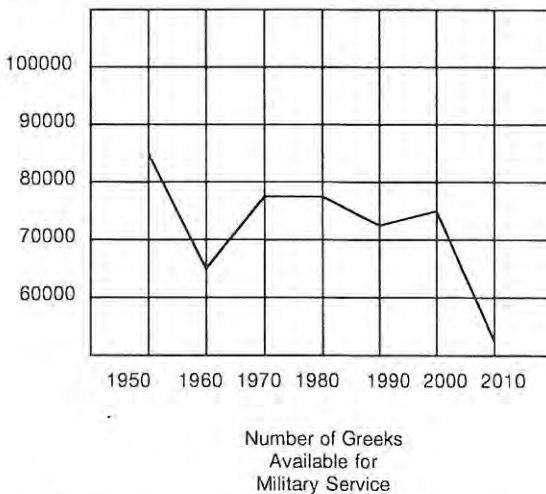
3. Asymmetries

Threat, of course, is not perceived in a vacuum. Greek strategic thinking has been influenced by four important asymmetries: Greece's small population compared to that of Turkey, Greece's geography, Greece's comparatively meager economic resources and great power interests in the region. A brief review of each of these basic asymmetries follows.

Population

There are only ten million Greeks in Greece, with limited human military and economic resources. In contrast, Turkey's population is approximately 60 million. It is projected that by the turn of the century, 11 million Greeks will have to face approximately 70 million Turks.²¹ Greece is, therefore, vastly outnumbered in terms of sheer manpower. Furthermore, Turkey has been able to maintain a huge standing army of approximately 650,000 (excluding paramilitary forces). This army is potentially capable of making a swift transition to attack from its peacetime position. This army has a vast numerical superiority over its Greek counterpart. Furthermore, long term demographic trends are disturbing. Table 2 shows the drastic fall-off of conscripts in the first decade of the twenty-first century. (To alleviate the shortage of conscript availability, Greece has been recruiting gradually more and more long-term service volunteers).

Table 2
Number of Greeks Available for Military Service: 1955 - 2015



Source: Ministry of Defense, *Ta Nea (Daily)*, December 13, 1994.

These manpower limitations make Greece vulnerable on the one hand to surprise attack and, on the other, to extended strategies for attrition. Greek strategic analysts have concluded that one way to contain a surprise Turkish attack is to maintain a large standing force in peacetime.

Geography

The geographical configuration of a conflict region helps to determine defense requirements. For example, certain characteristics of space, topography, vegetation, hydrography and surface geology impede the movement of military forces, while other characteristics are conducive to attack. Greek geography hardly lends itself to defensive arrangements. This absence of strategic depth in the east (and the north) and the tremendous relative length of the border have plagued Greek strategists for a long time. Geography creates problems for Greece in all possible theatres of war with Turkey. Cyprus lies 600 miles away from Greece, but only 60 miles from Turkey. Furthermore, major Greek islands are very close to the Turkish mainland. Important Greek population centres and military installations are within Turkish artillery range.

In particular, the following characteristics of Greek territory have a direct impact on the formulation of Greek military strategy:

- «The long boarder line (1000 km from the north) which requires appropriate organization and deployment of increased numbers of forces in order to effectively cover the national territory.

- The lack of depth for effective defense, requiring forward defense in the boarder line.

- The inadequacy of a road and rail network due to geographical constraints, requiring shelf-sufficiency of the forward commands.

- The extended beaches, which provide great possibilities for infiltration, dictating the need for establishment of an appropriate surveillance system.»²²

To complicate matters, air defense of the Greek islands is extremely difficult because of the short warning time available for the interception of penetrating enemy aircraft. Lastly, Greece's land border with Turkey in Thrace is far away from the main Greek strategic centres and access to that border is limited by the existing transportation network. In short, the geography of the Greek-Turkish land and sea borders do not give Greece the advantage of interior lines, that is, they do not provide Greece with the capacity to concentrate forces rapidly on the one front and then shift them to another.

Economic Asymmetries

Given the sheer size of Turkey, Greece has always faced a disparity of economic resources. Until recently, Greeks believed that they might compensate for this

disparity by generating a more advanced economy. Their hope has diminished over the last fifteen years due to Turkey's rapid economic growth and Greece's economic woes.

Currently the Greek GNP is approximately 50% smaller than the Turkish one (see Table 3). The smaller the GNP, the fewer the resources devoted to the output of military goods even if the proportion of productive capacity so allocated is very high. Uneven economic growth since 1980 has had crucial long-term impact upon the relative military power of Greece and Turkey. It has helped Turkey to swing the balance of power in its favour. The shift in military power balance has followed the alteration in the productive balances between the two countries (see Table 3).

Table 3
Ratio of Greek to Turkish GNP
and Ratio of Greek to Turkish Military Expenditures

1980	0.77	1.01
1985	0.65	1.07
1986	0.62	0.85
1987	0.56	0.99
1988	0.58	1.07
1989	0.60	0.87
1990	0.54	0.75
1991	0.56	0.67
1992	0.53	0.66
1993	0.48	0.58
1994	0.52	0.61
1995	0.49	0.61

Source: NATO and DECD data quoted in B. Stavrinou, «Comparative Analysis of Greece's and Turkey's Military Expenditures», Athens, Institute of International Relations, May 1996, p.21-22 (Mimeo, in Greek).

Great Power Interests

External actors have a substantial impact on Greek-Turkish relations in various direct and indirect ways. The most important external actor is the US, which has had a strong interest in both sides. It seems, however, that Turkey is systematically considered more important than Greece in the American order of priorities.²³

The American involvement is therefore asymmetrical; in other words, the US tilts in favour of Turkey in almost every crisis. Greece's partners in the European Union try to approach the Greek-Turkish conflict from a position of «neutrality» since they have interests in both countries. As a rule, they pressure Greece to delink the issue of EU-Turkish relations from Greek security concerns (e.g. the recent pressure upon Greece to agree to the customs union of Turkey with the EU). In short, great power interests in the area have conditioned Greek security concerns and have defined the international constraints of the country.

II. Greek Strategy

Greece's strategy in handling the Turkish threat includes a number of important elements. The most important among these elements are alliances, deterrence, strategic coupling with Cyprus, reassurance, crisis stability and arms control.

1. The Limits of Reliance on External Support

After the end of the World War II, Greece dealt with its security concerns solely within the Western Alliance.²⁴ The Turkish invasion of Cyprus in 1974 and the ensuing Greek-Turkish confrontation caused Athens to reconsider its traditional defense posture. At the root of this change in policy lay NATO's essential inaction during the Greek-Turkish crises and the perception, deeply held among Greek civilian and military elites, that such inaction would leave the country dangerously exposed to a threat from the East in case of a renewed conflict with Turkey.²⁵

This realization led to a significant restructuring of Greek defense and foreign policy options. At the level of foreign policy, after 1974, Greece gradually sought to diminish its erstwhile one-sided dependence on the United States. Greece slowly turned to Europe for support of its foreign and security policies. The European orientation was consolidated upon Greece's entry into the European Community in 1981. In the words of Constantine Karamanlis, considered by many the chief architect of the 1974 Greek «shift toward Europe», membership in the European Economic Community (EEC) meant that «Greece, instead of remaining small and isolated, at the margins of international life, will become a part of the decision-making centers that have an impact on our fortune.»²⁶

The tilt toward Europe could not in itself solve the country's defense and security problems. But even in the absence of concrete security guarantees, the Greek presence in European institutions (e.g., EU, Western European Union [WEU]) has been viewed as an asset to the extent in which it increases the diplomatic costs and risks associated with an attack against the country.

Yet, the humiliation of the 1974 crisis clearly demonstrated the limits of reliance on external support. The perceived Turkish threat consequently undermined the post-World War II Greek premise of relying on allies and contributed to the Greek search for a more autonomous defense policy. Thus, the underlying premise of post-1974 Greek defense policy became the principle that the country had to develop a more autonomous security policy, drawing upon its indigenous resources to deal with the Turkish threat. In international relations theory, this principle is commonly referred to as a strategy of internal balancing.²⁷ Hence, the country replaced external balancing (the expectation of allied reinforcements) with internal balancing (mobilization of the country's own resources).

2. The Strategy of Deterrence

As a status quo country, Greece wants only to deter its opponents. Thus, the broad purpose of the Greek strategic posture is the deterrence of Turkish aggression.

Deterrence is a policy that seeks to persuade Turkey that the costs of using military force against Greece outweigh the benefits. More specifically, the Greek policy of deterrence seeks to present Turkey with a credible threat to exact a very high price in the event of aggression. This price can take many forms, including denial of battlefield objectives, damage to military forces and other national assets through retaliation.

The credibility of the deterrent threat depends upon Greece being perceived as possessing (a) the military capability to inflict a burdensome cost on Turkey and (b) the will or the intention to use that capability as and when necessary.

Deterrence is stronger when a state invests in cultivating its military might. In line with this principle, the post-1974 Greek governments, as a rule, invest on defense. Indeed, compared to any other NATO country Greece currently spends the highest percentage of its gross domestic product (4% - 5%) for defense purposes.²⁸ Another dimension of resource allocation which must be taken into account is the share of manpower devoted to defense. Greece allots more manpower to its defense—approximately 5% percent of the labor force—than any other NATO country.²⁹

The quest for quantitative symmetry with Turkey, however, has inherent limitations. As then Greek Premier Andreas Papandreou mentioned in Parliament in January 1987, «our competition with Turkey along the quantitative dimension leads nowhere. Hence, emphasis should be given primarily to the qualitative improvement of our defense system in its entirety.»³⁰ In fact, Greece seeks to achieve qualitative superiority over Turkey. Towards this end, the Greek

governments have taken measures which, *inter alia*, include: intensification of military training; emphasis on combined arms operations; use of capital-intensive systems of warfare; maintenance of a relatively modern arsenal; increased readiness and sustainability; use of force multipliers such as Command, Control, Communication and Intelligence (C3I) systems and reduction of turnaround time for sorties.³¹

Deterrence threats work better when accompanied by the military capacity to defend or to impose great costs on potential attackers through punishment. In other terms, deterrence threats work better when the side threatening holds the military advantage or is able to maintain a sufficient balance of power. It is becoming increasingly difficult for Greece to maintain a sufficient balance of power. Turkey, after the end of the Cold War, initiated a huge rearmament program designed to change both the quantitative and the qualitative balance of power in its favour. Greek defense planners, therefore, worry that deterrence may fail if Turkey calculates Greece's weakness to maintain the balance and takes advantage of this weakness. The Greek policy remedy is to strengthen defense. In line with this analysis, the current Greek government plans to spend \$12 billion for the 1996-2000 rearmament plan.³² The emphasis of this five-year plan is to regain qualitative superiority over Turkey. At the same time, Greek strategists try to develop multiple options for responding to the outbreak of different kinds of conflicts, with forces and strategies approximate to each kind. If a low- or medium-level provocation (e.g. occupation of islets) breaks out, Greece should not be forced to resort to all out war. Before such an all out war breaks out, Greece should not need to resort to threatening unlimited escalation—a threat so extreme that Turkey might not believe it would ever be carried out. In accordance with this doctrine, any Turkish provocation will be responded to at an equal level. Greece plans to develop «rapid deployment forces» to put into effect this doctrine of «flexible response». ³³

Response to possible Turkish provocation at the low or medium level can take two forms: symmetrical and asymmetrical. Symmetrical response involves reaction to threats at the same location, time and level of the original provocation. Assymetrical response involves shifting the location or nature of one's reaction onto terrain better suited to the application of one's strength against adversary weakness.

3. Strategic Coupling with Cyprus

Greece's national interests extend beyond its borders to include the security of another state, namely Cyprus. As a result, when Cyprus is threatened by Turkish military action, decision-makers in Athens must prepare to come to the island's defense by threatening retaliation against Turkey. This is the essence of the Greek

strategy of extended deterrence. Yet to project the shadow of one's military forces into another country is a difficult task. As Thomas Schelling explains, «the difference between the national homeland and everything "abroad" is the difference between threats that are inherently credible, even if unspoken, and threats that have to be made credible.»³⁴

The credibility of such an extended deterrence threat depends upon Greece's capacity to deny Turkish objectives in Cyprus; that is, to employ adequate forces in a timely fashion in Cyprus. In this regard, the governments of Greece and Cyprus have recently initiated a major rearmament program, designed to reduce the strategic vulnerability of the island.³⁵ The main elements of the program include: (1) a long-term modernization program, ranging from areas of C3I (command, control, communications, intelligence), through air defense, armor, fire power to the areas of electronic warfare and logistical support; (2) raising manpower levels (e.g. 5000 volunteers mostly from Greece will join the armed forces of the Republic of Cyprus); (3) defense expenditures have been raised; (4) intensification of military training and initiation of joint military exercises; (5) construction of new military bases and predisposition of military equipment; (6) joint strategic planning and coordination of procurement; (7) improvement of the logistical support infrastructure in Southern Greece and (8) strengthening of the naval and air components of the Greek armed forces, in order to project power in the Eastern Mediterranean. However, denial is not easy to achieve in this specific theatre of war, since it is rather far away from Greece and much closer to Turkey. Hence, the credibility of Greece's extended deterrence in Cyprus is also based on the threat of an all out war against Turkey. This is the meaning of the concept of «horizontal escalation» in current Greek strategic thinking. According to this concept, response to Turkish aggression in Cyprus need not to be totally symmetrical (in the sense of reacting to the threat in the same theatre and at the level of the original provocation). «Horizontal escalation» implies an asymmetrical response which involves shifting the location or nature of one's reaction into a domain or terrain better suited to the application of one's strength against the adversary's weakness (e.g. attack on Turkish islands).

The credibility of the extended deterrent threat also depends on the will to fight, if necessary. Indeed, extended deterrence threats work better when the side making them has a track record of effectively defending its interests in similar situations in the past. In this regard, Greece's credibility suffers from its past behaviour. Clearly Greece's performance was not up to par in 1974, hence the country damaged its reputation for defense. To re-establish the credibility of Greece's deterrence in Cyprus, Greek governments have adopted the following strategies:

- *Casus Belli*: Greek governments have clearly drawn the «red line» on Cyprus. As then Premier Andreas Papandreou declared in the Parliament in 1987: «in order to avoid misunderstanding, it should be known to friends and enemies

alike that in case of an attack or invasion against the Greek-Cypriot positions, Greece will not stay out. I have warned that this is a *casus belli*. We hope that our partners in the EEC and our allies in NATO will understand the sincerity of our decision to defend Cyprus because if Cyprus is lost, Greece eventually will be lost.»³⁶

• *Trip-wire*: Greek forces have been stationed in Cyprus. Hence, any Turkish attack on that island would automatically involve the Greek forces positioned there (e.g. officers, non-commissioned officers, regulars, troops and volunteers). Naturally, this would drastically raise the likelihood of an all-out Greek-Turkish war.

4. Deterrence and Reassurance

As already mentioned, Greek strategists try to find ways to strengthen the Greek deterrence strategy and the extended deterrence in Cyprus. At the same time, they worry that deterrence may fail by slipping to provocation. Finding the balance between deterrence stability and deterrence credibility is a very demanding task. Since threats of escalation designed to strengthen the credibility of deterrence may create a sense of inevitable war, the best possible remedy is to couple deterrence with reassurance. They try, therefore, to design a deterrence strategy that is both credible and stable. In other words, a stable deterrence strategy must maintain a delicate balance between demonstration of firmness and the readiness to use force on the one hand, and on the other hand not to provoke the opponent.

Reassurance strategies, as a rule, can be conceived of as a set of strategies that adversaries use to reduce the likelihood of resorting to the use of force. In the Greek context, reassurance takes the form of restraint. Restraint can be important in reducing the likelihood of miscalculation, when adversaries find themselves caught up in the escalating series of threats and military deployments. For example, in January 1996 Greece and Turkey found indeed themselves caught up in a cycle of escalating threats and military deployments. The tension began to escalate when Turkish journalists removed the Greek flag from the Imia islets in the Dodecanese and raised a Turkish one. Immediately, Greek forces reinstated the Greek flag. Turkey responded by gathering a large number of surface combatants to the area. They were soon met by equivalent Greek units. The tension peaked on January 31, when a small contingent of Turkish commandos occupied one of the Imia islets. At that critical moment, the Greek government reacted with restraint and opted for de-escalation. With American mediation, Greece and Turkey reached an understanding that both countries would withdraw their forces from the area of Imia islets.³⁷

Restraint, however, may turn out to be dangerous for those who use it. After the Imia crisis, Greek strategists fear that Turkey may misinterpret the caution shown by the Simitis government as weakness and lack of resolve, and conclude that in the next crisis Greece would tolerate the use of force. The Greek strategic dilemma—whether to seek to prevent miscalculated escalation through restraint or to deter a premeditated challenge through threat and demonstration of resolve—is a recurrent problem in choosing a strategy of conflict management. The dilemma is compounded by the fact that strategies designed to prevent the occurrence of one, often tend to exacerbate the likelihood of the other. Greek strategists, therefore, try to design a mixed strategy of deterrence and reassurance and to avoid both miscalculated escalation and calculated challenge to Greek national interests.

In developing such a mixed strategy, Greek planners have ruled out two strategic options: a) intransigent strategy, that is adoption of firm and unyielding position toward Turkey; and b) appeasement strategy, that is adoption of a strategy of unilateral concessions toward Turkey.

The problem with the intransigent strategy is that Greece's deterrence credibility is maximized at the expense of deterrence stability. This means that the chances of escalation are high. In addition, an intransigent Greek stance can discredit the moderate policy-makers in Turkey, who advocate compromise, and thus enhance the position of hard-liners (e.g. the military establishment).

On the other hand, appeasement strategy avoids the problems associated with an intransigent stance and in this manner strengthens deterrence stability. However, unilateral concession may encourage further Turkish demands. This is especially true when:

- a retreat takes Greece past a salient point
- the concession is made in a way which indicates that Greece would sacrifice a great deal to avoid war; and
- Greece retreats even though the costs of doing so are very high.

Appeasement can be an effective strategy a) if the adversary does have a common perception of fair play and reciprocity, b) if the adversary is motivated solely by defensive goals. Turkey, however, does not meet these standards. Greek policy-makers have thus concluded that the policy of sacrificing a great deal to avoid war (that is appeasement) is dangerous.³⁸ The credibility of Greece's commitment would be weakened and thus Turkey might be tempted to attempt further coercion.

For Greece, the most practical stance is a mixed strategy of deterrence and reassurance in which opposition to the demands of Turkey is coupled with restraint and conditional compromise. A typical example of this policy was

adopted in the March 1987 crisis. At that time, Greece demonstrated its determination to escalate (that is mobilization and preparation of pre-emptive strike) and subsequently accepted a compromise to break the deadlock (it gave assurances to Turkey that it too would refrain from drilling in «disputed» areas). The Greek conditional offer of compromise signaled to the Turkish leadership the possibility of taking the necessary step backward without damaging its bargaining reputation and its domestic position.

5. Crisis Stability, Deterrence and Arms Control

«Crisis stability» refers to the absence of incentives to pre-empt the adversary in time of crisis. Crisis instability is clearly a problem in the Aegean, as demonstrated in the crises that erupted in March 1987 and January 1996 between Greece and Turkey. During the March 1987 crisis, for example, the Greek armed forces were mobilized and rushed towards the border with Turkey. The notion of rushing towards the frontiers suggests the belief on both sides that there might be an advantage to be gained by striking first in the event of a war breaking out. Such pre-emptive incentives increase the likelihood that war would erupt during a severe crisis. Arms control measures can theoretically contribute to the elimination of any incentive to launch a war of choice by arranging the forces of the opponents in such a way that neither side thinks that it can initiate war with a reasonable probability of success. Arms control measures may also help establish mutually agreed upon rules of behaviour and reduce some uncertainty which can at times lead Turkey to miscalculate. Greece and Turkey did therefore attempt to develop explicit understanding of the limits of competition in 1988.³⁹

Based on the experience of the March 1987 crisis, in an effort to back away from the brink of war, the Greek and Turkish Prime Ministers initiated a bilateral dialogue in 1988. This talk led to what is called the Davos Agreement. Among the agreements signed within the framework of the Davos talk were: (a) a Memorandum of Understanding on Confidence-Building Measures, signed in Athens in June 1988 (the Athens Memorandum); (b) Guidelines for the Prevention of Incidents on the High Sea and International Airspace, signed in Istanbul in September 1988 (see Appendix for the Istanbul Guidelines). The Athens Memorandum outlined ways to reduce misunderstanding or miscalculation during military exercises in the Aegean Sea. The Istanbul Guidelines require Greek and Turkish naval units to «refrain from acts of harassment of each other while operating in the high seas, in accordance with international law and customs».

Furthermore, Greece made an attempt to move beyond confidence and security-building measures (CSBMs). In the early 1990s the Mitsotakis government proposed the withdrawal of all offensive weapons from the area adjacent to the

Greek-Bulgarian-Turkish borders in order to enhance crisis stability by reducing the possibilities of a surprise attack. Turkey, however, rejected this proposal on the grounds that it failed to consider other areas of confrontation such as the Aegean.

As it turned out, the CSBMs agreed upon with Turkey for the Aegean were unsuccessful partly because the formal documents masked significant disagreements and differences in interpretation. If anything, the unrealistic expectations they aroused, the dispute over the interpretation of the documents, the consequent allegation of cheating and the ensuing distrust has actually made it more difficult now for Greece to discuss new CSBMs in the Aegean.

After the late January 1996 crisis, however, and under growing pressure of the US, Greek defense analysts and policy makers once more are increasingly examining the potential impact of specific CSBMs on regional stability and Greek national security. In developing a policy on CSBMs at least three requirements have been identified:⁴⁰

a) CSBMs are inextricably linked to Turkey's willingness to respect the existing status quo and adhere to existing treaties. CSBMs should not be used to erode Greek sovereignty in the Aegean but only to improve stability;

b) as long as the threat of Turkey exists, the potential benefits of CSBMs will be balanced against the potential weakening of Greek deterrence.

c) CSBMs or other agreements must be structured in such a way that if Turkey was to suddenly abrogate the terms, such actions would not endanger Greek security.

In short, even with CSBMs that are consistent with the above requirements, Greece has to maintain sufficient military capability to deter Turkey.

Epilogue: Lessons for Small States

This paper has made an attempt to examine the calculus of asymmetrical conventional deterrence from the standpoint of a small state, that of Greece.⁴¹

Seeking allies is a time-honoured way to compensate for a state's small size. External balancing, namely the added strength in «borrowing» the power of the other states, may be used for deterrence, as well as for defense if deterrence fails. Protection is, therefore, the primary motivation for seeking allies. However, the small state has every reason to wonder whether, if the need arises, the great power ally will honour the commitment to defend its smaller partner. Past experience suggests that this is an uncertain prospect. The Greek experience, in particular, suggests that the Atlantic Alliance was either unwilling or unable to provide Greece with protection against the threat from Turkey.

Yet, participation in international institutions such as NATO and WEU may be an asset to a small state such as Greece, even in the absence of secure guarantees. This holds true to the extent that such participation increases the diplomatic costs and risks associated with an attack against the country. Hence, it indirectly strengthens deterrence.

The safest way to increase the cost of aggression to an opponent is by internal balancing; i.e., through mobilization of the country's own resources. This, however, implies heavy emphasis on military spending, allocation of significant manpower to defense, and so on. Naturally, emphasis needs to be placed upon deployment of cost effective methods to limit the financial burden.

The utility of military manpower can be maximized by choosing weapons technology that tends to maximize the efficiency of fighting men. Qualitative superiority is one way to get the most out of a small population. Maximizing deterrence without having to match the forces of the adversary quantitatively requires deployment of superior technology, military organization, tactics, operational methods and strategy.

Lastly, a small state can deal with asymmetry and compensate for small size by maintaining a high state of readiness to fight. This presupposes a capacity for total defense, rapid mobilization, deployment of reserves and maintenance of high levels of military stock.

To conclude, small states trying to develop their own national security strategies have fewer options and less freedom than the great powers. Indeed, very few small states (namely Sweden, Switzerland, Finland and Israel) have actually managed to develop their own original strategies. Small states usually develop an original strategy after realizing that the strategies of the bigger powers have only limited applicability to their problems. This is precisely what happened to Greece.

In the final analysis, the anarchical nature of the international system creates a serious security problem for all states and those with limited capabilities operate within narrow margins. Yet, even in asymmetrical confrontations small states may succeed in dissuading possible aggression, provided they adopt certain strategies. How small states bargain, adopt and implement their national security strategies can make a difference between success and failure, between winning and losing. Choosing a clever mix of strategies - one that is best tailored to unique conditions and circumstances - is the key to success for small states like Greece.

Appendix

Memorandum of understanding on confidence-building measures,

Athens, 17 May 1988

The two parties have agreed on the following confidence-building measures:

Both parties recognize the obligation to respect the sovereignty and the territorial integrity of each other and their rights to use the high seas and international airspace of the Aegean.

In conducting national military activities in the high seas and the international airspace, the two parties shall endeavour to avoid interfering with smooth shipping and air-traffic as ensured in accordance with international instruments, rules and regulations. This would contribute to the elimination of unwarranted sources of tension and reducing the risks of collision.

The two parties have agreed that the planning and the conduct of national military exercises in the high seas and the international airspace which require the promulgation of a NOTAM or any other notification or warning should be carried out in such a way as to avoid also to the maximum extent possible the following:

the isolation of certain areas.

the blocking of exercise areas for long periods of time.

their conduct during the tourist peak period (1 July - 1 September, for 1988, 7 July - 1 September) and the main national and religious holidays.

It is understood that the planning and execution of all national military activities will be cancelled out in accordance with the existing international rules, regulations and procedures.

With the view to achieving the above, and without prejudice to the existing international regulations and procedures, the two sides will proceed, when required, to due communication through diplomatic channels.

The provisions of this memorandum of understanding shall have effect and be implemented in full conformity with the provisions of the Davos joint Press Communique.

Karolos Papoulias
Minister of Foreign Affairs
of the Hellenic Republic

Mesut Yilmaz
Minister of Foreign Affairs
of the Republic of Turkey

Guidelines for the prevention of accidents and incidents on the high seas
and in international airspace,

Istanbul, 8 September 1988

The military and other activities carried out by the ships and aircraft of both countries on the high seas and international airspace will be conducted in accordance with international law and international custom, instruments, rules, regulations and procedures.

In accordance with the above:

The naval units of the parties will abide by the following guidelines:

They will refrain from acts of harassment of each other while operating in the high seas in accordance with international law and custom.

They will act in full conformity with international law, rules, regulations and procedures as well as military custom and courtesies.

Naval units engaged in the surveillance of ships of the other party during firing operations and other military activities in accordance with international law shall maintain a position which would not hamper their smooth conduct.

The air force units in conducting military activities in the international airspace will abide by the following guidelines:

They will act in full conformity with international law and in particular international custom, instruments, rules, regulations and procedures.

Pilots of the aircraft of the parties shall display utmost caution when in proximity of aircraft of the other party and shall not manoeuvre or react in a manner that would be hazardous to the safety of the flight and/or affect the conduct of the mission of the aircraft.

To promote the climate of confidence, whenever there are claims of acts contrary to the above, the sides will in the first place inform each other through diplomatic channels prior to releasing official statements.

Karolos Papoulias
Minister of Foreign Affairs
of the Hellenic Republic

Mesut Yilmaz
Minister of Foreign Affairs
of the Republic of Turkey

NOTES

1. For an earlier attempt to develop the profile of Greek strategic thinking see, Athanassios PLATIAS, «Greece's Strategic Doctrine: In Search of Autonomy and Deterrence» in Dimitri CONSTAS, (edit). *The Greek-Turkish Conflict in the 1990s: Domestic and External Influences* (London: Macmillan, 1991), pp. 91-105.
2. See, Karl von CLAUSEWITZ, *On War* (eds), Michael Howard and Peter Paret, (Princeton: Princeton University Press, 1976).
3. See, among others, Edward LUTTWALK, *Strategy: The Logic of War and Peace* (Cambridge: Harvard University Press, 1987).
4. See Basil LIDDELL HART, *Strategy* (New York: Praeger, 1972), p. 366.
5. See Thomas SCHELLING, *The Strategy of Conflict*, (Cambridge: Harvard University Press, 1960).
6. For an analysis of asymmetrical deterrence, see Athanassios PLATIAS «Asymmetrical Deterrence» in Aharon KLIEMAN and Ariel LEVITE, (edit) *Deterrence in the Middle East: Where Theory and Practice Converge* (Tel Aviv: Jaffa Center for Strategic Studies, 1993), pp. 45-62.
7. See, Barry POSEN, *The Sources of Military Doctrine: France, Britain and Germany Between the World Wars* (Ithaca, N.Y.: Cornell University Press, 1994), p. 13. See also Edward LUTTWALK, *The Grand Strategy of the Roman Empire from First Century AD to the Third* (Baltimore: John Hopkins University Press, 1976); Paul KENNEDY ed. *Grand Strategies in War and Peace* (New Haven: Yale University Press, 1991); Charalambos PAPASOTIRIOU, «Byzantine Grand Strategy» Ph.D. Dissertation, Stanford University, 1991.
8. See Richard ROSECRANCE and Arthur STEIN (edit.) *The Domestic Bases of Grand Strategy* (Ithaca, N.Y.: Cornell University Press, 1992).
9. For an extensive discussion of this point, see Athanassios PLATIAS «High Politics in Small Countries: An Inquiry into the Security Policies of Greece, Israel and Sweden» Ph.D. Dissertation, Cornell University, 1986.
10. Francis FUKUYEMA, «The End of History», *National Interest*, Summer 1995. Also his *The End of History and the Last Man*, New York: Free Press, 1992.
11. See, for example, John MUELLER, *Retreat from Doomsday: The Obsolescence of Major War*, New York: Basic Book, 1989.
12. For an analysis in Greek see Athanassios G. PLATIAS, *The New International System: Realist approach of International Relations*, Athens, Papazisis, 1995

13. For an analysis, see **White paper** (Athens: Hellenic Ministry of Defense, 1995), pp.17-18.

14. For a comprehensive review of the issues that have dominated the agenda, see Andrew WILSON «The Aegean Dispute», **Adelphi Paper 151** (London: International Institute of Strategic Studies, 1979). See also, Van. COUFOUDAKIS, «Greek-Turkish Relations 1973-1983». «The View from Athens», **International Security**, Spring 1985.

15. See, for example, Baskin ORAN, «The Sleeping Volcano in Turco-Greek Relations: The Western Thrace Minority» in Kemal KARPAT (ed) **Turkish Foreign Policy: Recent Developments**, Madison, Wisconsin, 1996, pp.119-138

16. For an analysis of the threat indicator, see PLATIAS, «Greece's Strategic Doctrine», pp.92-95.

17. Turkish Foreign Ministry Spokesman Mr Omer Akbel on January 31 1996 declared:

«Turkey said from the beginning that the issue was not merely the ownership of Kardak [Imia] rocks, which Turkey claims as its own under international law. These are hundreds of little islands, islets and rocks in the Aegean and their status remains unclear, due to the absence of a comprehensive bilateral agreement between the two countries». See **Turkish Daily News**, February 1, 1996. See also similar declarations by then Prime Minister Tansu Ciller in **Milliyet** and **Cumhuriyet** on February 4, 1996.

18. See Hellenic Ministry of Foreign Affairs, «The Imia Files - January 1996», **Hellenic Studies**, (Spring 1996), p.108.

19. See, for example, Graham FULLER, Ian LESSER, et al, **Turkey's new Geopolitics: From Balkans to Western China**, Boulder: Westview Press/A Rand Study, 1993.

20. For an analysis of the Turkish rearmament program, see Thanos DOKOS and Nikos PROTONATARIOS, **The Military Power of Turkey: The Challenge for Greek Security**, (Athens: Tourikis, 1994) (in Greek).

21. For the projection of the Turkish population, see **Turkey: A Country Study** (Washington, D.C.: Library of Congress, 1988), p.378.

22. George KATSIRDAKIS «Military Postures and Doctrines of the South-East European Countries» in **European Security in the 1990s: Problems of South-East Europe** (New York: Unidir, 1992), p.82.

23. See for example, Jed SNYDER, **Defending the Fringe:: NATO, the Mediterranean and the Persian Gulf** (Boulder, CO: Westview Press, 1987).

24. Yiannis ROUBATIS, «The US Involvement in the Army and Politics in

Greece, 1946-1967». PhD Dissertation (John Hopkins University, 1980).

25. See PLATIAS, *High Politics in Small Countries*, pp.146-175.

26. *Kathimerini* (Daily Newspaper), January 1, 1981.

27. See Kenneth WALTZ, *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979), p. 168.

28. See *White Paper*, pp. 56,101.

29. See «Documentation: Defense Expenditures of NATO Countries», *NATO Review*, January 1996, p. 32.

30. See *Journal of Parliamentary Debates* (Greek), January 23, 1987, p. 2914.

31. See *White Paper*. Also Theodore STATHIS, *National Defense* (Athens: Livanis, 1992), pp.47-49.

32. According to a government decision on November 13, 1996 Greece plans to spend 6 trillion Drachmas for the next rearmament plan over a ten years period (or approximately \$24 billion). See *Kathimerini* (Daily), November 14, 1996, p.5.

33. See Statements of A.TSOCHANTZOPOULOS, Minister of Defense, *Ta Nea*, October 22, 1996. See also his speech in the Parliament in *Journal of Parliamentary Debates* (Greek), October 12, 1996.

34. Thomas SHELLING, *Arms and Influence*, (New Haven, C.T: Yale University Press, 1966), p.36.

35. See *White Paper*, p.22.

36. *Journal of Parliamentary Debates* (Greek), January 23, 1987, p.2914.

37. See Hellenic Ministry of Foreign Affairs, «The Imia Files». Also, «Confrontation in the Aegean Waters: Greece and Turkey Teeter on the Brink of War», *Cosmos*, Institute of International Relations Athens, February-March 1996.

38. See, for example, Andreas PAPANDREOU, *Journal of Parliamentary Debates* (Greek), January 29, 1987, pp.2914 - 5.

39. For an analysis see Athanassios PLATIAS, «Naval Arms Control in the Eastern Mediterranean» in *Naval Arms Control After Gorbachev*, London: Oxford University Press/SIPRI, 1992.

40. Interviews with policy makers at the Ministry of Defense, February 1996.

41. See also PLATIAS, «Assymetrical Deterrence», *op.cit.*

The Troubled Situation of the Aegean Territorial Waters

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RÉSUMÉ

Cet article aborde la délimitation et l'étendue de la mer territoriale sur la base de l'équité et du droit ainsi que le statut légal des îlots d'Imia dans la mer Égée.

Pour la délimitation de leur mer territoriale, les États ne jouissent pas de pouvoir absolu à leur discrétion. Ils peuvent l'utiliser en prenant en considération toutes les conditions y compris les intérêts de la société internationale, conformément à l'équité et à la justice provenant du droit international. Parce que la délimitation et l'étendue de la mer territoriale contiennent toujours un aspect international. En effet, la CIJ a confirmé, à plusieurs reprises, ce principe dans ses arrêts. Compte tenu des îles, îlots et rochers qui sont à plus de trois milles, la mer Égée a des conditions très spéciales. De ce fait, les États du littoral, notamment la Grèce, sont tenus, au moment où ils définissent l'étendue ou la délimitation de la mer territoriale, de prendre en considération ce fait.

Comme l'a dit le représentant de la Grèce, M. Kripsis, en 1958, au cas où la Grèce élargit sa mer territoriale au delà de six milles, la mer Égée devient complètement fermée à la communauté internationale et dès lors, ceci signifie l'abus de l'utilisation d'un droit en la matière. En élargissant l'étendue de sa mer territoriale de n'importe quelle manière, contrairement à l'équité et à la justice, la Grèce désire acquérir un nouveau territoire. A notre avis, une telle expansion se fera au dépens des droits *ipso facto* et *ab initio* de la Turquie sur le plateau continental.

ABSTRACT

This article deals with the delimitation and extent of territorial waters in the Aegean on the bases of law and equity. The article also reviews the legal status of the Imia rocks.

When determining the breadth of territorial waters, states do not have absolute discretionary power. They are bound to use their power in conformity within the rules of international law and on the bases of justice and equity while taking into account all relevant factors, including the interests of the international community since delimitation and extension have always been of an international nature. Indeed, the judgements of the ICJ confirm this principle of international law.

The Aegean Sea does have very special circumstances due to the islands, islets and rocks, which altogether exceed three thousand. Consequently, the coastal states —especially Greece— ought to take this special feature into consideration when delimiting or determining the breadth of their territorial waters. As the Greek representative, Kripsis, expressly stated in 1958, any extension of territorial waters by Greece beyond six miles would close the whole Aegean to the international community. For this reason, such a move would be an abuse of rights. Besides, by extending its territorial waters by any means, Greece would be acquiring new territories and sea areas in the Aegean in a spirit contrary to law and equity. Such an extension, according to the authors, would also overlap with Turkey's *ipso facto* and *ab initio* rights over its continental shelf areas.

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Introduction

Turkey and Greece are two sovereign states which are obliged to live together in good neighbourliness due to their mutual economic, political and geopolitical interests. However, occasionally, for several reasons, severe differences of opinion on various issues between the two neighbours cause the tension to escalate which can even bring them to the brink of threatening regional peace and security. These disputes vary in character, but some are closely related to each other especially when they are also related to the extension of sovereignty or use of sovereign rights.

Before an attempted analysis of the problems surrounding the Aegean territorial waters, it would be better to indicate briefly the present disputes between the neighbouring coastal countries. The disputes can be classified as:

- i. The Cyprus case;
- ii. Disputes related to the minority rights of «Western Thrace Turks» which are being secured and guaranteed by various international agreements;
- iii. Disputes concerning the «Greek Air Space» zone that extends beyond its territorial waters contrary to various existing multilateral agreements;
- iv. Disputes concerning the militarization of the Eastern Mediterranean Islands and the Dodecanese Islands, including the island of Castelorizo, contrary to existing international agreements;
- v. Disputes related to the International Law of the Sea, which includes:
 - the territorial waters concerns, i.e. disputes related to the extent and delimitation of territorial waters;
 - the delimitation of the continental shelf;
- vi. Conflicting claims of sovereignty over certain islets (The Imia Case).

This article will try to shed light on to the Aegean territorial sea problems, on the basis of law and equity.

1. International Rules, in General, Applicable to the Problems on Aegean Territorial Waters

Until the UN Convention on the Law of the Sea, which was signed on 10 December 1982, and put into force on 16 November 1994, no multilateral treaty determining the breadth of territorial waters and bounding all states even existed. The 1982 Convention, while codifying some of the international customary rules on the law of the sea, attempted to create some new norms in this field which were not previously treated and organized by international law.

According to the general principles of international law, treaties are only valid and legally effective among the states that are parties to the treaties. If, however, a treaty includes provisions of customary international law then in such a case another state which is not a party to the treaty will only be bound not by the treaty itself but by those provisions that are norms of customary international law. In other words, not the provisions of the treaty but rather norms of customary international law will be applied and will be valid among non-party and party states.

Turkey cast a negative vote to the 1982 Convention, and also persistently objected to some of its provisions. Greece, however, voted in favour of the Convention, signed it and ratified it in the early days of 1995. For reasons stated above, not the provisions of the mentioned Convention but general principles of law and customary rules of international law ought to be applied to Turkish-Greek relations on law of the sea matters.

2. Turkish and Greek Practice Related to the Breadth of Territorial Waters

2.1. Turkish Practice

Turkey, taking its previous practice of three-mile limits into consideration for many years, misinterpreted with the utmost goodwill some of the provisions of the Lausanne Peace Treaty (Art. 6/2 and 12/2).¹ Despite the fact that no provision determining the breadth of the territorial sea existed, Turkey applied a three-mile territorial sea, just like Greece, not only in the Aegean but also in the Black and Mediterranean Seas. In other words, taking past practice into consideration, Turkey accepted and applied the three-nautical-mile territorial sea until 1964.

In 1964, Turkey's territorial waters were declared as six nautical miles (Art. 1/1) by the «Territorial Waters Law» (Law No: 476).² Yet Turkey also reserved the right, on the basis of reciprocity, to apply broader territorial sea limits to those countries that accept and apply broader limits (Art. 2). On the other hand, in measuring the breadth of the territorial sea, Turkey also reserved the right to apply either the normal baseline method or, where circumstances accepted by international law justified it, to apply the straight baseline method. (Art. 4)

Since May 1964, Turkey has thus applied a six-mile territorial sea to Greece in the areas where this limit can be applied according to this law. However, where coasts are opposite each other, in the areas less than twelve miles apart, the median line was applied and this line in practice established the territorial sea boundary³ between Turkey and Greece, since no agreement exists between the parties. (Art. 3)

Relying on this law as well as the customary rules of international law, Turkey applied the straight baselines method in certain bays, such as Xeros, Adramiyti, Izmir, Mendflia and Kos, from 24 May 1965 until July 1973.⁴ Since July 1973, however, given the very special circumstances of the Aegean Sea and also the wish not to create any basis for counter-practices and any sort of abuse of rights by its neighbour, Turkey denounced this practice and abolished the chart that applied straight baselines in the mentioned areas (Chart No: 8003 dated 24 May 1965).

Given the changes in the law of the sea, the various views of the states and also some of Turkey's draft article resolutions⁵ Ankara submitted to the Third UN Conference on the Law of the Sea, denounced this law (No: 476) and accepted on 20 May 1982 a new «Territorial Waters Law» (Law No: 2674).⁶

Since May 1982, Turkey has applied this law (Law No: 2674), which also accepts a territorial sea of six nautical miles (Art. 1/1). The same law also gave the government the power to declare broader territorial waters in particular seas, where all circumstances justified such an act and where the principles of equity are not compromised (Art. 1/3).

The Turkish Government, taking into consideration this particular provision of the law, declared by a decree (Decree No: 8/4742 dated May 29, 1982)⁷, that it would continue to apply a territorial sea of twelve nautical miles in the Black Sea and also in the Mediterranean (as was Turkey's previous practice). As can be seen, this previous practice was maintained and the Aegean Sea was wholly excluded from any extension beyond six nautical miles, given that the special circumstances of the coast and sea do not justify any extension of territorial waters and will fall contrary to the principles of equity. On the other hand, as Greek representative Kripsis stated at the 1958 UN Conference on the Law of the Sea, any extension of territorial waters by Greece in the Aegean Sea will create an abuse of rights.⁸ Turkey, by keeping its previous practice, also did not want to abuse any rights already granted her by international law.

The Turkish «Territorial Waters Law» indicates the principles of delimitation between states with opposite or adjacent coasts. According to this law, an agreement is essential between the concerned states, which ought to take into account all relevant factors of the region and also reflect equity (Art. 2).

In addition to those powers stated above, the power to determine the baselines for measuring the breadth of territorial waters is left to the discretion of the government (Art. 3.). This power can definitely only be used by the government in conformity with the principles of international law. The Turkish Government, to our knowledge, has applied the normal baseline method to its territorial waters all over the Aegean since July 1973.

An agreement is necessary on Turkish and Greek territorial waters in the Aegean where coasts are opposite or adjacent to each other. The Lausanne Peace Treaty neither includes a provision concerning the delimitation of Turkish and Greek territorial waters nor a map to this end, not even as an annex to this Treaty.

On 13 November 1926, the two states by an agreement delimited the seaward part of the Meritsa river. This delimitation was agreed upon at a time when the two states applied a three-mile territorial sea limit, but since 1964 this practice has changed. Due to the 1926 agreement, the limit should be revised according to this situation or the parties should agree on a new adjacent delimitation.

Another agreement between Turkey and Greece concerning the delimitation of territorial waters is the January 4, 1932 agreement signed between Turkey and Italy. This agreement determined the sovereignty over the islands and islets between the Turkish coast and the island of Castelorizo. Greece, by means of the 1947 Treaty (Art. 14), became a party to the mentioned 1932 treaty due to succession.

No other agreement concerning the delimitation of territorial sea exists between Turkey and Greece other than those indicated. Indeed, in the Aegean Sea Continental Shelf Case, Greece officially claimed that the 1932 agreement delimited the territorial sea at that particular region.⁹ This fact also reveals that there exists no other agreement between Turkey and Greece concerning the delimitation of Turkish and Greek territorial waters in areas where coasts are opposite to each other, all over the Aegean. In other words, Greece through its claims before the ICJ officially rejected the view that Art. 12 of the Lausanne Peace Treaty delimited and determined the breadth of Turkish territorial waters in the Aegean Sea. In other words, Art. 12 only indicates that islands situated at less than three miles from the Asiatic coast remain under Turkish sovereignty. It does not indicate or mean that islands and islets situated beyond three miles off the Asiatic coast *ipso facto* belongs to Greece, or limit Turkey's territorial sea to three miles.

2.2 Greek Practice

Until 1936, Greece applied a limit of three nautical miles to territorial seas, not only in the Aegean but also the Ionian. This decision stemmed from the general state practice and Greece's own belief that international law permitted a territorial sea of up to three nautical miles. But, on September 17, 1936, by Law No. 230, Greece extended its territorial waters to six miles, despite having advocated the three-mile limit with 17 other maritime states at the 1930 La Haye Codification Conference. While Greece was advocating three nautical miles territorial waters, Turkey, at this Conference, was advocating a territorial sea up to six nautical miles.

The Greek law (no. 230) does not include any special provision on methods of delimitation, the effects of islands and islets to those.

After Greece extended its territorial waters to six miles in 1936 by relying on its municipal law, Turkey did not object to this practice. This position came not only from Turkish views on the breadth of territorial waters, but also from the spirit of good neighbourliness founded by Atatürk and Venizelos in 1930.

Greece, in the 1958 Conference, despite a six-mile territorial sea practice, advocated a three-mile limit for the territorial sea and declared that it would reduce Greek territorial waters to three miles if the conference agreed.

Greece, since 1936, has not changed its six-mile practice. Nevertheless, on every occasion since the Third UN Conference on the Law of the Sea, Greece has sought to do so by every means unilaterally and also by supporting resolutions to its advantage, including the archipelagic state. Greece ratified the Convention in the early days of 1995, which might, according to Greek opinion, help the country to extend its territorial waters and also its areas of sovereignty in the Aegean. In other words, Greece wanted and still wants to acquire new sea territories and sea areas where it can use its sovereignty or sovereign rights. For this reason, the territorial sea problems, such as extension or by other new means of delimitation that will be unilaterally declared and applied by Greece, seem to prevail over all other issues in the Aegean, e.g., even the continental shelf dispute. By extending the territorial sea, the disputed continental shelf areas will be reduced to the advantage of Greece. However, this will lead to another dispute. In such a case Greece's rights over its new territorial sea will overlap with Turkey's *ipso facto* and *ab initio* rights over its continental shelf which do not require any occupation or any express proclamation.

3. International Law and the Breadth of Territorial Waters

The three-mile territorial sea limit, although a long-lasting practice, never gained general rule status. In none of the codification conferences, such as La Haye (1930), the First UN Conference on the Law of The Sea (1958) and the Second UN Conference on the Law of the Sea (1960), did states reach an agreement on the breadth of the territorial sea.

Despite that reality, since 1950, states have started abandoning the three-mile territorial sea practice and have begun accepting six-to twelve-mile territorial sea limits. Indeed, the draft articles submitted by states to the 1958 and 1960 Conferences indicated this general practice and tendency.

In the Third UN Conference on the Law of the Sea, overall the states declared that the territorial sea limits could be up to twelve miles. They either supported the position or submitted draft articles to this end. Yet only a few states were in

favour of an absolute twelve-mile limit for every state, and they had submitted draft articles to this end, such as India, Fiji, Spain, Greece, etc. Also, a few states were in favour of a two-hundred mile territorial sea.

The Third UN Conference on the law of the Sea, managed to codify this customary rule of international law on the breadth of the territorial sea. According to the 1982 Convention (UN Convention on the Law of the Sea) Art. 3 (Breadth of the territorial sea): «Every state has the right to establish the breadth of its territorial sea up to a limit not exceeding twelve nautical miles, measured from baselines determined in accordance with this Convention.»

As can be ascertained from the above-mentioned provision, the breadth of the territorial sea is not absolutely twelve miles but could be up to twelve miles. On the other hand, while determining the breadth of their territorial waters and delimiting it, states do not have absolute discretionary power.

4. Discretionary Power of States in Establishing the Breadth of Their Territorial Waters

The littoral states power in determining the breadth of its territorial waters and its delimitation, as previously mentioned, is limited and not left solely to the sovereign powers of the state. This power can be used only within the limits prescribed by international law and also only following the rules of equity. On the other hand, the 1982 Convention also expressly demands that states exercise their rights, jurisdictions and freedoms in a manner which would not constitute an abuse of rights (Art. 300). This provision of the Convention indicates a general principle of law and is also valid for the determination of the extent and delimitation of territorial waters.

4.1 Determination is not Solely Left to the Sovereign Powers of the State

Art. 3 of the 1982 Convention recognizes that states may establish the breadth of their territorial waters up to twelve miles. The same provision does not, however, mean that states are absolutely free and have exclusive powers in exercising this right. The ICJ in the *Anglo-Norwegian Fisheries Case* (1951) and also in the *Anglo-Icelandic Fisheries Jurisdiction Case* (1974) indicated an international custom, in both its judgements, to this end.

According to the ICJ, the establishment of the breadth of the territorial sea by a state has always created an international concern. The establishment of the breadth of the territorial sea can not be left solely to the discretion of the littoral state as being indicated in the municipal law of that state. It is also a reality that determination is both a unilateral and national act. Nevertheless, the validity of

this unilateral determination against the other states depends upon the rules of international law. On the other hand, while states are determining the breadth of their territorial waters, they should also take into consideration the interests of the other states and of the international community. In other words, the validity of a determination from the point of international law also depends on the non-objection of the concerned states to this practice.

4.2 Determination Should Conform to the Principles of Equity

The right of the coastal state to establish the breadth of its territorial waters according to the customary rules of international law, jurisprudence, and general principles of law ought to be executed in conformity with the principles of equity. In other words, both Turkey and Greece in the Aegean can establish the breadth of their territorial waters only as their decisions conform to the principles of equity. However, equity can be determined in each case only and by taking into account all relevant factors that will affect justice, such as the geographical, geological—to name a few—circumstances. Indeed, Art. 15 of the 1982 Convention, which reflects a principle of customary international law, makes reference to “special circumstances” in the case of delimitation of territorial sea where the coasts of two states are opposite or adjacent to each other.

Turkey, in its practice and during the Third UN Conference on the Law of the Sea, advocated equity in determining and delimiting the breadth of the territorial sea, and sea areas, especially in semi-enclosed seas having special circumstances.

4.3 Determination Should Not Constitute an Abuse of Rights

Abuse of rights simply means deliberately and with bias using a jurisdiction, right or freedom while disregarding the interests of other states and the international community. In other words, use of a right contrary to its spirit or for the purpose of creating due harm to another or others. No rule of law protects from “abuse of a right”, and such acts are considered within the general principles of law, as null and void., e.g., extension of territorial waters in the Aegean Sea for the purpose of restricting or acquiring the continental shelf areas of Turkey is an obvious example of an abuse of a right concerning the determination of the extent of territorial waters, which is contrary to law.

4.3.1 Territorial Sea of a State Should Not Be Cut off from the High Seas

As a customary rule of law, no state has the right to cut off the territorial sea of another state deliberately from the high seas or its exclusive economic zone. This principle of customary international law is being indicated in the 1982 Convention (Art. 7) and also in the 1958 Convention on the Territorial Sea and the Contiguous Zone (Art. 4).

The extension of territorial waters beyond six miles will cut the Turkish territorial seas from the high sea of the Aegean. According to the present practice of both states, Turkey has access to the Aegean high seas from various but narrow passages—areas located over the 38 parallel—amounting to a length of approximately 67 nautical miles and it is possible for Turkish vessels to navigate freely to the Mediterranean through the Aegean high seas, without entering into Greek territorial waters. If Greece extends its territorial waters to twelve miles, Turkey will have small areas of access to the Aegean high seas fully surrounded by Greek territorial waters giving no high seas passage to the Mediterranean. On the other hand, in such a case, Turkey's access to the enclosed Aegean high seas will be from three different but too narrow passages through the Limnos-Lesbos passage, through the Lesbos-Chios passage and through the Karako-Samos passage. All in all, that amounts to a total length of approximately 6.5 nautical miles. Such a practice—eight to twelve nautical miles—of Greece will make the whole Aegean “a Greek lake”, which will be an obvious example of Greek expansionist policy in the Aegean.

4.3.2. The Interests of Other States and the International Community Should Be Taken into Account

The Aegean Sea, a semi-enclosed sea, not only has unique features including approximately three thousand islands, islets and rocks, but spreads to an area of 213.016 km². There is no other sea in the world with similar features.

Given Turkey and Greece's current six-mile territorial sea practice in the Aegean, Turkey owns approximately 7.47 %, Greece—due to islands and islets—owns 43.68 % of this sea, and the remaining 48.85 % is high seas owned by the international community as *res communis*. The high seas is open to all states and every ship, whether a merchant, government or battle ship, can pass through the Aegean without entering either Greek or Turkish territorial waters. In other words, the said ship can fully enjoy freedom of navigation on the Aegean high seas, if desired (Annex/Maps I).

If Greece extended its territorial waters to twelve miles, which it really wants to achieve if the right occasion presents itself, Greece will own 71.53 % of the Aegean while Turkey with a twelve-mile territorial sea will own 8.76 % of this sea as its own territory. In this case, the high seas areas of the Aegean will be the remainder at 19.71 percent, which will obviously mean reducing the high seas areas contrary to the interests of the international community, and also against the interests of the other coastal state, Turkey. On the other hand, in the case of an increase of territorial waters to twelve miles, no ship will be able to pass through the Aegean without entering the territorial sea of Greece and thus using its right of innocent or transit passage (Annex/Maps II). In any event, the same

will occur even if territorial seas are extended to eight miles respectively in the Aegean. The end result is obviously closing the Aegean Sea and thus denying freedoms to the international community. This reality was clearly seen by Greece, and the Greek representative at the 1958 Conference, Mr. Kripsis, without any hesitation or doubt expressly stated this reality to all the participating states.

If Greece does extend its territorial waters to twelve miles, not only Turkey but also the other states that benefit from the freedom of navigation through the high seas of the Aegean, will no doubt object to such a practice. On the other hand, not only the waters of the Aegean Sea will be closed to free navigation but also the air space above it will also be closed to freedom of flight. In such a case, states benefiting from the freedom of flight in those areas will be compelled to obtain the consent of Greece for their flights, especially for military aircraft. As it is well known, there is no customary right of innocent passage recognized by law for states to fly over the air space of another state.

Greek representative Kripsis during the 1958 Conference in his statement on the extent of the breadth of territorial waters clarified that Greece obviously respects international law and the interests of the international community. On the other hand, Greece without a doubt, recognized the special circumstances of the Aegean Sea. We and the international community hope that Greece's respect of the rules of international law and the interests of the international community has not changed since then.

5. The Legal Status of Imia

The recent dispute between Turkey and Greece, that broke out at the end of January 1996, concerned conflicting claims of sovereignty over the Imia Rocks.

Two international documents, the 1923 Lausanne Peace Treaty and the 1947 Paris Peace Treaty, determine sovereignty over the Aegean islands. According to article 15 of the Lausanne Peace Treaty «Turkey renounces in favour of Italy all rights and title over the following islands: ... Kalymnos, ... and Cos, which are now occupied by Italy, and the islets dependent thereon, and also over the island of Castelorizo.» Also, according to article 14 of the 1947 Paris Peace Treaty, Italy hereby cedes to Greece in full sovereignty the Dodecanese Islands indicated hereafter, namely Kalymnos, ... and Cos and Castelorizo, as well as the adjacent islets.»

If Turkey had ceded its sovereignty over the Imia rocks in the Lausanne Peace Treaty, then Greece, through the 1947 Paris Peace Treaty, would acquire sovereignty over Imia. But, in actual fact, sovereignty over the rocks was not ceded to Italy. Article 16 of the Lausanne Peace Treaty, while indicating Turkey's renunciation of all of its rights over the islands beyond three miles off the Asiatic

coast of Turkey, does not indicate the legal status of the islets and rocks situated beyond three miles and leaves their legal status to be determined by the parties concerned. On the other hand, the interpretation of the terms «islets dependent thereon» and especially «the adjacent islets» indicates that the Imia rocks were not in any way ceded to Italy because they cannot be accepted as adjacent to the closest Greek island, Kalymnos. In fact, they lie 5.5 miles away from the mentioned island but 3.8 miles off the Asiatic coast and 2.2 miles away from the nearest Turkish island (Çavuş Island).

Despite the mentioned legal reality and the interpretation of the term «adjacent», Italy and Turkey fell into a disagreement, including the Imia rocks, over sovereignty on the adjacent islets and rocks of the Dodecanese islands.

Upon the above mentioned dispute, Turkey and Italy on January 4, 1932 concluded an agreement concerning the delimitation of the sea boundary between the Asiatic coast and the island of Castelorizo and also settled the question of sovereignty over the adjacent islets and rocks. This treaty was ratified by the signatory states and was also registered with the Secretariat of the League of Nations. In other words, this agreement gained full legal effectiveness.

What misleads Greece on sovereignty over the Imia rocks is the accord signed between Turkey and Italy on December 28 in 1932. According to this document, the Imia rocks were on the Italian side of the maritime boundary, but in reality this accord never and in no way gained legally binding power. It was neither ratified by the concerned parties nor registered to the League of Nations. According to the Covenant of the League of Nations (Art. 18), a treaty cannot gain a legally binding power unless registered. On the other hand, the mentioned accord is not an integral part or an annex of the January 4, 1932 agreement. If it were, the Turkish Grand National Assembly would have ratified both, since the ratification procedure was accomplished on January 14, 1933 by law no. 2106.

For the legal reason stated above, the December 28, 1932 accord did not acquire a binding character. In addition to this, the Italian Government demanded in 1935 that Turkey give official effect to this accord and demanded its reciprocal ratification. On the other hand, during the negotiations of the 1947 Paris Treaty, when Greece demanded a reference to be made to the mentioned accord, Russia's objections and doubts about the validity of this accord led to the refusal of the Greek proposal, which thus created additional legal and political evidence to the stated and defended ends.

On the other hand, if the December 28, 1932 accord was valid, why did Greece in 1950, demand the validity and entry into force of this accord by an exchange of notes. In addition to the above-stated legal reasons, additional evidence and a confession, were the Greek demands in 1955 and 1956 to delimit the territorial sea areas of the northern parts of the Dodecanese islands, by an agreement.

Since the December 28, 1932 accord did not gain a legally binding character, the Imia rocks remained and are still under Turkish sovereignty. During the delimitation of the Aegean territorial sea boundaries by an agreement, in the future, the sovereignty over islets, and rocks situated beyond three miles of the Asiatic coast of Turkey and not namely mentioned by the 1923 and 1947 treaties, ought to be negotiated on the basis of goodwill and equity.

Conclusion

Turkey and Greece are two bordering states that ought to live in peace and enjoy a spirit of good neighbourliness. Despite this reality, there are several disputes between them that need to be settled by meaningful negotiations aiming to reach an agreement or agreements based on law, justice and equity.

Disputes among those two states related to the law of the air (Greek air space), and law of the sea (territorial sea issues and the continental shelf case) are inter-related since they constitute a part of exercising sovereignty or sovereign rights over the mentioned areas. On the other hand, any settlement reached will directly affect another. For this reason, settlements ought to be handled and settled together.

The main territorial sea problem in the Aegean sea is the delimitation issue, which essentially includes the baselines and the breadth of the territorial sea. In addition to those disputes, claims of sovereignty on islets and rocks (the Imia rocks) situated three miles off the shores of Turkey, in the early days of 1996 by those countries is a recent example.

Since 1964, Turkey and Greece have applied a six nautical-mile territorial sea in the Aegean. With this practice, Greece owns approximately 43.68 % of the Aegean as its territorial waters and Turkey owns approximately 7.47 % of those waters as its territorial sea. Turkey therefore has narrow outlets through its territorial waters to the high seas areas of the Aegean. It is also possible for all ships to navigate freely on the high seas of the Aegean from the Black Sea to the Mediterranean without entering into either Greek or Turkish territorial waters. If presently applied methods of delimitation are changed, especially by Greece, or if the territorial waters are extended by Greece, the situation in the Aegean will shift to the advantage of Greece and the disadvantage of both Turkey and the international community. In such a case, any Turkish vessel, or any other vessel carrying the flag of a third state, ought to navigate through the Greek territorial waters by using its right of innocent or transit passage if wants to navigate from the Black Sea to the Mediterranean. On the other hand, Turkey will have only a few overly narrow outlets to the Aegean high seas, which will also be fully surrounded by the Greek territorial waters. As a result, no Turkish or any other state's aircraft, without the consent of Greece, would be able to fly over the Aegean Sea.

Because of this vital situation which strictly limits the rights and freedoms of states and also creates an abuse of rights, as explained briefly above, Turkey pronounced that any extension of Greek territorial waters will create a *casus belli* situation. This declaration was designed to draw the attention of the international public to the vitality of the situation and to Turkey's keenness to protect its rights, freedoms and vital interests.

The determination of the extent of the territorial sea is an international concern and cannot be left solely to the discretion of the coastal state. As international law, state practice and the judgements of international tribunals indicate, the coastal state should take into account the general principles of international law, the principles of equity, the special circumstances of the region when establishing the breadth of its territorial waters so as not to create an abuse of rights by its practice, including the cutting off the territorial waters of a state from the high seas, and the interests of the other coastal states and the international community. Kripsis, as Greek representative to the First UN Conference on the Law of the Sea (1958), expressly stated that the Aegean Sea does have special features and that any extension of Greek territorial water, even if international law permits states to extend their territorial waters up to twelve miles, will create an abuse of rights not only to the disadvantage of Turkey, but also to the disadvantage of the international community.

We and the international community hope that Greece will respect its international obligations arising from international law and to its commitments, and will not in any way extend its territorial waters and close the Aegean, thus preventing the international community from enjoying its freedoms.

NOTES

1. Art. 6/2: "In the absence of provisions to the contrary, in the present Treaty, islands and islets lying within three miles of the coasts are included within the frontier of the coastal State."

Art. 12/2: "Except where a provision to the contrary is contained in the present Treaty, the islands situated at less than three miles from the Asiatic coast remain under Turkish sovereignty."

If those two articles were interpreted objectively, it would be obviously seen that they do not, in absolute terms, determine the breadth of Turkish territorial waters but only determine the sovereignty on islands and islets within the prescribed limits.

2. For the text of the law, refer to Turkish Official Gazette, 24 May 1964, No: 11711.

3. This median line is not the maritime boundary between those two countries, but only determines the extent of territorial waters. Turkey has *ab initio* and *ipso*

facto exclusive rights over the continental shelf areas beyond those limits, which are the natural prolongation of the Anatolian peninsula.

4. INAN, Y.: *Coastal Sea Fisheries and Related Issues from the Aspect of International Law* [(published in Turkish) *Devletler Hukuku Bakimindan Kiyi Sulari Balıkçılığı ve Sorunları*], Ankara 1976, p. 10.

5. UN Doc. A/CONF. 62/C. 2/L.8; UN Doc. A/CONF. 62/C. 2/L.9; UN Doc. A/CONF. 62/C. 2/L.55; UN Doc. A/CONF. 62/C. 2/L.56.

6. For the text of the law, refer to Turkish official Gazette, May 29, 1982, No: 17708.

7. For the text of the decree, refer to Turkish Official Gazette, May 29, 1982, No: 17708 reiterated issue.

8. United Nations Conference on the Law of the Sea, Official Records, Vol. III, First Committee (Territorial Sea and Contiguous Zone), Summary Records of Meetings and Annexes, UN Doc. A/CONF. 13/39, Geneva 24 February -27 April 1958, p. 21-22 (This document will be cited as UN Doc. A/CONF. 13/39).

9. Aegean Sea Continental Shelf Case, I.C.J. Reports 1978, p. 88.

10. Société des Nations, Actes de la Conférence pour la Codification du Droit International, Séances des Commissions, Tome III, *Procès-Verbaux de la Deuxième Commission*, No. Officiel: C. 351 (b), M. 145 (b). 1930, V., p.119-125; INAN. Y.: *op. cit.*, p. 36-37.

11. Société des Nations, *op. cit.*, p. 119-125.

12. UN Doc. A/CONF. 13/39, p. 21-22.

13. For the Greek draft article, please refer to UN Doc. A/CONF. 62/C.2/L.22.

14. Anglo-Norwegian Fisheries Case, Judgement of 18 December 1951, I.C.J. Reports 1951, p. 132.

15. The Court in the Anglo-Icelandic Fisheries Case also expressed a similar view as an indication and reiteration of an international custom to this end. Anglo-Icelandic Fisheries Jurisdiction Case, Judgement of 25 July 1974, I.C.J. Reports 1974, p. 22.

16. Please refer to footnote 4 for Turkish draft articles to those ends.

17. UN Doc. A/CONF. 13/39, p. 21-22.

La mer territoriale grecque

Haritini Dipla*

ABSTRACT

This article focuses on the Greco-Turkish dispute concerning the territorial waters in the Aegean. After an overview of the present situation of the Greek territorial waters, the perspective of its extension to 12 miles is also considered. This analysis draws upon international law and refutes Turkish argumentation according to which Greece does not have the right to extend its territorial waters to 12 miles.

This study demonstrates that Turkish political, strategic and legal arguments are ill-founded and that the extension of Greek territorial waters will not create a prejudice for Turkey and will not jeopardize liberty of navigation in the Aegean.

Lastly, this article suggests another possible way to proceed more moderately; i.e., the extension of Greek territorial waters to ten miles. This solution would appease Turkey, leave supplementary portions of high sea and enable Greece to harmonize the width of its air space with the extent of its territorial waters.

RÉSUMÉ

Cet article analyse le différend gréco-turc concernant les eaux territoriales en mer Égée. Après un exposé sur le régime actuel de la mer territoriale grecque on passe à un examen de la perspective de son extension à 12 milles. Cet examen se fait sur le plan du droit international et réfute l'argumentation turque qui tente d'établir que la Grèce n'a pas le droit d'élargir sa mer territoriale à 12 milles.

Cette étude démontre que les arguments politiques, stratégiques et juridiques de la Turquie sont mal fondés et que l'élargissement de la mer territoriale grecque ne va pas causer de préjudice à ce pays, ni entraver la liberté de navigation en mer Égée.

Enfin cet article suggère aussi une voie possible, plus modérée: l'élargissement de la mer territoriale grecque à dix milles. Ceci apaiserait les craintes de la Turquie, laisserait des portions supplémentaires de haute mer et permettrait d'harmoniser la largeur de l'espace aérien grec avec celui des eaux de la mer territoriale grecque.

Introduction

La politique de la Grèce contemporaine dans le domaine du droit de la mer, et plus particulièrement dans celui de la mer territoriale, porte le sceau d'une double réalité: le pays est en même temps une puissance maritime et un petit État. Aussi contradictoire qu'elle puisse paraître, cette politique est motivée par un double souci. D'une part, défendre les intérêts d'un pays possédant une grande flotte marchande et plaidant par conséquent pour une haute mer la plus

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large possible où la liberté de navigation s'exerce sans entrave au profit de tous les navires.¹ Dans cette logique, la Grèce se range au départ parmi les États qui défendent une mer territoriale restreinte comme toutes les puissances maritimes. Au niveau interne, ce souci s'exprime par une législation qui limite la mer territoriale grecque d'abord à trois, ensuite à six milles marins.

Mais en même temps, la Grèce est un petit pays dont la position stratégique sur la carte du monde lui ouvre certainement des possibilités, mais lui pose aussi des problèmes de sécurité. Son histoire d'État conquis, puis libéré de l'Empire ottoman, explique des sentiments de méfiance qui se transforment en de sérieuses craintes de sécurité suscitées récemment par la politique révisionniste turque concernant le statu quo en mer Égée. Ces appréhensions, doublées d'une pauvreté en ressources naturelles, expliquent la position du pays en faveur de vastes zones maritimes.

Il faut placer ces intérêts contradictoires dans un paysage juridique coloré, ces dernières années, par les revendications des États côtiers qui ont exigé de nouvelles zones maritimes de juridiction nationale, mais également l'élargissement des anciennes mer territoriale et zone contiguë. Les besoins en ressources, qui se sont fait sentir après la Deuxième guerre mondiale, sont reflétés dans la tendance qui se verra consacrée par les Conventions de 1958 sur le droit de la mer, d'élargir cette juridiction par l'introduction dans le droit positif du plateau continental. La lutte pour l'élargissement de la mer territoriale ne va être gagnée que beaucoup plus tard, pendant les années quatre-vingts, avec l'adoption de la Convention des Nations unies sur le droit de la mer en 1982.²

En effet, ce que les partisans de l'élargissement de la mer territoriale n'ont pu réussir, ni pendant la première (1957-1958) ni pendant la deuxième Conférence (avortée) des Nations unies sur le droit de la mer (1960), ils l'ont obtenu lors de la négociation au sein de la Troisième Conférence qui s'est déroulée pendant les années soixante-dix et dont le fruit est la Convention sur le droit de la mer de 1982. C'est pendant cette négociation que le pari de l'élargissement a été gagné. La bataille, cependant, n'a pas été facile, car elle a opposé les États côtiers qui revendiquaient l'élargissement aux puissances maritimes qui plaidaient pour le statu quo. Le compromis final fut l'acceptation par les deuxièmes de la nouvelle limite des 12 milles marins au prix de l'acceptation par les États côtiers de nouveaux détroits qui allaient être créés après cet élargissement. Dans ceux-ci allait être appliqué un nouveau régime plus libéral de passage en transit, qui allait permettre aux sous-marins et aux aéronefs des grandes puissances militaires de traverser sans entrave les détroits servant à la navigation internationale. Ce compromis étant consacré à la Convention de 1982³, après l'adoption et jusqu'à l'entrée en vigueur tardive de celle-ci (novembre 1994), une pratique écrasante s'est manifestée, pratique qui allait dans le sens de l'élargissement par actes unilatéraux internes de la mer territoriale d'États, comme l'Angleterre et les États-Unis, qui étaient jusqu'alors partisans traditionnels de la limite des trois milles.⁴

Dans cet affrontement, qui avait commencé à se définir dès le début des négociations au sein de la Troisième Conférence des Nations unies sur le droit de la mer, la Grèce a finalement opté pour l'élargissement. Dans ce choix, ses intérêts d'État côtier l'ont emporté sur ceux de puissance maritime. Alors que la liberté de la navigation pour sa flotte est garantie de nos jours par le droit de la mer et qu'elle ne se sent plus, par conséquent, menacée dans ce domaine, ses problèmes de sécurité restent au centre de ses préoccupations.

En effet, ses voisins turcs ont commencé, dès 1973, lors des derniers moments de la dictature en Grèce, à remettre en question le statu quo en mer Égée. Cette remise en question s'était manifestée par des actes unilatéraux, qui proclamaient des droits au profit des personnes morales turques sur des parties du plateau continental grec, et accompagnée de recherches sismographiques entreprises pendant l'été de 1974.

Dès lors, une nouvelle ère commence dans les relations entre les deux États, consistant, d'une part, en des revendications unilatérales continues et des menaces de la part de la Turquie et, d'autre part de démarches grecques auprès des instances internationales, telles les Nations unies et la Cour internationale de justice pour résoudre le différend sur le plateau continental de la mer Égée.⁵ Mais, en même temps, la Turquie a commencé à s'opposer au droit de la Grèce d'étendre sa mer territoriale à 12 milles marins, à contester la largeur de son espace national aérien de 10 milles, ainsi que les droits fonctionnels de la Grèce sur l'espace aérien international de la mer Égée.⁶ Les années suivantes ont été témoins des revendications toujours grandissantes de la part de la Turquie, revendications qui ont atteint leur apogée lors de la récente crise, en février 1996, à propos des rochers Imia, quand, pour la première fois, la Turquie a mis en doute la souveraineté grecque sur une parcelle de son territoire.

Si, pour les raisons exposées plus haut, la Grèce possède aujourd'hui une mer territoriale de six milles marins, elle fait néanmoins partie des États qui ont contribué à la création conventionnelle et coutumière de la règle des 12 milles et elle revendique aujourd'hui le droit à cet élargissement dans toutes les mers qui entourent son territoire, y compris la mer Égée. Alors qu'elle ne possède pas de zone contiguë ni de zone économique exclusive, elle affirme des droits sur le plateau continental adjacent à ces côtes.⁷

Ceci dit, la question centrale dans le faisceau des relations gréco-turques en mer Égée est celle de la mer territoriale. Si la Grèce étend sa mer territoriale à 12 milles, la question du plateau continental sera également résolue, en grande partie, au bénéfice des droits grecs et en même temps sera réglée la question de la pluralité des limites dont souffre aujourd'hui la mer territoriale grecque.

Dans les pages qui suivent sera d'abord examiné le régime actuel de la mer territoriale grecque (Première Partie). Ensuite le nouveau droit de la mer en

matière de mer territoriale sera exposé en même temps que le droit de la Grèce d'étendre sa mer territoriale à 12 milles marins (Deuxième partie). Enfin, des conclusions seront tirées qui viendront clore l'examen de la question.

A. Le régime actuel de la mer territoriale grecque

a) Une limite extérieure diversifiée

Comme il a été exposé plus haut, la politique de la Grèce en matière de zones maritimes a longtemps vacillé entre le souci de sauvegarder, d'une part, les libertés de la haute mer, notamment celle de la navigation et de la pêche, d'autre part d'agir en État côtier et revendiquer de larges zones maritimes de juridiction nationale.

Ces hésitations sont reflétées dans la législation grecque en la matière, qui est réglée au départ par des textes sans rapport avec la mer territoriale. Certains d'entre eux concernent des règlements sanitaires, d'autres régissent le contrôle douanier, d'autres encore les naufrages survenus dans une zone proche des côtes grecques. Aucun de ces textes, qui datent de la fin du siècle passé, n'adopte le terme eaux territoriales ou mer territoriale. Par ailleurs des largeurs différentes y sont adoptées.

La première loi qui mentionne expressément le terme mer grecque est la loi ΔΗΜΑ de 1913 sur le passage et le séjour des navires marchands auprès des côtes grecques et sur la police dans les ports et les rades grecques en temps de guerre. Elle définit comme mer grecque la zone maritime qui s'étend à dix milles marins de la côte.⁸

Le deuxième texte portant sur la question de la mer territoriale est la loi No 5017 de 1931 sur l'aviation civile, qui affirme la pleine souveraineté de l'État grec sur l'espace aérien au-dessus de son territoire, ce terme étant entendu comme comprenant les eaux territoriales et l'air surjacent. La même loi autorise le Gouvernement à assurer par décret présidentiel la réglementation et la police de l'aviation.⁹ La même année, en exécution de cette loi a été promulgué le décret présidentiel du 6/18 septembre sur la définition de la largeur des eaux territoriales en ce qui concerne les questions de l'aviation et de sa police, qui dispose que la largeur de la zone des eaux territoriales mentionnée dans la loi 5017 est de 10 milles marins à partir des côtes de l'État.¹⁰

Ainsi, comme le constate un auteur grec qui a écrit sur la question, la Grèce, avant même de définir la largeur de sa mer territoriale dans toutes ses dimensions, en avait réglé les questions spécifiques, comme celle de l'espace aérien surjacent aux fins de l'aviation et de sa police.¹¹ Cette attitude, dictée sans aucun doute par

des raisons de sécurité sera, comme on le verra par la suite, l'un des éléments qui feront que le régime de la mer territoriale grecque comportera un aspect de diversité quant à sa limite extérieure.

Ce n'est qu'en 1934 que la législation grecque s'attachera à définir la largeur de la mer territoriale à trois milles marins, ceci dans le cadre d'une loi sur les sommes reçues par des services de sauvetage, qui qualifiait de mer territoriale «les eaux territoriales de l'État d'une étendue de trois milles marins à partir des côtes, sauf dans les cas où celle-ci est fixée à une étendue inférieure ou supérieure à trois milles par des lois spéciales, par des traités ou conventions, ou par les principes du droit international.»¹²

Cette réglementation définit donc la largeur de la mer territoriale grecque à trois milles marins, sauf en ce qui concerne notamment les questions de l'aviation et de sa police, pour lesquelles reste valable la largeur des dix milles, fixée par le décret de 1931.

Ce régime demeurera valable jusqu'en 1936, quand, par la loi 230 de la même année sur la définition de la mer territoriale grecque, la largeur de celle-ci est portée à six milles marins à partir des côtes grecques. Il y est précisé que cette disposition est sans préjudice d'autres dispositions qui prévoient une autre limite, inférieure ou supérieure à six milles marins.¹³ Depuis, la largeur de la mer territoriale grecque demeure six milles marins, sauf en ce qui concerne les questions de l'aviation et de sa police, aux fins desquelles elle est de dix milles marins, et certaines autres questions (remorquage: trois milles marins, passage et séjour des navires étrangers en temps de guerre: dix milles), ceci en vertu de lois spécifiques.

Cette situation, à vrai dire, assez particulière, ne s'est pas heurtée à des objections de la part d'autres États.¹⁴ En ce qui concerne plus particulièrement l'inéquation entre l'étendue de l'espace aérien et celui des eaux de la mer territoriale grecque, elle fut notifiée par la Grèce aux différents *fora* internationaux, en conformité avec les obligations internationales que le pays avait entreprises. Tel fut le cas, par exemple, des notifications adressées à la Commission internationale de navigation aérienne (CINA), organe créé par la Convention internationale de Paris de 1919 portant sur la réglementation de la navigation aérienne, à laquelle la Grèce était partie contractante et en application de laquelle avait été adoptée la loi 5017 de 1931.¹⁵

Les mêmes cartes, agréées par la Commission, ont été transmises, après la Deuxième guerre mondiale à l'Organisation de l'aviation civile internationale (OACI), qui les publia en 1949, puis en 1955.¹⁶

Ainsi, comme on a pu le constater, la largeur actuelle de la mer territoriale grecque est de six milles en ce qui concerne le plus grand nombre des compétences de la Grèce sur cette zone, à l'exception des questions de l'aviation et de sa

police, pour lesquelles la limite est fixée à dix milles (voir Annexe/Cartes III). Ce régime est admis par la communauté internationale, à l'exception de la Turquie, qui le conteste depuis le début des années 1970. Il lui est cependant opposable, du fait qu'elle a acquiescé à son application pendant la longue et critique période de 1931 à 1974, alors que celui-ci était porté à sa connaissance.¹⁷

b) Une limite intérieure dépassée

Le droit de la mer contemporain accorde une importance particulière aux lignes de base à partir desquelles est mesurée la largeur de la mer territoriale, de la zone économique exclusive et du plateau continental. Les lignes de base constituent la limite en deçà de laquelle sont situées les eaux intérieures, soumises totalement à la souveraineté de l'État côtier; au delà de celles-ci se trouve la mer territoriale, dans laquelle les navires des autres États peuvent exercer leur droit de passage inoffensif. Leur tracé est par conséquent extrêmement important non seulement pour l'État côtier, mais également pour les autres États.

Il existe deux méthodes permettant de tracer ces lignes de base: la première consiste à suivre la ligne normale des côtes et, aux endroits où il existe une marée, la ligne de basse mer le long de la côte (article 5 de la Convention de 1982). Mais il existe également une autre méthode qui permet aux États qui possèdent des côtes profondément échancrées ou découpées, ou encore bordées de chapelets d'îles le long de celles-ci, d'utiliser pour le tracé des lignes de base le système dit des lignes de base droites. Les articles 4 de la Convention de 1958 sur la mer territoriale et la zone contiguë et 7 de la Convention de 1982 sur le droit de la mer codifient le droit coutumier sur les lignes de base droites.¹⁸ Celles-ci consistent en des lignes imaginaires droites, tirées à partir des points extrêmes des promontoires ou des îles les plus éloignées. Elles permettent d'obtenir tant du côté de la limite intérieure que de celui de la limite extérieure de la mer territoriale des lignes moins sinueuses que si l'on suivait le système des lignes de base normales. D'autre part, ce tracé favorise l'État côtier, puisqu'il lui laisse plus d'espaces d'eaux -intérieures et territoriaux- que s'il utilisait le système des lignes de base normales.¹⁹

La légalité du système est soumise cependant à certaines conditions prévues par le droit, comme celles qui figurent aux paragraphes 3, 4, 5, et 6 de l'article 7 de la Convention de 1982 sur le droit de la mer. Selon ces dispositions, les lignes de base droites ne doivent pas s'écarter de la direction générale de la côte et les étendues de mer situées en deçà de celles-ci doivent être suffisamment liées au domaine terrestre pour être soumises au régime des eaux intérieures. Elles ne doivent pas être tracées vers ou depuis des hauts-fonds découvrants, que s'il existe des phares ou autres installations sur ceux-ci. Pour leur tracé, il peut être tenu compte des intérêts économiques propres de la région, par exemple la

dépendance des populations locales de la pêche. Enfin, elles ne peuvent être tracées de manière à couper la mer territoriale d'un autre État de la haute mer ou d'une zone économique exclusive.²⁰

Le droit de la mer permet également à l'État côtier de tracer des lignes de base droites d'une longueur maximale de 24 milles marins à travers les ouvertures des baies (article 10 de la Convention) et les embouchures des fleuves qui se jettent dans la mer sans former d'estuaire (article 9).

Le système des lignes de base droites est largement utilisé pour le tracé de la limite intérieure de la mer territoriale, mais la pratique des États témoigne des déviations par rapport aux conditions énoncées ci-dessus. Pour ne mentionner que la pratique des États riverains de la Méditerranée, ce système est suivi par l'Albanie, l'Algérie, Chypre, l'Égypte, l'Espagne, la France, l'Italie, Malte, le Maroc, la Syrie, la Turquie, la Tunisie et l'ex-Yougoslavie.

La Grèce est un État dont les côtes présentent les caractéristiques qui permettent par excellence d'utiliser le système des lignes de base droites. Ceci est valable tant pour la mer Ionienne que pour la mer Égée. En effet, les côtes grecques sont indentées et bordées de chapelets d'îles à proximité de celles-ci, et répondent par conséquent aux critères posés par le droit international qui permettent à l'État côtier de faire usage de cette méthode. Cependant, le tracé de la mer territoriale grecque est effectué selon le système des lignes de base normales, étant donné que, dans tous les actes législatifs mentionnés plus haut, il est question de limites à partir des côtes grecques. Ceci est dû au fait que la législation grecque date par rapport aux règles du droit de la mer qui n'ont que relativement récemment admis le tracé des lignes de base droites.

En ce qui concerne les baies, celles-ci ne sont pas mentionnées dans l'appareil législatif dont il a été question, sauf dans la loi de 1913 sur le passage et le séjour des navires étrangers dans les eaux grecques en temps de guerre. Il y est stipulé que la limite des dix milles sera calculée à partir d'une ligne tracée à travers une baie ou un golfe, dont l'ouverture ne dépasse pas 20 milles.²¹ D'autre part, lorsque la Grèce avait porté, en 1976, l'affaire de la délimitation du plateau continental de la mer Égée devant la Cour internationale de justice, elle avait plaidé devant celle-ci que le tracé de la limite de la mer territoriale se fait à partir de lignes droites de dix milles tracées entre les points d'ouverture des baies.²²

À cette pratique, apparemment confuse, vient s'ajouter le fait qu'en 1972, lors de la ratification de la Convention de 1958 sur le plateau continental, la Grèce a émis une réserve suivant laquelle, pour établir les limites du plateau continental entre la Grèce et les États dont les côtes sont situées du côté opposé, celle-ci appliquera, à défaut d'accord international, le système des lignes de base normales.²³

Il faut noter, à cet égard, que la Turquie, malgré que ces côtes ne présentent pas les irrégularités des côtes grecques, ni ne comportent de chapelets d'îles à leur proximité, avait adopté le système des lignes de base droites pour tracer la limite de sa mer territoriale en mer Égée depuis 1964.²⁴ Ces lignes de base droites sont inopposables à la Grèce, parce que non conformes aux conditions posées par le droit international.²⁵ Elles témoignent, d'autre part, que la Turquie, qui n'est pas Partie²⁶ de la Convention de 1958 sur la mer territoriale et la zone contiguë, ni à la Convention de 1982 sur le droit de la mer, admet la valeur coutumière de la méthode des lignes de base droites.²⁷

La réserve grecque de 1972 n'a servi à rien. Émise dans le but d'affirmer l'inopposabilité à la Grèce des lignes de base turques, elle a produit l'effet contraire, puisqu'elle empêche aujourd'hui la Grèce d'adopter à son tour le système des lignes de base droites pour mesurer la largeur de sa mer territoriale.

Si ce système était adopté conformément aux prescriptions posées par le droit, il est compté que le pays profiterait d'une augmentation en eaux intérieures ou en mer territoriale de l'ordre de 5%.²⁸ Dans les nouveaux espaces qui seraient soumis au régime des eaux intérieures grecques, s'appliquerait l'article 8 de la Convention de 1982, suivant lequel, lorsque le tracé d'une ligne de base droite inclut dans les eaux intérieures des eaux qui n'étaient pas précédemment considérées comme telles, le droit de passage inoffensif prévu dans la Convention s'étend à ces eaux. Il s'agirait là d'un argument pour réfuter notamment les objections de la Turquie, selon lesquelles ce système aurait comme effet d'entraver le droit de passage inoffensif à travers des eaux, qui seraient transformées, si le système des lignes de bases droites était utilisé par la Grèce, en eaux intérieures. De toute façon, la Grèce ne peut le faire qu'après avoir retiré la réserve émise à la Convention sur le plateau continental qui vient d'être évoquée.

La situation actuelle n'est pas satisfaisante aussi pour une autre raison. La Grèce a conclu, en 1977, un Accord de délimitation du plateau continental dans la mer Ionienne avec l'Italie, qui prévoit comme limite de celui-ci la ligne médiane. Cette limite est cependant calculée, d'une part, à partir des lignes de base droites qu'a adoptées l'Italie, d'autre part par des lignes de base normales adoptées par la Grèce.²⁸

Indépendamment de l'élargissement de sa mer territoriale, la Grèce devrait adopter le système des lignes de base droites tant dans la mer Ionienne que dans la mer Égée.²⁹ Cet acte lui permettrait de se placer sur un pied d'égalité avec l'Italie en ce qui concerne le Traité de 1977, et également avec la Turquie avec laquelle elle pourrait à l'avenir conclure un accord de délimitation.

B. La perspective des 12 milles

a) Le droit positif

L'article 3 de la Convention sur le droit de la mer dispose:

"Tout État a le droit de fixer la largeur de sa mer territoriale; cette largeur ne dépasse pas 12 milles marins à partir des lignes de base établies conformément à la Convention."

La formulation de cet article témoigne du double caractère de la délimitation de la mer territoriale vers le large. Le premier alinéa met l'accent sur la nature unilatérale, et par là nationale, interne, de l'acte de la délimitation, qui revient à l'État côtier. Seul celui-ci a qualité pour procéder à cet acte au moyen de sa législation interne. Il s'agit là d'une compétence admise par la Cour Internationale de Justice déjà en 1951³⁰ et consacrée aujourd'hui par le droit.

Mais ce pouvoir de l'État côtier se voit circonscrit par le droit international de la mer qui pose des limites à cette liberté. Ainsi, le deuxième alinéa de l'article 3, en mettant l'accent sur le caractère international de la délimitation, précise que la limite de la mer territoriale ne peut excéder 12 milles marins.

Cette rédaction reflète le compromis issu de la relation dialectique entre intérêts du côtier et ceux de la collectivité. Le premier a tendance à affirmer le plus fortement possible sa souveraineté en fonction de laquelle il possède des zones maritimes, mais il reconnaît également l'intérêt commun à sauvegarder un espace où pourront s'exercer les libertés de la haute mer.

En plus, il a été question plus haut du compromis ayant permis aux États qui ont négocié le texte de l'article 3 de s'accorder sur la largeur des 12 milles marins. Rappelons à ce sujet que les textes conventionnels précédents n'avaient pas réglé cette question, qui n'a trouvé sa solution, par le biais combiné de la négociation et de la pratique des États, que dans la disposition de l'article 3.

En effet, parallèlement à la négociation qui se déroulait au sein de la Conférence des Nations unies sur le droit de la mer, et certainement en rapport avec elle, pendant la décennie des années quatre-vingt, la communauté internationale fut témoin d'un élargissement de la mer territoriale par un nombre écrasant d'États. Sur 150 États, dont 42 sont des États sans littoral, plus de 120 ont fixé leur mer territoriale à 12 milles marins, treize seulement ont une mer territoriale de moins de 12 milles et seize revendiquent une mer territoriale de plus de 12 milles marins.³¹ Il est à noter que parmi ces 120 États, la moitié seulement sont Parties à la Convention de 1982 sur le droit de la mer, ce qui signifie que la pratique qui s'est développée dans ce sens n'est que partiellement fondée sur le droit conventionnel et qu'elle se place également au plan du droit coutumier. Droit coutumier qui a vu le jour justement en raison du nouveau consensus qui s'est dégagé de la négociation dans la Conférence et qui a permis à cette pratique de jaillir pour le confirmer.

Il est certainement impossible de dire quand exactement s'est solidifiée la règle coutumière des 12 milles. Une chose est cependant claire: qu'au moment de l'adoption du texte de la Convention par 119 États en 1982, ces États ont exprimé par cet acte leur *opinio juris* en rapport avec cette règle. Tout acte d'élargissement adopté par des États après cette date et avant l'entrée en vigueur de la Convention en 1994 se manifestait donc dans le cadre du droit coutumier. Après cette date, les États qui sont Parties à la Convention agissent, dans leurs relations à l'égard des autres États contractants, en vertu du droit conventionnel, et, dans leurs relations avec les tiers, en vertu du droit coutumier ayant un contenu identique. Enfin, les États tiers peuvent également procéder à cet élargissement en se plaçant, eux aussi, au plan du droit coutumier.

Tel est le canevas juridique sur lequel la Grèce doit broder aujourd'hui. En fait, depuis les années soixante-dix déjà, lors de la négociation à la Conférence, le pays, on l'a vu, s'était rangé parmi ceux qui ont soutenu l'élargissement.³² Cette attitude s'est tout de suite heurtée à des objections de la part de la Turquie, qui a en vain essayé, avec l'aide d'autres États, de freiner cette tendance et d'introduire dans les textes qui allaient être adoptés des réserves et des exceptions.³³ De toute façon, ces tentatives ayant échoué, le texte de la Convention est tel que nous l'avons cité et analysé plus haut, et permet à l'État côtier d'étendre sa mer territoriale à douze milles marins.

La Grèce est aujourd'hui Partie contractante à la Convention qui lui permet de jouir des droits stipulés dans celle-ci. La Turquie fut un des quatre États qui ont voté contre l'adoption du texte de la Convention, une des raisons étant justement la question de la mer territoriale. Elle n'a à ce jour ni signé, ni ratifié cette Convention. Les relations des deux pays concernant cette question sont par conséquent régies par le droit coutumier, tel que nous l'avons exposé plus haut. Et ce droit permet à la Grèce d'étendre ses eaux territoriales à 12 milles marins, ceci dans toutes les mers qui entourent le territoire grec, y compris la mer Égée.

Néanmoins, la Grèce n'a, à ce jour, étendu sa mer territoriale à 12 milles marins dans aucune des mers qui entourent son territoire. L'élargissement ne semble pas poser de problèmes en mer Ionienne, dans laquelle tant l'Albanie que l'Italie ont adopté une mer territoriale de 12 milles. Cette abstention est due principalement aux réactions de la Turquie en ce qui concerne l'élargissement en mer Égée, réactions qui consistent d'une part, en des menaces, d'autre part en des tentatives diplomatiques et autres pour présenter des arguments juridiques contre l'élargissement unilatéral de la mer territoriale dans une mer semi-fermée comme la mer Égée. C'est vers ces réactions que nous allons nous tourner à présent.

b) Les obstacles à l'application de la règle des 12 milles en mer Égée

i. Les menaces turques

Depuis le milieu des années 1970, quand la Turquie avait commencé à remettre en question le statu quo de la mer Égée en mettant le poids sur le plateau continental, elle avait également émis les premières objections à un élargissement éventuel de la mer territoriale grecque. En effet, la négociation au sein de la Troisième Conférence des Nations unies sur le droit de la mer venait de commencer et tout laissait prévoir que les 12 milles allaient être admis comme une limite acceptable par tous.

Les réactions turques revêtaient un double aspect: au niveau verbal, elles consistaient en des déclarations provenant des dirigeants politiques en leur qualité officielle. La liste de ces déclarations est longue; elles contiennent, pour la plupart, des menaces contre la Grèce.³⁴ Au niveau de l'action, elles se traduisaient et se traduisent encore aujourd'hui en un nombre toujours grandissant de violations de l'espace aérien grec situé entre six et dix milles marins.

En fait, la politique extérieure turque sur ce point est d'une extraordinaire constance: toute tentative grecque d'extension se heurtera à une réponse armée de la part de la Turquie. Cette attitude a atteint son apogée lors de l'adoption par l'Assemblée nationale turque, le 8 juin 1995, quelques jours après la ratification par la Grèce de la Convention de 1982, d'une résolution, suivant laquelle «malgré l'espoir que le Gouvernement grec n'allait pas étendre la mer territoriale grecque au-delà de la limite actuelle en mer Égée, ce qui allait rompre l'équilibre créé par le Traité de Lausanne, la Grande Assemblée nationale turque a décidé de donner au Gouvernement turc tous pouvoirs, y compris ceux qui pourraient être jugés nécessaires dans le domaine militaire, pour sauvegarder et défendre les intérêts vitaux de la Turquie dans cette éventualité. Aussi, la Grande Assemblée a-t-elle décidé de porter ceci à la connaissance de l'opinion publique grecque et mondiale dans un esprit d'amitié.»³⁵

Ces menaces sont en flagrante contradiction avec l'obligation de la Turquie et de tout autre État de s'abstenir de l'emploi ou de la menace d'emploi de la force, obligation codifiée dans la Charte des Nations unies³⁶, la Déclaration de Manille adoptée en 1982 par l'Assemblée générale sur le règlement pacifique des différends³⁷ et les textes agréés au sein de la Conférence sur la sécurité et la coopération en Europe.³⁸ La même interdiction est contenue à l'article 301 de la Convention de 1982 sur le droit de la mer, qui prévoit que dans l'exercice de leurs droits et de leurs obligations en vertu de la Convention, les États Parties s'abstiennent de recourir à la menace ou à l'emploi de la force. Bien entendu, cette disposition ne lie pas la Turquie, qui n'est pas Partie à la Convention, mais son contenu lui est applicable tant qu'il reflète le droit coutumier.

Ce n'est qu'après la crise récente des rochers Imia, en février 1996, que ce genre de réactions a cessé d'être utilisé par la Turquie comme un outil de sa politique extérieure envers la Grèce, ceci sous le pression des États de l'Union européenne, à laquelle la Turquie désire adhérer et avec laquelle la lie aujourd'hui un Traité d'Union douanière.

ii. L'argumentation turque et sa réfutation

L'argumentation turque suit deux voies parallèles. La première est axée sur le besoin de la Turquie de protéger ce qu'elle appelle «l'espace vital turc». ³⁹ Elle consiste à dire que si la Grèce étendait sa mer territoriale à 12 milles marins, la mer Égée serait transformée en «lac grec», puisque l'élargissement aurait comme effet de soumettre à la juridiction grecque 64% des eaux de la mer Égée (alors que ce contrôle est limité aujourd'hui à 35%) ⁴⁰, et que, par conséquent, tout accès des navires militaires turcs à la haute mer devrait nécessairement se faire à travers des parcelles de mer territoriale grecque.

Pour étayer cette thèse, la Turquie s'engage sur une deuxième voie et présente une série d'arguments juridiques. Elle soutient, dans un premier temps, que la règle des 12 milles n'a pas acquis une force coutumière ⁴¹, ensuite, que, même si cela était le cas, cette règle lui est inopposable, du fait que la Turquie a toujours refusé d'admettre son applicabilité en mer Égée, où il existe des circonstances spéciales qui justifient une autre limite inférieure à 12 milles. Elle soutient également que, si la Grèce procédait unilatéralement à l'élargissement, celle-ci commettrait un abus de droit, puisqu'elle aurait appliqué la règle des 12 milles marins dans une mer semi-fermée comme la mer Égée sans consulter d'abord les autres États riverains. ⁴²

L'argument concernant l'absence de valeur coutumière de la règle des 12 milles marins ne peut pas résister à une critique sérieuse, du fait de la très large pratique des États qui prouve que cette règle est aujourd'hui solidement ancrée dans le droit international général. D'ailleurs, la Turquie, ayant été témoin de la consolidation de cette règle, ne met plus aujourd'hui l'accent sur sa valeur coutumière, mais plutôt sur l'inopposabilité de la règle des 12 milles à son égard dans le cas précis de la mer Égée. ⁴³ Il serait en d'autres termes question d'une situation dans laquelle la Turquie aurait agi en *"permanent objector"* dans le sens qu'elle se serait opposée d'une manière constante à la formation d'une telle règle, qui ne pourrait par conséquent lui être applicable.

Il faut noter, au départ, que la position de la Turquie face à la règle des 12 milles n'est pas aussi constante que prétend cet État. Il suffit de constater, à cet égard, que la Turquie a adopté elle-même la limite des 12 milles pour sa mer territoriale dans la mer Noire et la Méditerranée; ⁴⁴ et qu'elle avait admis déjà en 1956 que «la limite des 12 milles est déjà suffisamment acceptée en pratique pour

être considérée comme une règle de droit international». ⁴⁵ C'est seulement à partir des années 1970 et pendant la négociation qui s'est déroulée au sein de la Troisième Conférence qu'elle a commencé à contester la valeur coutumière de la règle des 12 milles.

Ensuite, sans procéder ici à une analyse de la théorie dite de la «contestation permanente» ⁴⁶, fondée sur une approche consensualiste du droit international, et même s'il était admis que la contestation permanente isolée pourrait empêcher une règle coutumière de se former, il est clair que lorsqu'une règle a acquis force coutumière, en dépit de la contestation permanente d'un État, celui-ci ne peut plus refuser son applicabilité à son égard. S'il n'a pas pu arrêter sa formation, il doit accepter son applicabilité. ⁴⁷

Une autre facette de cette argumentation consiste à dire que, du fait de l'abstention des deux États de proclamer en mer Égée une mer territoriale de 12 milles, une coutume locale serait formée, applicable dans leurs relations mutuelles dans cette mer. Cet argument se heurte à de sérieuses objections, dont la principale se rattache à l'absence d'une *opinio juris*, élément indispensable qui doit accompagner la pratique invoquée. S'il est vrai que du côté grec cette pratique consiste en effet en l'abstention d'appliquer en mer Égée la règle des 12 milles, ce comportement n'est nullement fondé sur la conscience qu'il est dicté par le droit, mais par la peur de provoquer une réaction armée turque. Au contraire, la Grèce réclame son droit et déclare qu'elle l'exercera quand bon lui semble. ⁴⁸

Quant à l'argument selon lequel les circonstances spéciales de la mer Égée justifieraient un régime spécial pour la mer territoriale, ici aussi le côté turc semble confondre le rôle accordé aux circonstances spéciales lors de la délimitation des espaces maritimes entre États en voulant les introduire dans un domaine d'où celles-ci sont exclues: comme on l'a vu plus haut, l'article 3 de la Convention, qui règle la délimitation de la mer territoriale vers le large, reflétant le droit coutumier, est d'une applicabilité générale et ne contient pas d'exception à l'application de la règle des 12 milles.

Bien sûr, l'élargissement pourrait provoquer quelques rares chevauchements entre les mers territoriales grecque et turque. C'est uniquement dans cette éventualité que pourraient entrer en ligne de compte les règles concernant la délimitation de la mer territoriale entre États, qui réservent une place aux circonstances spéciales (article 15 de la Convention de 1982). Soit dit en passant que la limite actuelle entre les mers territoriales grecque et turque est effectuée soit par des traités, soit de manière coutumière suivant la méthode de la ligne médiane. ⁴⁹

Venons maintenant à l'argument des mers fermées et semi-fermées. Il est vrai que la spécificité des problèmes auxquels doivent faire face les États riverains de ces mers a amené la Conférence à inclure dans la Convention de 1982 deux

articles dédiés à celles-ci. Il est également vrai que la mer Égée rentre dans la définition de mer semi-fermée de l'article 122 de la Convention.⁵⁰ Cependant, l'article 123, d'un faible contenu normatif, puisque rédigé au conditionnel, ne mentionne les obligations de coopération entre États riverains de ces mers, qu'en ce qui concerne la gestion, la conservation, l'exploration et l'exploitation des ressources biologiques de la mer, la protection et la préservation du milieu marin et la recherche scientifique marine. La faculté de l'État côtier de proclamer des zones maritimes, dont la mer territoriale, n'y est nullement mentionnée. Au contraire, si on a recours aux travaux préparatoires de la Convention, on constate que des propositions venant de la part de certains États, dont la Turquie, durant les négociations, en vue d'y inclure des dispositions concernant l'obligation de consultation et conclusion d'accords entre États riverains des mers fermées ou semi-fermées, avant que ceux-ci procèdent à la fixation unilatérale de la limite de leur mer territoriale vers le large, ont été repoussées par la Conférence.⁵¹ Rappelons enfin que cet article, dont le contenu, en raison de son faible contenu normatif, ne reflète point le droit coutumier, ne peut s'appliquer que dans les relations entre États contractants à la Convention, qualité que n'a pas la Turquie.

Quant à l'argument de l'abus de droit, la Turquie évoque l'article 300 de la Convention, qui dispose que les États Parties doivent remplir leurs obligations aux termes de la Convention de bonne foi et exercer leurs droits, compétences et libertés reconnus par celle-ci d'une manière qui ne constitue pas un abus de droit.

Au départ, comme il a été observé par rapport à l'argument sur les mers fermées ou semi-fermées, la Turquie n'étant pas liée par la Convention, elle ne peut invoquer le contenu de cet article que si celui-ci reflète le droit coutumier. En effet, le principe de l'abus de droit, prêté au droit international par les droits internes, est considéré aujourd'hui comme un principe général du droit international qui doit guider les États dans leurs relations mutuelles.⁵²

Le principe de l'abus de droit se réfère d'une part au but dans lequel est exercé le droit ou la compétence en question, d'autre part aux modalités de cet exercice. En d'autres termes, avant d'admettre qu'un État a commis un abus de droit, il faut qu'il soit établi que celui-ci a exercé ce droit dans un but autre que celui pour lequel il a été prévu. Pour qu'on arrive à cette conclusion, il faudrait avoir la preuve que cet État a commis un acte destiné à lui porter un avantage illicite et à priver un autre État d'un avantage auquel il aurait droit.⁵³ Lors d'un duel judiciaire, c'est l'État qui allègue l'abus de droit qui porte le fardeau de cette preuve.⁵⁴

Il est clair que la Grèce exercera son droit inaliénable d'étendre sa mer territoriale (comme l'ont fait à ce jour 120 autres États) dans le but légitime de s'assurer les avantages de cette zone dans les limites reconnues par la règle coutumière de l'article 3 de la Convention. Par ailleurs, il ne faut pas oublier que l'État côtier a

des devoirs et des responsabilités à l'intérieur de cette zone.⁵⁵ Il a justement été remarqué qu'on ne peut parler d'abus de droit chaque fois qu'un État procède à un acte juridique permis par le droit du simple fait qu'il touche les intérêts d'un autre État.⁵⁶

D'un autre côté, on pourrait contester les modalités de cet exercice, si, par exemple, l'État côtier, par sa législation interne, réglait la navigation dans sa mer territoriale ou encore la protection de l'environnement marin, de telle manière abusive que le droit de passage inoffensif (ou la nouvelle institution du passage en transit dans le cas de détroits) se verrait en fait abrogé. Cette dernière considération renvoie aux craintes de la Turquie, et éventuellement d'autres États, de voir la mer Égée se transformer en lac grec. C'est pourquoi il serait bon, à présent, de dire quelques mots sur les conséquences pour la navigation internationale de l'élargissement de la mer territoriale grecque.

Notons tout d'abord que, malgré que l'élargissement de la mer territoriale grecque produira certainement une augmentation considérable des eaux sous juridiction nationale grecque, il demeurera en mer Égée des portions de haute mer d'un ordre de 26%. Ces portions seraient situées au nord, entre les îles Andros, Chios, Lesbos, Skyros, Limnos, Thassos et la péninsule de Chalkidiki; au sud, entre la Crète, Kithira, Carpathos et le Dodécanèse. Quelques petites parcelles de haute mer demeureraient également entre les îles Mykonos et Kalymnos, Amorgos et Cos, au nord des îles Carpathos et Rhodes, ainsi qu'au sud de l'île d'Hydra (voir Annexe/Cartes IV).

La conséquence principale de l'élargissement de la mer territoriale grecque à 12 milles serait, d'une part, la diminution du nombre des détroits existants du fait de la transformation de certaines régions de haute mer en mer territoriale grecque.⁵⁷ Dans ce cas, il ne s'agira plus de détroits unissant une partie de la haute mer avec une autre partie de la haute mer ou de la mer territoriale, mais de détroits entre des portions de mer territoriale grecque, où s'applique le droit de passage inoffensif. Vu sous cet angle, l'élargissement comporterait certainement des avantages au profit de l'État côtier.

Mais il ne s'agit là que d'un effet partiel, car, en même temps, l'élargissement produira, dans la partie centrale et sud de la mer Égée, de nouveaux détroits servant à la navigation internationale. Du fait que la Grèce est Partie à la Convention de 1982, elle devra appliquer, dans ses relations avec les autres États Parties à la Convention, le nouveau régime du passage en transit, en conformité avec les dispositions des articles 34 à 44 de celle-ci. Comme nous l'avons vu plus haut, pour accommoder les intérêts des puissances maritimes et militaires, la Troisième Conférence a introduit une nouveauté: le passage en transit, qui comprend le passage sans entrave non seulement des navires étrangers et des sous-marins en submersion, mais également celui des aéronefs (article 38 de la

Convention). Bien entendu, le passage doit être rapide et les navires et aéronefs doivent respecter l'obligation de s'abstenir de la menace ou de l'emploi de la force contre la souveraineté, l'intégrité territoriale et l'indépendance des États riverains du détroit (article 39). Ils ne peuvent, lors de l'exercice de leur droit de passage, entreprendre des recherches scientifiques marines, ni procéder à des levées hydrographiques qu'avec l'autorisation préalable des États riverains (article 40), qui peuvent, pour des raisons de sécurité des navires dans les détroits, désigner des voies de circulation et prescrire des dispositifs de séparation de trafic (article 41). Enfin, les navires étrangers doivent se soumettre aux lois et règlements de l'État côtier sur la sécurité de la navigation, la prévention et la préservation du milieu marin, l'interdiction de la pêche, ainsi qu'à sa législation douanière, fiscale, sanitaire ou d'immigration (article 42 de la Convention).

En pratique, après l'élargissement de la mer territoriale grecque à 12 milles, seront créés, entre autres, trois nouveaux détroits situés entre Antikithira et la Crète, entre Cassos et la Crète, enfin entre Rhodes et Carpathos (voir Annexe/Cartes IV). L'importance de ces trois détroits est grande, parce qu'ils constituent, avec le détroit existant entre Kithira et Antikithira, les seules ouvertures par lesquelles on doit nécessairement passer pour sortir et entrer en mer Égée. En effet, un coup d'oeil sur la carte suffit pour constater que le passage des navires étrangers dans cette mer suit normalement deux grands axes. L'un est à l'ouest, à travers les détroits formés par Andros et l'île d'Eubée, Kéa et Kythnos, puis Kithira et Antikithira ou bien Antikithira et la Crète. L'autre possibilité est celle à l'est, c'est-à-dire à travers les détroits formés par les îles des Cyclades et celles du Dodécanèse (détroits entre Icarie et Mykonos, Amorgos et Kalymnos, Astipalée et Nissiros), qui aboutit au détroit formé par Rhodes et Carpathos ou bien à celui entre Cassos et la Crète (voir Annexe/Cartes IV).

Tous ces détroits qui unissent une partie de la haute mer avec une autre partie de la haute mer, à condition de servir à la navigation internationale⁵⁸, seront soumis au nouveau régime du passage en transit. Dans le cas de nouveaux détroits, ceci signifie en pratique que, dans les régions se trouvant en deçà de la limite des six milles qui font partie aujourd'hui de la mer territoriale grecque, pourront passer, dans l'exercice de leur droit du passage en transit, les aéronefs militaires étrangers et les sous-marins en submersion. Cette considération montre que l'élargissement de la mer territoriale grecque ne comportera pas seulement des avantages pour l'État côtier qui doit aussi s'accomoder des inconvénients du système.

Certains parmi ces détroits réuniront une partie de haute mer avec une autre partie de haute mer très exiguë, entourée de mer territoriale, par exemple les détroits entre Astipalée et Cos, Amorgos et Kalymnos, Mykonos et Icarie (voir Annexe/Cartes IV). Il a été soutenu par certains auteurs que, dans ces détroits, il serait plus raisonnable d'appliquer le passage inoffensif et non pas le passage en transit.⁵⁹ Si cette solution pouvait facilement être admise pour d'autres régions,

comme par exemple la mer Ionienne, elle serait difficilement applicable en mer Égée, où les intérêts stratégiques en jeu ne se limitent pas à ceux de la Turquie, mais touchent également les États-Unis et la Russie qui sont très intéressés au libre survol de leurs aéronefs et au passage de leurs sous-marins en submersion. Pour apaiser les craintes de ces États, et éventuellement d'autres aussi, la Grèce devrait appliquer à la lettre les obligations découlant de la Convention et reconnaître dans ces détroits le passage en transit et non pas le moins libéral passage inoffensif.

En revanche, rien ne l'empêcherait de faire usage, dans ces détroits, comme dans les autres, de son droit prévu à l'article 41 de la Convention, qui permet à l'État riverain de désigner des voies de circulation et dispositifs de séparation de trafic en vue d'assurer la sécurité des navires en transit par ces détroits.⁶⁰

A ce propos, il convient de mentionner la déclaration interprétative qu'a déposée la Grèce, lors de la signature de la Convention de 1982, suivant laquelle, à des endroits où il existe de nombreuses îles qui forment un grand nombre de détroits alternatifs servant en fait la même route de navigation internationale, la Grèce comprend que l'État côtier concerné a la responsabilité de désigner la ou les routes, à travers ces détroits alternatifs, par lesquelles les navires et aéronefs des États tiers pourraient passer dans l'exercice du régime du passage en transit, de façon à satisfaire, d'une part, les exigences de la navigation et du survol internationaux, d'autre part les exigences minimales de sécurité des navires et aéronefs en transit, ainsi que celles de l'État côtier.⁶¹

A ce jour, cette déclaration n'a pas rencontré d'objection de la part des autres Parties à la Convention;⁶² au contraire, elle paraît justifiée aux yeux de commentateurs de celle-ci.⁶³

Finalement, une dernière question s'impose: tout ce qu'on vient d'exposer concernant les règles sur le passage en transit et les possibilités de l'État riverain, en l'occurrence la Grèce, ne pourra s'appliquer dans les relations entre la Grèce et les autres États tiers par rapport à la Convention de 1982, que dans l'hypothèse selon laquelle le contenu de ces règles conventionnelles correspondrait au droit coutumier. Des analyses subtiles ont été faites à ce sujet⁶⁴, mais de toute façon il semble raisonnable d'admettre que, même si à ce jour cette situation ne s'est pas encore réalisée, elle ne tardera pas à voir le jour, après la levée des obstacles qui ont permis la ratification de la Convention par un grand nombre d'États et son entrée en vigueur.⁶⁵

Conclusions

Deux conclusions principales peuvent être tirées de cette étude. La première a trait au régime actuel de la mer territoriale grecque. Ce régime date par rapport aux développements extraordinaires qui ont eu lieu pendant les années 1970, à travers la négociation globale du droit de la mer au sein de la Troisième Conférence des Nations unies. Le fruit de cette négociation est la Convention de 1982, qui codifie en grande partie le droit de la mer contemporain et qui permet à l'État côtier de proclamer, entre autres, une mer territoriale de 12 milles. La Convention codifie également la méthode dite des lignes de base droites pour tracer la limite intérieure de la mer territoriale.

Piégée dans une politique qui se définit par rapport aux actions et réactions de la Turquie, la Grèce n'a su, dans ce domaine comme dans d'autres, saisir l'occasion qui lui était offerte par le nouveau droit de la mer et élargir la portion de ses eaux intérieures. Elle n'a pas adopté le système des lignes de base droites, malgré que la morphologie de ses côtes se prête particulièrement bien à son application. La situation est d'autant plus gênante que les réactions grecques n'ont pas empêché son voisin de l'est d'adopter le système des lignes de base droites de façon arbitraire.

Il n'est pas trop tard pour la Grèce d'agir dans ce domaine, en retirant la réserve qu'elle avait émise en 1972 à la Convention de 1958 sur le plateau continental, et en procédant sans retard à l'application du système des lignes de base droites.

D'autre part, la largeur variée de sa mer territoriale (six milles en ce qui concerne les eaux, dix milles l'espace aérien) pose un véritable problème tant à la Grèce elle-même qu'aux autres États. A la Grèce, car elle est obligée de repousser sans cesse les avions militaires turcs qui violent son espace national aérien. Aux autres États, car, dans la partie entre six et dix milles, ils doivent se plier à des réglementations différentes sur les eaux et dans l'air surjacent. Ce problème pourrait être réglé par l'unification des largeurs des deux espaces, ce qui nous amène à notre deuxième conclusion relativement à la perspective pour la Grèce d'étendre sa mer territoriale à 12 milles marins.

Comme il a déjà été montré, le pays n'a pu profiter de l'admission dans le droit international contemporain de la règle des 12 milles en ce qui concerne la largeur de sa mer territoriale. L'élargissement se heurte d'une part aux menaces turques qui, comme l'a montré la crise récente des rochers Imia, sont bien réelles, d'autre part, à un moindre degré, aux découragements des partenaires européens et américains de la Grèce qui craignent que le libre passage à travers la mer Égée soit entravé d'une manière ou d'une autre et que cette mer se transforme en théâtre d'éclatement militaire entre les deux voisins.

En ce qui concerne les menaces turques, il a été démontré qu'elles constituent des actes bannis par le droit international général et les engagements entrepris dans le cadre de la Conférence pour la Sécurité et la Coopération en Europe. Le Traité d'Union douanière qui lie aujourd'hui la Turquie avec l'Union européenne et les autres instruments internationaux auxquels elle a souscrit ne lui permettent plus de se comporter en État récalcitrant face aux règles du droit international qui interdisent la menace ou l'emploi de la force et qui imposent aux États de régler leur différends par des moyens pacifiques.

Les réponses données aux arguments politiques, stratégiques et juridiques de la Turquie permettent de penser que ses craintes—et celles d'autres États, que la mer Égée ne devienne un lac grec en cas d'élargissement de la mer territoriale, ne sont pas fondées.

Les considérations développées dans le corps de cette étude concernant la navigation en mer Égée en cas d'élargissement démontrent que celle-ci ne sera nullement entravée. A cet égard, la Grèce est appelée à faire preuve de modération et d'appliquer, même à l'égard d'États qui ne sont pas Parties à la Convention de 1982 sur le droit de la mer, le passage en transit dans les détroits servant à la navigation internationale. Cette solution apaisera les craintes et démolira les arguments provenant des côtés divers contre l'élargissement.

En cas d'élargissement, la Grèce sera appelée également à indiquer les routes à travers les détroits alternatifs suivant sa déclaration de 1982. Cette grave décision devrait être prise après une étude approfondie des conséquences qu'elle porterait pour la navigation internationale, de façon à ne pas entraver en fait cette navigation à travers la mer Égée. Autrement, elle risque de provoquer des objections de la part d'autres États Parties à la Convention de 1982 sur le droit de la mer.

Enfin, à côté de la solution maximaliste de l'élargissement à 12 milles, une autre solution plus modérée consisterait à un élargissement à dix milles marins en mer Égée, ce qui y laisserait des portions supplémentaires de haute mer, tout en permettant d'harmoniser la largeur de l'espace aérien avec celui des eaux de la mer territoriale grecque. La Carte III (voir Annexe/Cartes) illustre, entre autres, cette éventualité. Cependant, l'application réduite de la possibilité offerte à l'État côtier par le nouveau droit de la mer serait sans préjudice de l'exercice entier par la Grèce de ce droit dans d'autres régions, comme par exemple en mer Ionienne et en mer de Crète, où la mer territoriale grecque peut être élargie à 12 milles sans poser de problèmes. Il s'agit là d'une autre décision politique importante dans un esprit de conciliation et de modération qui rendrait peut-être possible la solution d'un différend tissé sur un canevas de méfiance et d'hostilité séculaires.

NOTES

1. Voir à ce sujet G. GÉORGAKOPOULOS, *La mer territoriale grecque*, Thèse soutenue à la Faculté de droit de l'Université d'Athènes (en grec), 1988, pp. 40 et ss. Dans le même sens, Gr.TSALTAS, «Les positions grecques à la Troisième Conférence des Nations unies sur le droit de la mer», dans *La mer Égée et le nouveau droit de la mer* (en grec), Actes du Colloque de Rhodes, 4-6 novembre 1994, Centre grec d'études européennes (EKEM), Athènes, Sakkoulas, 1996, pp. 40-49. Voir également les conclusions présentées lors du même Colloque par A. A. FATOUROS, *ibid.*, pp. 401-404.

2. R.J. DUPUY, «La mer sous compétence nationale», dans *Traité du nouveau droit de la mer*, édité par R. J. DUPUY et D. VIGNES, Paris, Bruxelles, Economica, Bruylant, 1985, p. 232.

3. L'article 38 de la Convention reflète ce compromis. Voir ci-dessous, p. 31.

4. L'Angleterre a élargi sa mer territoriale en 1987, voir Nations unies, *The Law of the Sea. Current Developments in State Practice*, no III, 1992, p. 119. Les États-Unis l'ont fait en 1988, voir United Nations, *Law of the Sea Bulletin*, no 18, 1988.

5. Ce différend ne faisant pas l'objet de cette contribution, nous n'allons pas nous étendre sur les efforts avortés de la Grèce de le résoudre en faisant appel aux différentes méthodes pacifiques que le droit international met à la disposition des deux États. Il est simplement mentionné ici, car il est intimement lié avec la question de la mer territoriale. La bibliographie grecque à ce sujet est extrêmement riche. Les ouvrages les plus récents sont: Chr. ROZAKIS, «Le régime juridique international de la mer Égée», dans *Les relations gréco-turques, 1923-1987* (en grec), Editions Gnessi, en collaboration avec la Fondation grecque de politique extérieure et européenne (ELIAMEP), Athènes, 1988, pp. 276 et ss. H. DIPLA, *Le différend gréco-turc sur le plateau continental de la mer Égée* (en grec), ELIAMEP, Athènes, 1992, 110 ps. Du côté turc, voir l'ouvrage de H. PAZARCI, *La délimitation du plateau continental des îles*, Publications de la Faculté des sciences politiques de l'Université d'Ankara, no 514, Ankara, 1982, 343 ps. Voir également A. WILSON, «The Aegean Dispute», *Adelphi Paper* no 155, The International Institute for Strategic Studies, 1979/80, pp. 1-41.

6. Il s'agit du F.I.R. (Flying Information Region ou Région d'information de vol) d'Athènes, c'est-à-dire de la partie de l'espace aérien national et international de la mer Égée, dans lequel la Grèce exerce, en vertu des compétences qui lui sont attribuées selon les procédures adoptées dans le cadre de l'OACI, certains droits fonctionnels de contrôle de la navigation aérienne dans le but de garantir la sécurité de la navigation internationale. Voir à ce sujet, ROZAKIS, *op.cit.*, pp. 392-393. La Turquie a contesté également le contrôle par la Grèce de l'espace aérien au-dessus de la mer Égée dans le cadre des activités de l'OTAN. Voir A.

DIMITRAKOPOULOS, «Points de friction entre la Grèce et la Turquie dans le cadre de l'Alliance atlantique», dans *Points de friction dans les relations gréco-turques* (en grec), ELIAMEP, Athènes, Sideris, 1994, pp. 53-63.

7. La Grèce a pris part à la Convention de 1958 sur le plateau continental. Elle a également ratifié, en juin 1995, la Convention des Nations unies sur le droit de la mer de 1982 (loi 2321 du 23 juin 1995, *Gazette officielle*, vol. A, no 136 du 23 juin 1995). La Convention est entrée en vigueur le 16 novembre 1994 et, pour la Grèce, trente jours après le dépôt de son instrument de ratification conformément à l'art. 308 de cette Convention.

8. GÉORGAKOPOULOS, *op.cit.*, p. 32. Voir également A. YOKARIS, *Les compétences de l'État côtier sur l'espace aérien national et international* (en grec), Athènes, Sakkoulas, 1991, p. 568. Pour le texte de la loi, voir *Série législative des Nations unies, Lois et règlements sur la mer territoriale*, 1957, ST/LEG/SER.B/6. p. 140.

9. *Gazette officielle*, vol. A, no 158/1931.

10. Pour le texte, voir *Série législative des Nations unies sur la mer territoriale, la zone contiguë et le passage inoffensif*, 1995, Publications des Nations unies, No de vente E.95.V.7, p. 142.

11. GÉORGAKOPOULOS, *op. cit.*, pp. 34-35.

12. *Ibid.*, p. 35.

13. *Gazette officielle*, vol. A, no 450/1936 et également *Série législative des Nations unies*, 1957, *loc. cit.*

14. A l'exception de l'Angleterre, qui a cessé de la contester depuis 1940. Voir Chr. ROZAKIS, «L'espace aérien et les différends dérivés avec la Turquie» (en grec), *Economie et Société*, Athènes, juin 1979, p. 72. Voir également Th. KATSOUFROS, «Les différends gréco-turcs en mer Égée», dans *Le différend gréco-turc*, publié sous la direction de S. VANER, Paris, L'Harmattan, p. 84.

15. Pour le texte de la loi 2569/ 1921 portant sur la ratification de cette convention, voir *Gazette officielle*, vol. A, no 68 du 26 avril 1921.

16. Par ailleurs, la Convention internationale de Bucarest de 1936 sur l'aviation, à laquelle étaient parties contractantes la Roumanie, la Grèce, la Yougoslavie et la Turquie s'était basée, pour reconnaître la souveraineté de l'État sur l'espace aérien, sur les législations nationales des États contractants. Aucun de ces États, y compris la Turquie, ne s'est objecté à la limite des 10 milles fixée par la Grèce, et ceci a valu également pour les États qui ont participé aux conférences régionales convoquées dans les années cinquante, qui fixèrent entre autres les limites des FIR d'Athènes et d'Istanbul sur la base des limites nationales adoptées par les deux États. A. YOKARIS, «Le régime international du Athinai F.I.R.», dans *Points de friction dans les relations gréco-turques*, *op. cit.*, pp. 14-15.

17. Pour les effets de l'acquiescement en droit international public, voir entre autres, A. MARTIN, *L'estoppel en droit international public*, Paris, Pedone, 1979. Voir également I. C. MC GIBBON, «Estoppel in International Law», *International Law Quarterly*, 1958, pp 468-513; C. DOMINICÉ, «A propos du principe de l'estoppel en droit des gens», *Mélanges en l'honneur de Paul Guggenheim*, Genève, 1968, pp. 327-365.

18. La légalité du système avait été admise par la Cour internationale de justice dans son arrêt de 1951 en l'affaire des Pêcheries, C.I.J., *Recueil des Arrêts, Avis consultatifs et Ordonnances*, 1951, p. 116.

19. Pour la méthode des lignes de base droites, voir W. M. REISMAN, «Straight Baselines in International Law: A Call for Reconsideration», *American Journal of International Law*, vol. 82, 1988, pp. 260-272. T. SCOVAZZI, «Bays and Straight Baselines in the Mediterranean», *Ocean Development and International Law*, vol. 19, 1988, pp. 401-419.

20. L'article 8 de la Convention de 1982 prévoit que lorsque le tracé d'une ligne de base droite a pour effet d'inclure dans les eaux territoriales des eaux qui n'étaient pas précédemment considérées comme telles, le droit de passage inoffensif s'étend à ces eaux. Voir aussi ci-dessous, p. 15.

21. Voir ci-dessus, note 8, p. 7. Voir également, Th. KATSOUFROS, «L' Accord gréco-italien du 24 mai 1977 sur la délimitation du plateau continental de la mer Ionienne et ses incidences en mer Égée», *Revue Armenopoulos*, Thessalonique, 1980, p. 14,7. SCOVAZZI, *op.cit.*, p. 408.

22. Requête introductive d'instance et Mémoire de la Grèce, C.I.J., *Mémoires, plaidoiries et documents, Affaire du plateau continental de la mer Égée*. Voir également Th. KATSOUFROS, «L'Accord gréco-italien...», *op.cit.*, p. 147; M. KLADI-EFSTATHOPOULOU, «La mer territoriale grecque: régime actuel et droit d'élargissement à 12 milles conformément à la Convention de 1982», *La mer Égée et le nouveau droit de la mer*, *op. cit.*, p. 56.

23. Décret législatif du 14 juin/8 juillet 1972, *Gazette officielle*, vol. A, 111/1972. GÉORGAKOPOULOS, *op. cit.*, p. 80.

24. Loi sur la mer territoriale no 476 du 15 mai 1964, Nations unies, *Séries législatives*, ST/LEG.SER.B/15, pp. 128-129. Voir aussi, E. ÇELIK, «La loi turque sur la mer territoriale», *Turkish Yearbook of International Relations*, 1964, pp. 53-71.

25. Voir la plaidoirie devant la Cour Internationale de Justice du Professeur O'Connell lors de la procédure de l'affaire de la délimitation du plateau continental de la mer Égée, C.I.J., *Mémoires, Plaidoiries et documents*, *op. cit.*, p. 89. Pour la description de ces lignes de base et leur non-conformité aux prescriptions du droit international, voir G. POLITAKIS, «The Aegean Agenda: Greek

National Interests and the New Law of the Sea Convention», *The International Journal of Marine and Coastal Law*, vol. 10, no 4, pp. 516-517. Voir également KATSOUFROS, «Le différend gréco-turc», *op. cit.*, pp. 77-78.

26. POLITAKIS, *op. cit.*, p. 517.

27. GÉORGAKOPOULOS, *op. cit.*, p. 81.

28. Voir à ce sujet, F.A. AHNISH, *The International Law of Maritime Boundaries and the Practice of States in the Mediterranean Sea*, Oxford, Clarendon Press, 1993, pp. 299-301. Voir aussi ci-dessus, note 21.

29. Voir à ce sujet les propositions intéressantes de G. POLITAKIS, *op. cit.*, pp. 515-524.

30. Voir l'Arrêt de la Cour internationale de Justice dans l'affaire des Pêcheries, C.I.J., *Recueil* 1951, p. 132.

31. Nations unies, *Law of the Sea Bulletin*, June 1994, p. 115.

32. La position de la Grèce s'est manifestée, entre autres, par la soumission de projets d'articles qui prévoyaient la largeur des 12 milles. Voir, à titre d'exemple, le projet d'article du 25 juillet 1974, doc. A/CONF. 62/C.2/L.22, Troisième Conférence des Nations unies sur le droit de la mer, vol. III, p. 233.

33. Voir, à titre d'exemple, le doc. A/CONF.62/C.2/L.8 du 15 juillet 1974, Troisième Conférence, vol. III, p. 219.

34. On pourrait citer, à titre d'exemple, le message du ministre turc des affaires étrangères, M. Çağlayangil, du 24 octobre 1979, où il est mentionné que si la Grèce ose étendre ses eaux territoriales à 12 milles marins, la Turquie comprendra cet acte comme un *casus belli*. Plus récemment, en 1994, Mme Ciller a déclaré, qu'une mer territoriale grecque de 12 milles en mer Égée est un *casus belli* pour la Turquie. *Journal turc Milliyet* du 8 juin 1994. Voir également la déclaration du 2 octobre 1994, faite par le ministre des affaires étrangères, M. Soysal, *Keesing's Record of World Events*, vol. 40, 1994, p. 40244, cité par POLITAKIS, *op. cit.*, p. 497. Voir également, en ce qui concerne le *casus belli*, J. R. V. PRESCOTT, *The Maritime Political Boundaries of the World*, New York, Methuen, 1985, p. 308.

35. Pour le texte de cette résolution, voir *Daily News Bulletin*, Athens News Agency, 9 June 1995, p. 3.

36. Article 2, paragraphe 4. En plus, l'interdiction appartient au noyau dur des règles du droit international ayant force de jus cogens.

37. Résolution 37/10 du 15 novembre 1982.

38. Acte final d'Helsinki, 1975, complété par la Charte de Paris pour une

nouvelle Europe, 1990, le document contenant les principes de La Valette, 1991 et la Convention de Stockholm de 1992.

39. Elle s'était manifestée dès les premières sessions de la Troisième Conférence des Nations unies sur le droit de la mer, où le délégué turc avait parlé de l'espace vital turc. Voir *Troisième Conférence*, vol. XVI, p. 169.

40. Si la Turquie élargissait, elle aussi, sa mer territoriale à 12 milles, elle soumettrait à sa juridiction environ 1,2% d'espaces maritimes supplémentaires. L'espace total sous juridiction turque serait dès lors de 10 % par rapport à 8,8 % qu'elle a actuellement.

41. *Troisième Conférence des Nations unies sur le droit de la mer*, vol. XVII, p. 256.

42. *Troisième Conférence*, vol. XVII, p. 256. Voir également, H. PAZARCI, «Aspects juridiques des différends gréco-turcs en mer Égée», dans *Le différend gréco-turc*, op. cit., pp. 101 et ss.

43. Déclaration du délégué turc à la Troisième Conférence des Nations unies sur le droit de la mer du 8 décembre 1982, *Troisième Conférence*, vol. XVII, p. 80, citée par KATSOUFROS, op. cit., p. 81. Voir également, PAZARCI, loc. cit.

44. La loi turque 476/1964 adopte la limite des six milles, sauf dans les parties où les États voisins ont adopté une plus vaste largeur. Dans ce cas, la Turquie adoptera, par mesure de réciprocité, cette même largeur. Ce qui s'est passé en mer Noire où la largeur de la mer territoriale des autres États est de 12 milles marins. Géorgakopoulos, op. cit., p. 49.

45. Note verbale turque du 2 mars 1956 contenant des commentaires au projet d'articles de la Commission du droit international, Nations unies, doc. A/CN.4/99, *Annuaire de la Commission du droit international*, 1956, vol. II, p. 90.

46. Voir à ce sujet, P. M. DUPUY, «A propos de l'opposabilité de la coutume générale: enquête brève sur l'«*objecteur persistant*»», *Mélanges Virally*, Pedone, 1991, pp. 43-52; T. STEIN, «The Approach of the Different Drummer: the Principle of the Persistent Objector in International Law», *Harvard International Law Journal*, vol. 26, 1985, pp. 457-482; L. CONDORELLI, *Droit international public*, vol. I, Cours polycopié, Université de Genève, Faculté de droit, 1987-1988, p. 159.

47. Voir dans ce sens, CONDORELLI, loc. cit.: «... si, malgré la contestation isolée, la norme en question correspond effectivement à une pratique et à une *opinio juris* vraiment générales, elle est alors astreignante pour tous, y compris selon nous le *persistent objector*.»

48. Voir la déclaration du porte-parole du Gouvernement hellénique, M. Venizelos, du 9 juin 1995, *Daily News Bulletin*, loc. cit.

49. Pour la description de cette limite, voir KATSOUFROS, *op. cit.*, pp. 82-83.

50. Aux termes de cet article, on entend par mer fermée ou semi-fermée un golfe, un bassin ou une mer entourée par plusieurs États et reliée à une autre mer ou à un océan par un passage étroit, ou constituée, entièrement ou principalement, par les mers territoriales et les zones économiques exclusives de plusieurs États.

51. Les propositions turques sont reflétées dans le document A/CONF.62/C.2/L.8 du 15 juillet 1974, aux termes duquel dans les zones des mers fermées et semi-fermées présentant des caractéristiques géographiques spéciales, la largeur des mers territoriales est fixée conjointement par les États desdites zones. *Troisième Conférence*, vol. III, 1973-1974, p. 219. Voir dans le même sens, le projet d'article turc du 18 mars 1976, *Troisième Conférence*, vol. V, 1976, p. 202. Voir aussi DIPLA, *Le différend gréco-turc sur le plateau continental*, *op. cit.*, pp. 80-81; B. VUKAS, «The Mediterranean: An Enclosed or Semi-Enclosed Sea?», *The Legal Regime of Enclosed and Semi-Enclosed Seas: The Particular Case of the Mediterranean*, Edité par B. Vukas, Zagreb, 1988, pp. 49 et ss.

52. Ceci est admis par des théoriciens de premier ordre, comme N. POLITIS, «Les problèmes de limitations de la souveraineté et la théorie de l'abus de droit dans les rapports internationaux», *Recueil des Cours de l'Académie de La Haye*, 1925, vol. I, pp. 5 et ss., et G. SCELLE, *Précis de droit des gens*, vol. II, Paris, 1932-1934, p. 39.

53. *Ibid.*, p. 37.

54. Voir l'Arrêt de la Cour permanente de justice internationale dans l'affaire relative à certains intérêts allemands en Haute-Silésie polonaise (fond), 1926, A 7, p. 30.

55. Voir en particulier les dispositions de l'article 24 de la Convention sur les obligations de l'État côtier. Il faut également observer que, dans le cas où cet élargissement a pour effet la création des détroits servant à la navigation internationale, ces derniers seront soumis, comme on verra plus loin, au régime du passage en transit, plus libéral par rapport au passage inoffensif.

56. POLITAKIS, *op. cit.*, p. 510.

57. GÉORGAKOPOULOS, *op. cit.*, p. 191, cité par ROZAKIS, «Le régime des détroits servant à la navigation internationale dans la Convention de 1982 et son application aux mers grecques», *La mer Égée et le nouveau droit de la mer*, *op. cit.*, p. 119.

58. Pour les critères, voir ROZAKIS, «Le régime des détroits...», *op. cit.* p. 116.

59. S. N. NANDAN and D.H. ANDERSON, «Straits Used for International Navigation: A Commentary on Part III of the United Nations Convention on

the Law of the Sea», *British Year Book of International Law*, 1989, vol. 60, p. 179, cité par POLITAKIS, *op. cit.*, p. 503.

60. ROZAKIS, «Le régime des détroits ...», *op. cit.*, p. 119.

61. Pour le texte, voir United Nations, *Law of the Sea Bulletin*, No 25, June 1994, p. 29.

62. Seule la Turquie a émis une objection le 15 novembre 1982, voir Nations unies, doc. A/CONF.62/WS/34. Du fait que cet État n'a ni signé ni ratifié la Convention, cette objection ne produit pas d'effet juridique. Elle ne figure pas dans la liste des objections aux déclarations, publiées dans le *Law of the Sea Bulletin* mentionné à la note précédente.

63. Voir, à titre d'exemple, D. VIGNES, «Le régime des détroits et voies d'eaux artificielles intéressant la Méditerranée et le nouveau droit de la mer», *Thesaurus Acroasium*, vol.17, 1991, p. 450.

64. T. TREVES, «La navigation» *Traité du nouveau droit de la mer*, *op. cit.*, pp. 805-808.

65. Il est fait allusion à l'Accord relatif à l'application de la Partie XI de la Convention du 10 décembre 1994, dont l'adoption par l'Assemblée générale des Nations unies a contribué à lever les obstacles à l'acceptation par certains États industrialisés du régime international des fonds marins institué par la Convention. Voir ROZAKIS, «Le régime des détroits ...», *op. cit.*, pp. 114-115.

66. Pour le texte de cet Accord, voir *Law of the Sea Bulletin*, Special Issue IV, novembre 1994, pp. 10-25.

Discord between Greece and Turkey over the Extent of Their Continental Shelves in the Aegean

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RÉSUMÉ

Le différend gréco-turc autour de l'étendue de leur plateau continental dans la mer Égée, qui constitue seulement une des plusieurs disputes qui divisent les deux nations, date depuis le début des années 1970. Les deux pays ont échoué d'y trouver une solution. La Grèce insiste pour arriver à un règlement tranché devant un forum international par une troisième partie tandis que la Turquie veut arriver à un accord négocié entre les parties concernées, les deux pays divergeant aussi beaucoup et de manière cruciale sur l'essence du problème. L'argument utilisé par la Grèce, basé principalement sur la loi conventionnelle, est que la délimitation de la mer territoriale devrait être effectuée en utilisant le principe de l'équidistance entre les îles grecques qui se situent le plus à l'est et la côte ouest de la Turquie, ce qui pourrait accroître légèrement l'étendue de sa mer territoriale. La Turquie, quant à elle, argumente sur la base du droit international coutumier que la délimitation devrait être effectuée entre la partie continentale des deux pays en accord avec des principes d'équité, en laissant de côté celles des îles grecques (se trouvant près de la Turquie—sur le plateau continental turc selon la thèse turque), ce qui aurait comme conséquence d'étendre le plateau continental aussi loin que le centre de la mer Égée. Cet article tente d'examiner ces deux arguments à la lumière du droit international, la pratique de l'Etat et des opinions académiques en vue de contribuer à une solution pacifique.

ABSTRACT

The Greek-Turkish controversy over the extent of their continental shelves in the Aegean Sea, only one of many disputes which divide the two nations, dates back to the early 1970s. They have failed to solve it. Greece insists on third party settlement while Turkey gives priority to a settlement by the agreement of the interested parties. They also differ sharply on the substance of the dispute. Greece argues mainly on the basis of conventional law that a delimitation of the continental shelf should be effected by the use of the equidistance principle between the easternmost Greek islands and the west Turkish coast, which would give to Turkey a little more than the seabed of its territorial sea. Turkey, on the other hand, argues on the basis of customary international law that the delimitation should be effected between the mainlands of the two countries in accordance with equitable principles, thus ignoring those Greek islands on the Turkish continental shelf which would extend the Turkish continental shelf as far as to the middle of the Aegean Sea. This article seeks to examine these two arguments in light of international law, state practice and scholarly opinions in order to contribute to a peaceful solution.

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I. Introduction

The Aegean Sea is a semi-closed sea bordered by the coasts of the Greek mainland to the west and to the north and by the coasts of the Turkish mainland to the east and to the north.¹ There is no commonly agreed-upon geographical southern boundary delineating the Aegean from the Mediterranean. The Aegean is dotted with more than 3000 islands, islets and rocks; most of which belong to Greece. Some of these islands are within immediate proximity of the Turkish coasts,² and they have been demilitarized by international treaties. For the purposes of this study, however, these islands are of central importance.

Greece and Turkey agree on few things in the Aegean. The two countries have multifaceted problems there which they have failed to solve. Deep rooted mistrust and a state of animosity characterize and, in fact, poison the relations between the two nations.³ Developments in the law of the sea, with its new institutions, have brought in new areas of dispute. The continental shelf (CS) is one such area upon the limits of which the Greece and Turkey differ widely. The CS dispute started in late 1973 when the Turkish government granted a number of concessions to the Turkish Petroleum Company (TPAO) to explore for oil on the seabed of the Aegean high sea which according to Greece forms part of continental shelf of some of its islands.⁴ Greece, basing its claim on international law as codified by Articles 1(b) and 2 of the Geneva Convention on the Continental Shelf (the Geneva Convention), challenged the validity of the Turkish activities and contended that the CS should be delimited between the easternmost Greek islands on one side and the western Turkish coasts on the other side, on the basis of the equidistance method.⁵ The Turkish government disagreed and contended on the basis of case law that the Greek islands located east of a median line between the coasts of the mainland of the two countries do not possess a CS of their own because they sit on the geological Turkish CS. The Turkish government also has disputed the applicability of the equidistance method and has expressed its preference for seeking an agreed-upon solution in conformity with international law.⁶ Mutual exchanges of views and short negotiations have failed to produce any concrete results. In 1976, when Turkey gave further permits in new areas of a similar nature which were also claimed by Greece, the latter unilaterally took the dispute to the Security Council of the United Nations and the International Court of Justice (ICJ) at the same time. The Turkish government disagreed with the unilateral submission of the dispute to the Court and objected to its jurisdiction.

The Security Council recommended that the parties resume negotiations and consider submitting to the ICJ «any remaining legal differences».⁷ The Court decided in 1978 that it lacked the necessary jurisdiction to hear the case.

During the Third United Nations Conference on the Law of the Sea (UNCLOS III), which resulted in the adoption of the 1982 United Nations Convention on the Law of the Sea (the 1982 Convention), both Greece and Turkey lobbied hard to have their positions improved.⁸ Eventually, the 1982 Convention changed the definition of the CS (Article 76) and rules on its delimitation (Article 83). More importantly, it has a separate article on islands, Article 121. Greece is a party to both the Geneva Convention and to the 1982 Convention. Turkey is not a party to either. Consequently, the Aegean CS dispute must be evaluated in light of customary international law. Considering all these developments, the current Greek position may be summarized as follows:

1. All islands are entitled to CS areas of their own in the same way as mainlands and in a delimitation of CS, they must be treated like mainlands.

2. The Greek mainland and its islands constitute a political and territorial whole with the result that the Greek islands including those facing the Turkish mainland coast are an integral part of the Greek territory. In delimiting CS between Greece and Turkey, the Greek mainland and its islands must be treated as an integral unit. Consequently, the delimitation of the CS in the Aegean should be effected between the easternmost Greek islands (facing the Turkish coast) and the west coast of Turkey according to the equidistance method.

3. The CS dispute should be referred to the ICJ for compulsory judicial settlement.

On the other hand, the Turkish position, inspired by the jurisprudence of the ICJ, in particular its 1969 judgment of the North Sea Continental Shelf Cases, (the North Sea Case)⁹ may be summarized as follows, so far as it transpires from available sources:¹⁰

First, the delimitation of the CS in the Aegean Sea between Greece and Turkey should be effected by agreement, while the possibility of submission of the dispute to the ICJ is not excluded.¹¹

Second, in the delimitation of the CS, each country should be given natural prolongation of its land into and under the sea in the physical sense. The natural prolongation of the Turkish land reaches to the middle of the Aegean Sea. The Greek islands facing the Turkish coast sit on the Turkish national prolongation; they do not have their own CS.

Third, considering its proposals in 1974 in the UNCLOS III, Turkey may be seen as alternatively contending that the delimitation should be effected in accordance with equitable principles for two reasons:

1. Greek islands in the Aegean, situated east of the median line (on the Turkish

shelf) constitute special circumstances for the reasons of their location, size and population.

2. The Aegean is a semi-closed sea, in which the maritime spaces of islands ought to be determined jointly by the coastal states.

Fourth, a delimitation of CS in the Aegean ought to take into account the legal and political balances as established by the international treaties.

The essence of this position is that the boundary line of the CS in the Aegean Sea should run down the middle of the two mainlands, leaving the Greek islands east of the line only their territorial sea (TS) areas.

II. Procedural issues

2.1 Nature of the Dispute and Validity of the Turkish Claim

As stated before, Turkey and Greece have made claims to the same submarine areas in the Aegean. In other words, their claims overlap, although they are based on different theses.

In this connection, it is pertinent to know whether the Turkish claim is legally based, as the reverse is claimed by certain Greek writers.¹² It is true that the Turkish government has said from time to time that the Aegean CS dispute is of a political nature.¹³ However, this statement does not mean Turkey wants a solution outside international law. Quite the contrary is intended since what Turkey says is that the issue has political aspects, which is perhaps true. In addressing this point in the Aegean Continental Shelf Case, the Court itself said «... but a dispute involving two states in respect of the delimitation of the continental shelf can hardly fail to have some political element....»¹⁴ Again, a chamber of the Court said in the Gulf of the Main Case that the delimitation of the continental shelf was a political-judicial operation.¹⁵ Then, the Aegean CS dispute becomes all the more political, when its link with other Aegean issues is taken into account¹⁶. It is quite obvious that the tense relations between the two countries further politicize the dispute. What has brought the two nations to the brink of war twice so far was certainly not controversy over the unidentified resources of the Aegean. It is, however, a fact that the issue is politically sensitive. It is also certain that any outcome of the resolution of the CS dispute will have political ramifications for the parties.¹⁷ Yet, this does not mean that the two countries are not in conflict as to their rights in the Aegean.¹⁸

Having said this, there is nothing unusual in the Turkish claim of CS areas in the Aegean. Although CS rights are inherent to all coastal states, and the latter

have such rights *ipso facto* and *ab initio*, in a concrete delimitation setting, a coastal state needs to lay claim to a given part of the CS so that an area of overlapping claims can be brought about for the purpose of delimitation.¹⁹ It is known that Turkey has CS areas in the Aegean, which Greece acknowledges, but the controversy is over the limits. There is nothing wrong with this. As the ICJ recently said, making overlapping entitlement claims is a feature of the maritime boundary claims:

«But maritime boundary claims have the particular feature that there is an area of overlapping entitlements, *in the sense of overlap between the areas which each state would have been able to claim had it not been for the presence of the other state*; this was the basis of the principle of non-encroachment enunciated in the North Sea Continental Shelf Cases²⁰[emphasis added].

In this sense, claiming a CS area is necessarily a unilateral act, because only the coastal state is competent to undertake it, although «the validity of (the claim) with regard to the other states depends on international law»²¹. Then, Turkey does nothing wrong when it lays claim to certain seabed areas beneath the high sea off its coast in the Aegean Sea.²² In fact, there are good reasons for it to do so. Leaving aside all other considerations or principles which may weigh in favor of Turkey, the law of CS as based on the practice of states²³ will indicate that in a semi-closed sea such as the Aegean, the capacity of islands to generate submarine areas is not absolute, to say the least. Islands in such situations are either enclaved or totally disregarded for the purpose of delimitation of the CS. This fact alone would enable Turkey to lay claim to the areas in question. Besides, Turkey has declared that it wants to negotiate the issue with Greece.

2.2 Turkish-Greek Disputes in the Aegean Are so Intertwined that *Ad Hoc* Piecemeal Solutions May Be Counterproductive

Contrary to the Greek contention that the only dispute Greece has with Turkey in the Aegean Sea is the CS dispute, the latter is only one of many Aegean disputes which have divided the two nations for years. It is no secret that Greece and Turkey do not see eye to eye on such issues as the extent of the TS, the extent of the Greek airspace, the demilitarized status of a number of the islands, and the nature of the Flight Information Region (FIR). The case law of the Permanent Court of International Justice (PCIJ) and of the ICJ reveal that when two countries are in conflict as to their respective rights, or when they disagree on a point of law or fact, there is an international dispute.²⁴ Greece and Turkey thus have fully defined disputes in the Aegean Sea. On the other hand, there are close links among these disputes; consequently, a judicial settlement of the CS dispute alone is likely to affect the future of other differences. It is common knowledge that any further enlargement of TS in the Aegean by one party (Greece) would

considerably diminish the area of CS, which the other party (Turkey) may be legally entitled to claim. A prior solution of the CS dispute may anticipate this if, and only if, it is a just solution.

Needless to say, any delimitation of the CS would have some relevance on the future of the fishery zones or exclusive economic zones (EEZs) of the parties.

On the other hand, drawing a permanent line for one purpose without knowing other lines could become a gamble so far as other uses are concerned.²⁵ Then, in a legal settlement of the CS, the successful party would have killed two birds with one stone, while the other party would lose doubly.

In conclusion, these considerations combine to suggest that there is an inseparable linkage between the Aegean issues. Hence a package deal approach is needed. Referring the CS dispute to the ICJ without prior negotiation of other issues could settle this problem, but it might aggravate the position of other outstanding differences.²⁶

2.3 Greece and Turkey: Under Obligation to Negotiate

Turkey and Greece differ widely not only on the substance of the Aegean CS dispute but also on how to solve it. Turkey insists on serious and meaningful negotiations before any third party settlement is undertaken, while Greece insists on submission of the dispute to the ICJ. In the past, the two countries negotiated the issue intermittently between 1976 and 1981. In 1976 they concluded the Bern Agreement on the details of such negotiations.²⁷ However, in the same year, Greece unilaterally referred the dispute to the ICJ which decided in 1978 that it did not have jurisdiction. Thus, the negotiations and the Court proceedings continued for a while *pari passu*. In 1981, Greece dramatically stopped the negotiations. Greece has since declared that it has nothing to negotiate with Turkey in the Aegean and that it has no dispute with Turkey except for the CS dispute, which could be solved only through judicial settlement. In fact, Greece considers the whole Aegean Sea a «Greek Lake».²⁸

We shall briefly concentrate below on the arguments of both parties and try to shed some light on why Turkey gives priority to negotiations while Greece prefers a judicial settlement.

It is clear that in international law there is an obligation for a state to negotiate its differences or disputes with other states.²⁹ It is equally clear that resorting to judicial settlement of international disputes is not compulsory.³⁰ As PCIJ said as far back as 1929, the judicial settlement of a dispute «is simply an alternative to the direct and friendly settlement of such disputes between the parties».³¹

The ICJ, too, has continued the same line of jurisprudence as it stated it in the North Sea Case in the following terms:

«The parties are under an obligation to enter into negotiations with a view to arriving at an agreement and not merely to go through a formal process of negotiations as a sort of prior condition for the automatic application of a certain method of delimitation in the absence of agreement; they are under obligation to conduct themselves appropriately so that *negotiations are meaningful*. This will not be the case when either party insists upon its own position without contemplating any modification of it.» [emphasis added].³²

The obligation to negotiate derives, on the other hand, from Article 33 of the Charter of United Nations which places negotiation at the head of the methods of peaceful settlement.

In cases of maritime delimitation, the importance of negotiations is more prominent because «The delimitation of sea areas has always an international aspect; it cannot be dependent merely upon the will of the coastal state as expressed in its municipal law.»³³

Regardless of customary law, Article 6 of the Geneva Convention on Law of the Sea, and Articles 74/83 of the 1982 Convention attach considerable significance to the agreement of the parties in formulating rules on delimitation of the seabed or maritime areas. Neither of the Conventions requires compulsory judicial settlement. This situation is said to represent general international law.³⁴ The international practice also confirms this position. So far, hundreds of such disputes have been solved by agreement of the parties; only few have been referred to a third party settlement.

Thus, when Turkey insists that the Aegean disputes in general, and the CS dispute in particular, ought to be meaningfully negotiated before any third party settlement is undertaken, it speaks from the core of international law.

It may now be useful to briefly examine the factors which may favor a negotiated settlement of the Aegean Sea dispute.

First, an international judicial settlement is risky, in that it is like a zero-sum game in which the winner takes all. Such a result would perpetuate the ongoing tension between the parties and eliminate flexibility and room to maneuver for adjustments.³⁵

Second, states resort to a legal settlement only after they have fully negotiated their differences, identifying points on which they agree or disagree. They also agree beforehand on what they are going to ask the Court to do for them. In the Aegean CS dispute, the parties agree on nothing.³⁶ In the first place, they do not agree on the area of delimitation. Greece insists that the area should be the

maritime space between the easternmost Greek islands and the west coasts of Turkey, while Turkey insists that the delimitation area should be the whole Aegean Sea between the two mainland coasts. Similarly, the southern boundary of the Aegean is not agreed upon. Moreover, it is not clear what the Court would do for the parties even if they were to agree to submit the dispute. Would the Court draw a boundary line or boundary lines for the parties, or would it indicate principles and rules applicable to such delimitation?

Third, because of the obvious linkage between the Aegean disputes, a package deal approach might be more suitable. Through negotiations mutual trade-offs could be made which could minimize or compensate losses of one side in one area or on one issue by providing advantages or gains in another area or on another issue.

Fourth, it is not a coincidence that states which have so far submitted their maritime disputes to the judicial settlement have had friendly relations. Obviously good relations make it easy for the parties to accept the outcome of judicial settlement and sell it to their respective publics.³⁷ However Turkish-Greek relations are characterized by deep-rooted animosity and mistrust. Therefore, before resorting to judicial settlement, confidence-building measures must be established and promoted. The issues dividing the two nations must also be narrowed down through negotiations.³⁸

Fifth, the law of the CS is not only extremely vague but also in a state of flux, to say the least.³⁹ The existing case law gives hardly any reliable guidance as to how delimitation is to be decided when submitted to a third party.⁴⁰ Judgements of the ICJ in maritime disputes indicate that the Court has so far exercised very wide discretion coming close to the exercise of *ex aquo et bono* power or «roll-the-dice-discretion» as some would call it.⁴¹ What the Court calls equitable principles which govern the delimitation of seabed areas admittedly derive from factual circumstances of the delimitation itself. In other words, the equity of a delimitation of a given CS is to be achieved by reference to the circumstances which characterize the area.⁴² As the Court said in the Tunisia/Libya Case:

«It is clear that what is reasonable and equitable in any given case must depend on its particular circumstances.»⁴³

It is the Court which derives and applies such principles. In some cases at least, the subjectivity is visible and further increases the level of unpredictability and the degree of risk and thus discourages the parties from resorting to legal settlement.⁴⁴

The geography of the Aegean Sea is one of the most complex in the world and its circumstances are extremely exceptional. It is not predictable which equitable principles the Court would derive from such complex geography. Therefore, any

outcome may be expected from a third party settlement of the Aegean CS dispute. That unpredictability is perhaps why Turkey insists that the two parties negotiate the issue with a view to solving at least some part of the problem, after which they may mutually refer the remaining part or parts to the Court.

III. Substantive Issues

3.1. General Remarks

Whether the parties seek a negotiated or a judicial settlement of the dispute, we assume that a delimitation of the Aegean Sea CS is to be effected through the application of equitable criteria and the use of practical methods capable of ensuring an equitable result with regard to the relevant circumstances.⁴⁵ In light of the jurisprudence of the Court, we further assume that any attempted equitable delimitation of the Aegean CS would require an appraisal of factors such as the geological and geomorphological features of the seabed, geography of the delimitation area (configuration and length of the coasts), presence of unusual elements such as islands in the delimitation area, security considerations, and unity of mineral deposits. This delimitation may also involve some examination of the parties' conduct. Here lack of space prevents us from examining all aspects in detail. We shall therefore focus on the most salient points as they appear.

3.2 Geographical and Geomorphological Features of the Aegean Seabed and Their Relevance to the Delimitation of the Continental Shelf Boundary

One of the Turkish arguments is that the seabed of the Aegean is interrupted by a major depression running down the middle of the Aegean in a general north-south direction.⁴⁶ The bottom of this depression displays at some places traces of the oceanic crust while in others the earth crust is extremely thin, reaching almost the ocean surface.⁴⁷ This geomorphological feature constitutes, therefore, a natural maritime frontier between natural prolongations of the two mainlands (Greece and Turkey).⁴⁸ In this connection, it is also argued that the Greek islands situated east of this natural boundary (median line) sit on the seabed which extends the Turkish land mass into and under the sea.

In support of this argument, it has been said that the maritime space between the islands and the Turkish mainland is so shallow that it is like a flooded part of the latter. Geologically, there is a clear identity between the seabed east of the major depression and the Turkish land territory.

The Turkish government is of the view that a delimitation of the CS in the Aegean should reflect this geological-geomorphological fact.

The Turkish view has the support of the jurisprudence of the ICJ and other international tribunals. Until 1985, the Court had implicitly accepted the view in a series of cases that where a delimitation area between two coastal states is separated by a geophysical feature in such a way that there are two different and distinct shelves (natural prolongations), the geophysical feature dividing them may be considered as the legal delimitation line between the countries to which these distinct natural prolongations appertain.⁴⁹ At least two negotiated settlements have put this view into practice.⁵⁰

However, the Court seemed to have changed its thinking on the Libya/Malta Case. In that case, Libya argued that the submarine areas adjacent to Libya and Malta were naturally divided by what it called the «Rift Zone». Thus, there were two distinct and naturally divided continental shelves, which the delimitation process must respect⁵¹.

The Court refused to accept the Libyan Rift Zone argument on the ground that the law concerning the basis of title to CS had changed. Court remarks on this point are summarized in the following lines. According to the law on the EEZ, a coastal state may claim a 200-mile EEZ on the basis of distance from the shore which also subsumes the CS rights. Within this distance, coastal states have CS rights regardless of whether or not their geophysical natural prolongation extends as far as 200 miles. On the other hand, the concept of the EEZ is now part of customary international law, hence the distance principle must now apply to the CS as well as to the EEZ as a principle of customary international law. As a result, a state may claim CS up to the 200-mile limit, whatever the geological characteristics of the corresponding seabed and subsoil.⁵²

The Court accordingly concluded that «since the distance between the coasts of the parties is less than 200 miles, so that no geophysical feature can lie more than 200 miles from each coast, the feature referred to as the «Rift Zone» cannot constitute a fundamental discontinuity terminating the southward extension of the Maltese shelf and the natural extension of the Libyan coast as if it were some natural boundary.»⁵³

Thus, the Court made a marked departure from its judgment in the Tunisia/Libya Case, because of what it described as a change in the regime of the title itself.⁵⁴

In our opinion, the 1985 judgement suffers from a few deficiencies. It assumes that the distance principle has passed into customary law without qualification. But there is no consensus that this is true.⁵⁵ The 1985 judgement overlooks two facts: (1) that the regimes of CS and EEZ are different and distinct, (2) that the regime of CS has arisen out of the recognition of a physical fact and of a link between this fact and the law, without which that institution would never have

existed.⁵⁶ What conferred sovereign rights upon coastal states exclusively with respect to CS was the fact that CS areas constituted the undersea extension of their land territory.⁵⁷

Now, the Court says that the law has changed so that the coastal state may claim areas of seabed within 200 miles of coast regardless of their geological and geomorphological characteristics. Therein lies the crux of the matter. Supposing that the law on the basis of title to CS has changed, as the Court claims; what would happen to states which were favoured by the «previous law» if they had not consented to the change? We refer not only to the law based on the concept of natural prolongation but also to the law based on the 200-metre isobath criterion.

The nature of the law of the CS is such that it grants inherent rights. In other words, CS attaches *ipso facto* and *ab initio* to the coastal state. Then, under the «previous law», (including the 200-metre isobath criterion) states to which CS was attached have some sort of acquired rights. How can a new rule deprive them of their rights without their consent?⁵⁸

We are now referring to the position of the «persistent objector». It is obvious from the proceedings of the UNCLOS III that many participating states emphasized the importance of the physical natural prolongation as the basis of title to CS and as a criterion for delimitation. The intention of such states was that the principle of natural prolongation and rights associated with it should be maintained not only beyond the 200-mile line but also within 200 miles of the coast.⁵⁹ It is difficult to assume that states which emphasized the geophysical aspects of the submarine areas in their proposals regarding inter-state delimitations intended that within 200 miles of the coast the effects of these aspects would be denied.⁶⁰ There is no such intention registered in the records of the Conference. The 200-mile distance criterion was accepted in the interest of states with narrow margins but was not intended to prejudice the interests of states with more favourable margins in comparison with those of their neighbours.⁶¹

Consequently, the Court's decision may hold good for the delimitation of areas where coastal states border on an ocean, hence it is physically possible to extend the EEZ throughout its full length without encroaching on rights of others. However, it certainly does not hold for areas of less than 400 miles lying between opposite neighbouring states if the geology or geomorphology of the seabed is not continuous.

Then the conclusion is that even if the law on the basis of entitlement to CS has changed, it would not be opposable to states which have persistently objected to its coming into being and its application to them. Since Turkey is as an internationally known champion of the concept of physical natural prolongation, we

submit that, notwithstanding the effect of the Libya/Malta Case in general, the former law continues to apply to it.

It would also appear that this Court proposal has not been followed in subsequent cases. For example, in the Guinea/Guinea Bissau Case, the Chamber of the Court said «the rule of natural prolongation can effectively be invoked for the purpose of delimitation only where there is a separation of continental shelves.»⁶²

Based in the above, we may therefore conclude that the capacity, if any, to generate CS areas of the Greek islands situated east of the major Aegean depression should be further weakened because they sit on the Turkish natural prolongation.⁶³

3.3. Presence of Islands and the Semi-Closed Nature of the Aegean Sea

At the core of the dispute over the delimitation of the Aegean CS lies the differing views of the parties on the capacity to generate the submarine areas of the Greek Islands on the Turkish CS. In this respect, we would like to make three preliminary observations before proceeding:

1. For the purpose of the delimitation of CS, the location of an island in a delimitation area is of utmost importance. For example, an island situated in the middle of a delimitation area between two opposite states would give three-fourths of the seabed to the state to which it belongs, if the delimitations were to be effected by application of the equidistance method. On the other hand, an island within proximity of the coasts of another state would deprive the latter altogether of the seabed.⁶⁴

2. It is also interesting to note that an island with one kilometer-square-area would command a maritime area 190 times as big as its land mass if it were allowed to have a 12-mile contiguous zone.⁶⁵

3. Perhaps that is why islands in a delimitation area, in particular, those close to another state are considered as special circumstances.⁶⁶

Having said this, we shall now examine the legal position of certain Greek islands by addressing the following preliminary questions:

1. Have Article 1(b) of the Geneva Convention and Article 121 of the 1982 Convention passed into customary international law?

2. Even if it were accepted for the sake of discussion that they had, then does the said customary rule suggest that all islands are entitled to CS in their own right under any circumstances? How does the rule on entitlement interact with the rule on delimitation? In other words, do islands in a delimitation setting constitute special circumstances or relevant circumstances, with the result that they may be disregarded or enclaved?⁶⁷

Starting with the status of Article 1, let us recall the following:

At the Geneva conference, the rule on entitlement of islands to CS was included in Article 1 on the initiative of the Philippines. This rule hardly commanded the support of a big majority of the participating states since 31 states voted for its inclusion, 10 states voted against it and 25 states abstained. Thus 35 states remained non-committed.⁶⁸ It is impossible therefore that after the Conference a customary rule giving full title to islands should have emerged among states. It is true that the ICJ stated in the North Sea Case that the first three articles of the Convention should be considered as received or at least emergent rules of customary international law.⁶⁹ However, that dictum of the Court should be interpreted as meaning that the general concept of CS had received the assent of nations and not that every part of Article 1 had become customary international law. For example, according to Article 1, CS was defined also by reference to technology (exploitability criterion), but no one has ever argued that the exploitability criterion had become customary international law either before or after the Geneva Convention. It was then and has remained the most controversial aspect of Article 1.⁷⁰

In the Seabed Committee, established shortly after the Convention had come into force, various states made proposals which not only clearly challenged the capacity of all islands to generate submarine areas, but also challenged the definition of CS itself. In the UNCLOS III, a considerable number of states put on the record their opposition to all islands' having a submarine area.⁷¹

Eventually, the definition of CS in Article 1 was changed and Articles 76 and 121 were adopted; nevertheless, the opposition has continued. It is widely known that Article 121 of the 1982 Convention was adopted without any detailed treatment of the subject due to lack of time.⁷² It certainly does not reflect divergent views on islands' capacity to generate CS.

Consequently, no one can say that Article 121 commanded so much support among the participating states in the Conference as to constitute a rule of customary international law. Nor is there any reliable indication that this were the case after the Conference.

Second, even if that there does exist a customary rule to the effect that all islands are entitled to CS in their own right, it does not mean that all islands are entitled to CS areas under all circumstances. On the contrary, the rule contained in Articles 1 and 76/121 gives a general indication of the locality (seaward limit) of CS, it does not tell the amount of seabed to which an island is entitled in a delimitation setting.⁷³ In areas where two or more states border on the same (continuous) CS, the rule on entitlement does not help.⁷⁴ It is the rule on delimitation which is decisive and which gives content to the rule of entitlement

in general. For example, Article 1 of the Geneva Convention is on entitlement in general and Article 6 is on delimitation. Article 6 states that in a delimitation area where special circumstances exist, the median/equidistance line is not applicable. It is not disputed that islands in a delimitation area may constitute special circumstances, which means they may be disregarded altogether or enclaved. Consequently, the power of an island to generate CS in actual cases may range from no effect through half effect to some other effect, depending on island size, locality, population and political status. And this is determined by the application of the rule on delimitation.⁷⁵

In the Channel Islands Case, a group of islands owned by the UK but situated much closer to the French coast than to the UK coast were enclaved by the Arbitral Tribunal and a delimitation line was drawn between the coasts of the two mainlands. Consequently, the islands were given an area of only 12 miles around them, which corresponded to their previously declared fishing waters. Thus, the CS areas given to France extended beyond the British islands. In the Atlantic sector, the Scilly islands were given only half effect.⁷⁶

Of course, the geographic position of the Channel Islands is not the same as that of the Aegean islands. Yet, there are similarities. True, the Channel islands are detached from the British mainland, but so are the Greek islands facing the Turkish territory. True, the Channel islands are embraced by the concave coasts of France, but so are some Greek islands embraced by the Turkish coasts.⁷⁷

More importantly, the underlying idea is certainly applicable. Giving full effect to islands in such a semi-closed area would in effect create inequity in the delimitation of the CS between two states.

In this context, it is also important to recall that the Court of Arbitration rejected the British argument that the delimitation should be effected not between the coasts of the UK and France, but between the Channel Islands and France. The Court concluded that the delimitation had to be effected between the two countries. Furthermore, the Court addressed the question of whether the Channel Islands were a projection of the UK's mainland which constituted the opposite coast vis-à-vis France and refused to accept this boundary. In the Court's view, «if this interpretation of the physical situation were to be accepted by the Court as correct, there would be little more to be discussed».⁷⁸

In our opinion, this part of the judgement should dispose of the Greek claim that the easternmost Greek islands constitute the opposite coast of Greece vis-à-vis Turkey, and a delimitation of the seabed must be accordingly effected. Then, in the words of the Court, there would be little more to be discussed.

In the Tunisia/Libya Case, the status of two Tunisian Islands, namely Jarba,

and the Kerkhennah Islands were in question. They both are sizable islands and are important in demographic and economic terms. The Kerkhennah Islands are eleven miles from the coast and the area between them and the coast is extremely shallow, reaching 4 meters in depth in its deepest place. The Island of Jarba is almost contiguous to the coast. Yet, the Court considered that «...presence of the Island of Jarba and the Kerkhennah Islands and the surrounding low tide elevations is a *special circumstance* which clearly calls for consideration.»⁷⁹

After having recalled a number of examples «in state practice of delimitations in which only partial effect has been given to islands close to the coast»⁸⁰, the Court decided to give half effect to the Kerkhennah Islands.

As for the Island of Jarba, although the Court rejected the Libyan view that it should be excluded from consideration, in the actual delimitation the Court disregarded it on the grounds that «there were other considerations which prevail over the effect of its presence.»⁸¹

It is interesting to note that the islands which were given half effect or disregarded were very close to the coast of the state of which they formed a part. Would it not be logical to assume that islands «on the wrong side of the median line» would be given *a priori* a similar treatment, if not a worse one?

In the Gulf Main Case, the Chamber gave a Canadian island in the delimitation area only half effect.⁸²

In the Libya/ Malta Case, Libya and Malta agreed that «entitlement to continental shelf was the same for an island and for mainland», but they differed on the treatment to be given to islands in an actual delimitation. According to Malta, international law has given varying effect to islands politically linked with a mainland (dependent islands) according to their size, geographical position, population and economy, but island states should be treated differently.

In the actual delimitation the Court gave no effect to the Filfa Islet. It gave less than full effect to the Maltese Islands themselves by drawing a boundary line which gave Malta less than what a median line boundary would have provided. More importantly, in the delimitation process, The Court considered not only the coastal relationship of the Maltese islands with their neighbours, but also the overall geographical position of these islands in a much wider framework of the semi-closed Mediterranean sea. The Court also said that had Malta not been an independent state, and had it formed a part of the territory of a neighbouring state (for example, Italy), the sea boundaries in the Mediterranean would be different; the delimitation line between Libya and Malta would have been closer to the Maltese Islands.⁸³

In our opinion, this decision has the following three meanings (among others):

1. that in a delimitation between two states, islands cannot be considered self-sufficient and independent units for delimitation purposes against competing claims of mainlands.

2. that the view that Article 1 (b) of the Geneva Convention and Article 121 of the 1982 Convention determine the scope of CS areas which should appertain to respective coasts should be rejected. In fact, this decision shows that it is the rule on delimitation which is determining.

3. that delimitations in a semi-closed sea involve more than treatment of individual geographical features; overall geographical context determines the extent of an island's CS.⁸⁴

The two most recent decisions⁸⁵, although they concern the delimitation of CS for islands, are case-specific and do not constitute a precedent for future delimitations. These decisions had specific backgrounds, unique geopolitical positions and varying weight of conventional law applied to them because their focus was on delineating a single boundary for the seabed and fisheries jurisdiction.

As for state practice, caution is advised. First, practice does not demonstrate any uniformity. Second, in many negotiated settlements, it is not clear what methods have been used. They may be open to different interpretations. In particular, literal interpretations of existing negotiated settlements without knowledge of their background may lead to incorrect results.⁸⁶ Nevertheless, we can observe that in a good many cases of CS delimitations where islands had the potential to create inequity, they have been treated as special circumstances⁸⁷.

Among these settlements, the negotiated delimitation of the maritime area between Papua New Guinea and Australia in the Torres Strait should be given more importance because of the similarities between the geographical positions of the Aegean Sea and the Torres Strait.⁸⁸ In the Torres Strait, a number of Australian islands are situated close to the coast of Papua New Guinea, like the location of some Greek islands near the Turkish coast. According to the settlement, the Australian islands on the Guinean side of the median line were given only a 3-mile TS and a seabed area different from fisheries jurisdiction, while taking account of the traditional way of life of the inhabitants of the islands. Burmenster summarizes the situation in the following words:

«It may be argued that Australia could legally have claimed a continental shelf around the islands greater than [the] 3 miles to which it agreed... But just as with the Aegean Sea, the consequences here of a general claim to a 12-mile territorial sea around all islands needs to be kept in mind, such a claim would effectively have turned the Torres Strait into a sea of Australian jurisdiction extending up to within a mile or so of the Papua New Guinea mainland.»⁸⁹

A considerable number of commentators also agree that the presence of islands in a delimitation area between opposite or adjacent states may influence the equity of delimitation and, consequently, constitute special circumstances. In that case, they should not form basic points and the effect to be given to them would depend on various conditions being included in the general equation, ranging from total ignorance to enclave solutions and even to other partial effects which would be determined as equitable given the prevailing circumstances.⁹⁰

In conclusion, the unique nature of the Aegean Sea and the locality of the above-mentioned Greek islands strongly suggests that in light of Court jurisprudence, state practice and scholarly opinion, the Greek islands would constitute special circumstances or relevant factors in any delimitation of the Aegean Seabed.

3.4. The Effect of Geography

Limited space prevents us from presenting a more detailed discussion of the geographical aspect of our subject. Briefly, the current situation may be summarized as follows:

Recently, international courts and tribunals have given special importance to geography in maritime delimitations as a result of the emerging idea that distance has become the basis of title to CS within 200 miles of shore, and that the natural prolongation of a coastal state is now defined by the distance from the coast.⁹¹ Nevertheless the history of the proportionality concept goes back at least to the 1969 North Sea Case.⁹² The Court has since applied the proportionality principle in two senses:

1. In the sense of testing the equity of a delimitation effected by application of certain methods. The core of the principle is that seabed areas allocated to coastal states between which the seabed is delimited must be proportional to the length of their relevant coasts.

2. In the sense of helping select a proper method for delimitation in light of the relevant circumstances of the delimitation area.

It is a fact that Turkey abuts (sits) on the seabed of the Aegean throughout the western Turkish coast. We do not have commonly agreed upon figures about the length of the relevant respective coasts of Greece and Turkey in the Aegean Sea.⁹³ Yet, we can say that they are comparable. It is clear that if the Greek argument were accepted, the CS area to be allocated to Turkey in the Aegean Sea would be little more than the seabed of its TS area and certainly would not be proportional to the length of its relevant coasts. Needless to say, such a decision would go against the whole edifice of international jurisprudence on the subject.

3.5 Status of the Equidistance Principle in Law

The equidistance principle (or method) occupies an important place in the Greek argument of the Aegean CS dispute. However, it is now well established law that «equidistance is not ... either a mandatory legal principle, or a method of having some privileged status in relation to other methods.»⁹⁴ This has remained so even after the Court decided in the *Libya/ Malta Case* that distance was the basis of the title to CS within 200 miles of the coast. In that case, the Court said that it was unable «to accept the argument of Malta... that the new importance of the idea of distance from the coast has at any rate for delimitation between opposite states, in turn, conferred a primacy on the method of equidistance»⁹⁵. It further said that «it was unable to accept that even as a preliminary and provisional step towards the drawing of a delimitation line the equidistance method is one which must be used, or that the Court is required, as a first step, to examine the effects of a delimitation by application of the equidistance method.»⁹⁶

Consequently, the Greek insistence on the equidistance method seemingly might not find support in international jurisprudence. In fact, this view is difficult to sustain to the extent that it is accepted that Greek islands within the proximity of the Turkish coasts constitute special circumstances or relevant factors. The acceptance of such a view would also be sharply inconsistent with the now well established principle of proportionality, as mentioned above.

Conclusions

1. The CS dispute is only one of many between Greece and Turkey in the Aegean Sea.

2. Under the current law, Turkey has as much right to lay claim to CS areas in the Aegean Sea as Greece does. In case overlapping claims with Greece, this dispute would be solved through delimitation.

3. A third party solution of the Aegean CS dispute is not legally necessary, and it is highly doubtful whether this type of solution would be politically wise. Nevertheless, serious and meaningful negotiations with a view to effecting a delimitation of the CS by agreement is an obligation in international law and would be politically wise.

4. The prevailing law of delimitation provides little guidance. Yet an examination of the jurisprudence, state practice and scholarly opinions suggest that the Greek argument that the delimitation line should be effected between the Turkish coasts and the easternmost Greek island on the basis of equidistance line can not be sustained in law. It is inconsistent not only with

geological- geomorphological features of the Aegean Sea but also with such basic elements of the most basic norm of delimitation, such as special or relevant circumstances, the principle of proportionality, and overall geographical position (semi-closedness).

5. We are fully aware of the extremely complex nature of the Aegean disputes. Yet, Turkey and Greece can and should solve their differences. They cannot afford to postpone solutions any longer. The two nations deserve peace, and the peace would be more secure when the two sides can talk.

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3. For a bellicose statement of the situation from the Greek point of view see, Nicholas M. POULANTZAS, «The New International Law of the Sea and the Legal Status of the Aegean Sea», in *Revue hellénique de Droit international*, 1991, p. 251.
4. See *Aegean Continental Shelf Case*, I.C.J., Reports, 1978, p. 9.
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6. I.C.J., Reports, 1978, p. 9.
7. I.C.J., Reports, 1978, p. 23. For the SC Resolution see, ILM, 1976, vol.XV, p 1235
8. In the UNCLOS III Greece made several proposals in 1974:
DOCUMENT A/ CONF. 62/C.2/ L.50, in UNCLOS III Vol. III, at 227;
DOCUMENT A/CONF. 62/ C.2/ L.25, id. at 202.; DOCUMENT A /CONF. 62/C.2/ L.32, id., at 211; DOCUMENT A/CONF.62/ C.2/L. 22, id., at 200.
For the Turkish proposals see:
DOCUMENT A/CONF.62/ C.2/ L.23, id., at 201; DOCUMENT A/ CONF. 62/ C.2/ L.34 id at 213; DOCUMENT A/ CONF. 62/C.2/L.55 id at 230; Mr. Tuncel's statement in the First Committee at the 39 th Meeting, UNCLOS III,

Vol. II; at 284, Mr. Yolga's Statement UNCLOS III, vol. 1, p.191; DOCUMENT A/CONF.62/ C.2/ L.56 , UNCLOS III ,vol. III, at 230.

9. Namik K. YOLGA «Ege'deki Baslica Deniz Sorunlar», *Ege Deniz Sorunlari Semineri* (Ankara, 1986) p.30.

10. See among others, Namik K. YOLGA, «Question de la délimitation du plateau continental en mer Égée», in the *Aegean Issues. Problems and Prospects* (Foreign Policy Institute, 1989, Ankara), pp. 133-147; Sevin TOLUNER, *Milletlerarasi Hukuk Dersleri*, (Istanbul 1989) pp. 247-265; H. PAZARCI, «Ege'deki Deniz Sorunlarında Türk ve Yunan Görüşleri- Hukuki Açidan» in *Ege'de Deniz Sorunlari Semineri* (Ankara 1986) pp.79-94; H. PAZARCI «Kıta Sahaneligi Kavrami ve Ege Kıta Sahaneligi Sorunu» in Prof. Aziz Köklü'nün *Avrupa Armagani*, (Ankara, 1964), pp.395,406-412.

11. See Alona E. EVANS, 73 *AJIL*, p.494.

12. See supra notes 3 and 5.

13. I.C.J. Reports, 1978, para 31. In this connection some scholars have also emphasized the political nature of the dispute. See KARAOSMANOGLU, «Presentations» in *The Aegean Issues*, p.23 ; J. CHARNEY «Concluding Remarks», id., p.59; B. Bruce GEORGE, id., p.60.

14. I.C.J., Reports, 1978, para 31.

15. I.C.J., Reports, 1984, para 36.

16. See next paragraph below.

17. C.R. LAGONI, «Overlapping Claims to Continental Shelf», in the *Aegean Issues*, p.170.

18. See infra note 24 and accompanying text.

19. C.R. LAGONI, supra note 17, p 149.

20. Case concerning Maritime Delimination in the Area Between Greenland and Jan Mayen, I.C.J., Reports, 1993, para. 59.

21. See Anglo Norwegian Fisheries Case, I.C.J., Reports, 1951, p 132.

22. See C.R.LAGONI, supra note 17, pp. 147, 149-152.

23. See below, paragraph III, 3.2.

24. See Mavromatis Jurisdiction Case, 1924, PCIJ, Series A, No.2 , p.10. See also, B. S. MURY, «Settlement of Disputes», in *Manual of Public International Law*, (Sorenson ed. 1968) p.675.

25. See, R.R. CHURCHILL, «Maritime Delimitation in the Jan Mayen area»,

Maritime Policy, vol.9, 1985, p.27.

26. For similar problems in the context of the Gulf of Main Case, see Levi E.CLAIN, «Gulf of Maine- A Disappointing First in the Delimitation of A Single Maritime Boundary», *Virginia Journal of International Law*, 1985, vol.25, no 3, p 521. See also CHURCHILL, *supra* note 25, p.27.

27. Agreement on Procedures for Negotiation of Aegean Continental Shelf, 1976, in ILM, (1977), p. 13.

28. See a most recent statement of the Greek President, Milliyet, 20 August, 1996.

29. I.C.J., Reports, 1984, para. 22, 122, 230.

30. Article 298 of the 1982 Convention is evidence of this fact, see KWIATKOWSKA, «Maritime Boundary Delimitation between Opposite and Adjacent States in the New Law of the Sea- Some Implications for the Aegean», in *The Aegean Issues*, pp. 181,196.

31. PCIJ, Series A, no 22, p.13.

32. I.C.J., Reports, 1969, para 87.

33. Anglo Norwegian Fisheries case, I.C.J., Reports, 1951, p. 132.

34. ROZAKIS, *supra* note 5, p.2; Jens EVENSEN, «The Delimitation of Exclusive Economic Zones and Continental Shelves as Highlighted by the International Court of Justice», in *The New Law of the Sea*, C.L. ROZAKIS and C.A. STEPHANOU (eds), North Holland, 1983, pp. 107,112.

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36. S. BILGE, *id.*, p.12.

37. Cf.: CHARNEY, *id.*, p.14.

38. VAN DYKE, *id.*, p. 15.

39. R. CHUCHILL, *supra* note 25, p.27.

40. See Malcolm D.EVANS, Maritime Delimitation and Expanding Categories of Relevant Circumstances, *ICLQ*, Vol. 40, 1991, PP 26-27.

41. See CLAIN, *supra* note 26, p.592.

42. The Gulf of Main Case, I.C.J., Reports, 1984, para. 39,191.

43. I.CJ., Reports, 1982, para. 721.

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45. The Gulf of Main Case, I.C.J., Reports, 1984, para. 113.

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47. *id.*, p. 53.

48. Cf.: TOLUNER, *supra* note 10, p. 263.

49. The North Sea Case, I.C.J., Reports, 1969, para 45; The Tunisia/ Libya Case, I.C.J. Reports, 1982, para. 66, Anglo-French Arbitration, 1977, para. 106; The Gulf of Main Case, I.C.J., Reports, 1984, p. 275.

50. For example, trenches in the Anafura Sea and Timor Sea were given effect in the 1972 Australia-Indonesia agreement. (See, U.N. National Legislation and Treaties Relating to the Law of Sea, 1976) and Japan and Korea gave effect to the Okinawa Trough in 1974 in their delimitation development zone (See, *Limits in the Sea*, No 75). See also Song Myon RHEE, *supra* note 35, p 590; H. PAZARCI, *La délimitation du plateau continental et les îles*, 1982, pp. 273-79.

51. What Libya called the «*Rift Zone*» is a geomorphological feature which consists of a series of deep troughs reaching 1000 meters in depth, lying to the south and south-west of the Maltese islands, and is much closer to them than the Libyan coasts. See, I.C.J., Reports, 1985, para. 37.

52. *id.*, para. 39.

53. *id.*, para.39.

54. *id.*, para. 40.

55. See among others, D. N. HUTCHINSON, «The Seaward Limit to the Continental Shelf Jurisdiction in Customary International Law», *BYIL*, vol.56, 1985, pp.113, 167-172.

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57. *id.*, para 43.

58. Cf.: HUTCHINSON, *supra* note 55, p.171; TOLUNER, *supra* note 10, p. 265.

59. Cf: L.H. LEGAULT and Blair HANKERY, «From Sea to Seabed: The Single Maritime Boundary in the Gulf of Main Case», 79 *AJIL*, 1986, pp. 963,983.

60. Cf: Hundagh CHIU, «Some Problems concerning the Application of Maritime Boundary Provisions of 1982 United Nations Convention on the Law of the Sea» in *Chinese Yearbook of International Law and Affairs*, vol. 4, 1984, pp.76-77.

61. For further details see, GÜNDÜZ, *The Concept of the Continental Shelf in its Historic Evolution* (Istanbul, 1990) pp. 238-250. For example, 18 African states made a proposal which explicitly emphasized the unique place of geological and geomorphological factors as well as special circumstances for the purpose of delimitation. See UNCLOS III Official Record, vol. II, at 249-250. A similar proposal was made by Turkey too. See, UNCLOS III Official Record, vol III, at p.213.

62. Award in Guinea/ Guinea Bissau Arbitration, 1985, para.116.

63. But, see KWIATKOWSKI, *supra* note 30, at 198, note 107.

64. See Ely, N. - PICTROWSKI, R.F. «Boundaries of Seabed Jurisdiction off the Pacific Coast of Asia» 7, *Natural Resource Lawyer*, 1975, pp.611,619.

65. Ely, N. «Seabed Boundaries between Coastal States: the Effect to be Given Islands as Special Circumstances», 6, *International Resource Lawyer*, 1972, pp. 218, 234.

66. The ILC accepted in 1953 «the presence of islands» as a possible case of special circumstances. See, 1 YILC (1953) p. 128, para. 37. For the situation in the Geneva Convention 1958, see E.D. Brown, *The Legal Regime of Hydrospace*, 1971, pp. 64, 65. The Court has recently said in the Greenland- Jan Mayen Case that «general international law as it has developed through the case law of court and arbitral jurisprudence... has employed the concept of the «relevant circumstances». I.C.J., *Reports* 1993, para 55.

67. «..... special circumstances are those circumstances which might modify the result produced by an unqualified application of the equidistance principle.» (Greenland- Jan Mayen Case 1993, para. 55).

68. See DOC:A/CONF 13/C 4/L in United Nations Conference on the Law of the Sea; *Official Records Committee*, (Continental Shelf), p.47.

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71. See, for example, UNCLOS III, Vol. III, pp. 195, 201, 205, 213, 228, 230, 237, 249-250, 284.

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75. Cf.: Noegroho WISNOEMOERTI «Delimitation of Maritime Boundaries; Its Problems and Issues» in *The Frontier of the Seas, The Problem of Delimitation*, (The Ocean Association of Japan, 1980), pp.46, 48.
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77. Contra: See Derek Bowett, *The Legal Regimes of Islands in International Law*, 1979, pp. 277-79.
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Le plateau continental et le différend gréco-turc en mer Égée

Grigoris Tsaltas*

ABSTRACT

This article seeks to demonstrate that international law, as it has been practiced and, more particularly, according to the conventions on the delimitation of the continental shelf, leaves no doubt whatsoever that islands, like continental parties, have the right to their own complete continental shelf. International jurisprudence also agrees on this point. This legalistic demonstration justifies Greece's looking for a solution to its dispute with Turkey by judicial means; whereas Turkey wants political negotiation because of its weak argumentation. It is obvious that Turkey is seeking to create situations contrary to international law and the international practice of states through a policy of force in the Aegean.

RÉSUMÉ

Cet article vise à démontrer que le droit international, tel qu'il est développé par la pratique internationale et, plus particulièrement, par les accords sur la délimitation du plateau continental, ne laisse aucune ambiguïté quant au fait que les îles, comme les autres parties riveraines, ont droit à un plateau continental propre et complet. De même, la jurisprudence internationale est d'accord sur ce point. Cela donne raison à la Grèce qui recherche une solution de son différend avec la Turquie par des voies légales alors que cette dernière, vu la faiblesse de son argumentation juridique, favorise des négociations politiques. Il est évident que la Turquie cherche à créer, par sa politique de force en mer Égée, des situations qui vont à l'encontre du droit international et de la pratique internationale pacifique des États.

A. La formation du droit du plateau continental

L'époque où le père du droit international de la mer, le fameux juriste hollandais Ugo Grotius, écrivait entre autres dans son petit ouvrage *Mare Liberum*, publié en 1609¹ "... je dis que la mer, ou prise dans toute son étendue, ou confinée à l'égard de ses principales parties, ne peut point passer en propriété", semble lointaine et romantique.²

Cependant et jusqu'à la Deuxième Guerre mondiale, le droit classique de la mer restait le droit de la surface, tout en s'intéressant plus spécialement à la navigation et à la pêche; voilà pourquoi il «s'est développé depuis des siècles autour de la notion de la liberté de la navigation».³

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Ensuite, «le vieux débat entre les tenants du “mare liberum” et ceux du “mare clausum” a été ravivé, sous une forme et dans des conditions matérielles échappant à l’imagination de Grotius et de Selden, par le progrès des techniques d’utilisation des ressources de la mer et du fond marin».⁴

La notion de plateau continental, sous sa dimension réaliste et fonctionnelle de l’exploitation économique des ressources naturelles, a été utilisée officiellement pour la première fois en 1942 dans le Traité de Paria, signé entre le Venezuela et la Grande-Bretagne.⁵

Le 28 septembre 1945, le Président des États-Unis, H. Truman, revendiquant avec sa déclaration historique le droit à l’exploitation des ressources naturelles du lit de la mer et de son sous-sol, au-dessous de la haute mer mais contiguës aux côtes américaines, a consacré le terme plateau continental, en ouvrant parallèlement la voie aux modifications révolutionnaires du droit de la mer existant par des revendications unilatérales étatiques.⁶ Selon la déclaration de Truman, l’extension de la compétence territoriale des États-Unis s’étale sur une surface de 2,000,000 km² de fond marin.⁷ Pourtant, elle ne mentionne rien en ce qui concerne la limite extérieure du plateau continental.⁸

Ensuite, nous avons une série impressionnante de revendications étatiques présentées par les États de l’Amérique Latine, par proclamation, déclaration ou loi nationale, de souveraineté ou de droits exclusifs sur les fonds marins adjacents aux côtes de divers États.⁹

Nous arrivons ainsi en 1956 quand l’Assemblée générale des Nations unies, par l’intermédiaire de la Commission du droit international, qui entre temps avait élaboré un code à peu près complet du droit international de la mer¹⁰, avait demandé la convocation d’une Conférence internationale¹¹ pour en discuter et adopter une ou plusieurs conventions en la matière.

a) Le statut conventionnel de Genève de 1958

Il est vrai que “la formation du droit du plateau continental s’est faite coutumièrement dès que les progrès de la technique ont permis son utilisation et ses règles se sont révélées différentes de celles qui concernaient aussi bien la mer territoriale que la haute mer sous lesquelles s’étend le plateau. Le vide juridique en appelle donc à un droit spécifique”.¹²

La quatrième Convention adoptée par la Conférence de Genève est la Convention sur le plateau continental. Selon son premier article “l’expression plateau continental est utilisée pour désigner: a) le lit de la mer et le sous-sol des régions sous-marines adjacentes aux côtes, mais situées en dehors de la mer territoriale, jusqu’à une profondeur de 200 mètres ou au-delà de cette limite, jusqu’au

point où la profondeur des eaux susjacentes permet l'exploitation des ressources naturelles desdites régions; b) le lit de la mer et le sous-sol des régions sous-marines analogues qui sont adjacentes aux côtes des îles".¹³

Il s'agit d'une définition plus ou moins complète qui se base clairement sur deux critères pour la désignation des limites extérieures de cette nouvelle zone, considérée comme révolutionnaire: le critère de la profondeur des eaux surjacentes (l'isobathe de 200 mètres) et le critère de l'exploitabilité.

De l'autre côté, nous comprenons facilement que ladite définition soulève, à la fois, la conception légale ou juridique du plateau continental mais aussi la signification économique et sociale.¹⁴ La première se base à ce que «le lit et le sous-sol forment géologiquement un soubassement ou socle identifiable au territoire étatique»¹⁵; la deuxième à la découverte de très importants gisements pétrolifères dans le plateau continental attenant aux côtes continentales ou insulaires des États côtiers.

L'article 2 de la Convention se réfère, à la suite, aux droits de l'État côtier à cet espace sous-marin adjacent à sa mer territoriale. Il s'agit de droits souverains qui pourtant se limitent à l'exploration et à l'exploitation des ressources naturelles qui s'y trouvent.

Enfin, concernant le cas où un même plateau continental est adjacent aux territoires de deux ou plusieurs États dont les côtes sont limitrophes ou se font face, l'article 6 se réfère à l'application de deux systèmes précis. Le premier, dit latéral, consiste en l'application de la méthode de la ligne d'équidistance, le deuxième, dit frontal, à l'application du système de la ligne médiane en l'absence de circonstances spéciales.

Il s'agit de deux hypothèses pour lesquelles l'article 6 prévoit un système préalable: le consentement des États concernés. Si ce consentement ne peut pas s'effectuer, la Convention prévoit que la délimitation sera opérée selon la méthode de l'équidistance. Autrement dit, tirer une ligne dont tous les points sont à égale distance des points situés sur la ligne de base qui sert à délimiter la mer territoriale.

Durant les années 60 un bouleversement sans précédent du droit classique de la mer s'effectuera par l'intermédiaire d'une longue série de résolutions-clefs de l'Assemblée générale des Nations unies. Ce bouleversement fut la conséquence de deux événements très importants à l'époque: le progrès extrêmement rapide de la technologie et l'entrée en pleine force sur la scène internationale des États du tiers-monde.

C'est ainsi que ladite démocratisation des relations internationales offrira l'occasion à l'ambassadeur Arvid Pardo de lancer officiellement l'idée de la Déclaration des fonds des mers et des océans au-delà de la juridiction nationale comme l'héritage commun de l'humanité¹⁶, en tant que réservoir immense des ressources naturelles de la planète.

Puis, avec une série de résolutions adoptées par l'Assemblée générale sous le No 2750 (XXV), en décembre 1970, nous aurons entre autres la convocation d'une Troisième Conférence des Nations unies sur le Droit de la mer afin de réviser et de développer le droit classique, codifié, d'ailleurs, à Genève en 1958.

b) Le statut du plateau continental selon la Convention de 1982

La VI^e partie de la nouvelle Convention du Droit de la mer¹⁷ intitulée «Plateau Continental» analyse, dans dix articles (76-85) qui suivent, la nouvelle vision de la communauté internationale face à l'espace maritime qui se réfère aux droits économiques des États riverains aux ressources naturelles du lit de la mer adjacent à leurs côtes.

La Deuxième Commission de l'UNCLOS III a été appelée à réviser le statut adopté à Genève en 1958, vu que des nouvelles perspectives se dessinaient en raison, surtout, de l'adoption des principes de la Zone économique exclusive. Alors, on assiste à la cristallisation juridique de la doctrine du plateau continental grâce à deux facteurs principaux: le développement des procédés techniques pour l'étude des océans et le perfectionnement des moyens pratiques pour l'exploration et l'exploitation des fonds sous-marins.¹⁸

La constatation déjà lointaine que les continents ne disparaissent pas brusquement dans les hauts fonds océaniques¹⁹ souligne l'origine purement géologique, géographique et océanographique de la notion du plateau continental. D'autre part, la diversité de la configuration géographique du sol et du sous-sol de la mer semble s'opposer à l'établissement d'un critère bathymétrique unique tandis que le critère de l'exploitabilité ne fait qu'obscurcir la situation.²⁰

C'est ainsi que l'article 76 (alinéa 1) de la Convention, se référant à la détermination des limites du plateau continental, applique seulement le critère géologique en combinaison avec le critère de la distance de 200 milles marins des lignes de base à partir desquelles est mesurée la mer territoriale; et ceci contrairement aux dispositions de l'article 1 de la Convention de Genève de 1958.

Ensuite, l'article 77 reprend *expressis verbis* les dispositions de l'article 2 de la Convention de Genève concernant les droits de l'État côtier sur son plateau continental. Autrement dit, il s'agit toujours des droits souverains d'exploration et d'exploitation des ressources naturelles s'y trouvant.

Pourtant, la révision essentielle de l'ancien statut du plateau continental fut l'adoption d'un nouveau système de délimitation entre États dont les côtes sont adjacentes ou se font face.

L'article 83, remplaçant l'article 6 de la Convention de Genève, prévoit plus précisément que:

1. La délimitation du plateau continental entre États dont les côtes sont adjacentes ou se font face est effectuée par voie d'accord conformément au droit international tel qu'il est visé à l'article 38 du statut de la Cour Internationale de Justice, afin d'aboutir à une solution équitable.

2. S'ils ne parviennent pas à un accord dans un délai raisonnable, les États concernés ont recours aux procédures prévues à la partie XV.²¹

3. En attendant la conclusion de l'accord visé au paragraphe 1, les États concernés, dans un esprit de compréhension et de coopération font tout leur possible pour conclure des arrangements provisoires de caractère pratique et pour ne pas compromettre ou entraver pendant cette période de transition la conclusion de l'accord définitif. Les arrangements provisoires sont sans préjudice de la délimitation finale.

4. Lorsqu'un accord est en vigueur entre les États concernés, les questions relatives à la délimitation du plateau continental sont réglées conformément à cet accord.

Lors d'une première lecture nous constatons que les méthodes prévues par l'article 6 de la Convention de Genève, concernant l'utilisation pour les systèmes latéral et frontal successivement de la ligne d'équidistance et de la ligne médiane, sont supprimées et on invite les États concernés à parvenir à un accord conformément au droit international, tel qu'il est visé à l'article 38 du statut de la Cour internationale de justice. A défaut d'un tel accord, les États ont le droit de recours aux procédures prévues par la Convention.²²

C'est exactement le même système prévu *expressis verbis* pour la délimitation de la zone économique exclusive dans l'article 74 de la Partie V de la Convention.

Pourtant, il est juste de noter qu'il résulte de la Convention de 1982 que les deux systèmes, prévus dans l'article 6 de la Convention de Genève, sont toujours des propositions valables à suivre selon le principe d'équité pour délimiter des espaces maritimes entre États limitrophes ou qui se font face; l'article 15 de la Partie II, où il est question de délimitation de la mer territoriale, en fait mention.

En deuxième lieu, le changement du statut de la délimitation du plateau continental, vu l'adoption parallèle du nouveau principe de la zone économique exclusive qui comprend de vastes et énormes espaces maritimes, a conduit les États à proposer de parvenir à un accord selon le droit international sans indication préalable d'application d'un tel ou tel système.

En outre, déjà depuis le projet de Convention pour le plateau continental proposé et déposé par la Commission du droit international en 1956, on acceptait l'existence du plateau insulaire à titre égal avec le plateau continental.

Ensuite, l'article 1 de la Convention de Genève fonde l'égalité des droits entre les territoires continentaux et insulaires; il stipule formellement que le plateau continental concerne aussi le fond de la mer et le sous-sol des régions adjacentes aux côtes des îles.

Enfin, la nouvelle Convention de Montego Bay, dans l'esprit de la Convention de Genève et reprenant la pratique internationale suivie depuis, réaffirme au paragraphe 2 de l'article 121, intitulé «statut des îles», que:

«Sous réserve du paragraphe 3, la mer territoriale, la zone contiguë, la zone économique exclusive et le plateau continental d'une île sont délimités conformément aux dispositions de la Convention applicables aux autres territoires terrestres».²³

En conclusion, tout système, prévu pour la délimitation du plateau continental entre États limitrophes ou qui se font face, s'applique aussi *mutatis mutandis* pour les cas où il y a une présence d'îles.

1. La thèse hellénique

Favorable à l'adoption de la thèse minimaliste, exprimée lors des travaux de la Première Conférence des Nations unies sur le Droit de la mer à Genève en 1958 concernant la nature des ressources du plateau continental, la Grèce a ratifié par la loi No 1182 du 14 juillet 1972²⁴, mise en vigueur le 6 décembre 1972, la Convention sur le plateau continental. Depuis et durant les travaux de la Troisième Conférence elle ne s'est nullement éloignée des dispositions prévues dans la Convention de Genève.²⁵

Le projet d'article, présenté par la délégation hellénique lors des travaux de la Deuxième Commission de la Troisième Conférence²⁶, souligne que «le contenu juridique est déjà sous une forme acceptée par tous: c'est l'exercice des droits souverains de l'État côtier aux fins d'explorer le plateau continental et d'en exploiter les ressources naturelles».²⁷

Ensuite, l'article 2 du projet grec, se référant aux îles, traduit, selon l'avis du représentant grec, «fidèlement le droit international». Autrement dit, il reprend la disposition de l'alinéa b du premier article de la Convention de Genève selon lequel les îles jouissent des mêmes droits que le continent pour la reconnaissance du plateau continental.²⁸

L'article 6 dudit projet grec reproduit l'article 6 de la Convention de Genève dans son ensemble, à l'exception de la disposition qui se réfère aux cas des «circonstances spéciales». Ainsi, dans le cas des côtes limitrophes ou opposées, la délimitation du plateau continental semble être basée, aussi bien pour ce qui est de la théorie que de la pratique du droit international, sur le principe

d'équidistance. Plus spécialement, dans les eaux étroites, où plusieurs États sont voisins ou opposés les uns aux autres et en l'absence d'accord entre eux, la frontière est toujours déterminée par la ligne médiane.

Quant à la portion du territoire terrestre, sur lequel l'État exerce son autorité, elle est indivisible aussi loin que les droits juridiques de l'État en question sont étendus. Ainsi, le concept de territoire, comme élément de l'État, comprend non seulement la partie continentale mais aussi le territoire insulaire, comme partie intégrante, ayant par conséquent des droits égaux à ceux de tout autre État riverain à une mer territoriale et à une partie complète de fond marin.

2. La thèse turque

La variété de caractéristiques, présentée par les mers elles-mêmes, est très grande. Ensuite, il n'y a pas d'importance égale pour toutes les îles. Ainsi, on doit éviter, à tout prix, le débat majeur selon lequel la Convention de 58 n'a pas prévu de dispositions appropriées pour les mers et les îles qui présentent des caractéristiques spéciales.

Ces réflexions turques ont été présentées en combinaison et sous une forme plus analytique, dans quatre projets d'articles se référant: 1) à la délimitation du plateau continental entre États, 2) la délimitation entre États adjacents ou qui se font face, 3) au régime des îles et 4) aux mers fermées et semi-fermées.²⁹

Concernant le premier projet, l'élément important est l'absence des dispositions de la ligne médiane et du principe d'équidistance, prévus à l'article 6 de la Convention de Genève. Deux caractéristiques fondamentales en émanent: les circonstances spéciales et les principes équitables, qui servent comme base de tout système de délimitation, puisque toute règle ou toute procédure ne conduisant pas à un résultat équitable doit être considérée comme n'accomplissant pas son objectif.³⁰

Quant au statut des îles et dans le cas où:

une île est située dans la zone économique ou sur le plateau continental d'un État étranger, n'a pas de zone économique ni de plateau continental propres, à moins qu'elle ne comporte au moins un dixième de la superficie terrestre et de la population de l'État auquel elle appartient.

La traduction de la thèse turque nous amène à la conclusion que les îles grecques de la mer Égée représentent des circonstances spéciales et, conformément au critère de l'équité, l'Archipel doit être divisé—sans tenir compte des îles—en deux parties (dans son milieu) de continent à continent entre les deux États voisins.³¹

c) La pratique internationale

Depuis la mise en vigueur de la Convention de Genève de 1958 un certain nombre d'États a procédé à l'application des dispositions de l'article 6 par accords relatifs à la délimitation du plateau continental. Parmi ces accords, la majorité écrasante a appliqué le principe de la ligne médiane pour les États dont les côtes se font face et le principe d'équidistance pour les États limitrophes. La déviation de la ligne médiane a été marquée dans certains accords mais pour des raisons purement techniques.

Quant à la règle que les îles possèdent leur propre plateau continental, elle se confirme par la pratique internationale déjà avant la conclusion du système conventionnel de Genève.

Dans l'ordre interne, nous avons ainsi plusieurs exemples parmi lesquels figurent les décrets de loi de 1948 et 1954 où nous avons la délimitation du plateau continental des îles des Bahamas³², de la Jamaïque³³ et des Malouines.³⁴

De l'autre côté, dans l'ordre bilatéral, en 1957, nous avons le règlement du différend entre la Norvège et l'URSS en se basant sur la reconnaissance aux îles russes d'un plateau continental propre. Dans le même esprit a été conclue l'affaire du plateau continental en 1958 entre le Bahreïn et l'Arabie Saoudite.³⁵

Jusqu'à aujourd'hui nous avons dépassé le nombre de 60 accords bilatéraux portant sur la délimitation du plateau continental entre États.³⁶ Parmi ces accords il est à noter aussi l'accord entre la Grèce et l'Italie (24/5/1977) où a été pris en considération l'existence des îles Othoni d'une superficie de 10 km² environ et d'une population de 637 habitants.

B. Le différend gréco-turc en mer Égée

L'étude des positions d'un pays vis-à-vis des problèmes maritimes ne peut se faire sans tenir compte des réalités géographiques et géologiques.³⁷ Réalités qui influencent, en plus, le caractère situationnel du droit de la mer comme il a été réformé lors de la IIIème Conférence des Nations unies.

De l'autre côté, la politique d'un État dans ce domaine ne peut pas se comprendre en dehors des considérations économiques et des considérations stratégiques.

C'est pourquoi l'approche historique d'une crise permet de comprendre tous les aspects économiques qui sont sous-jacents à toute analyse, et à toute interprétation juridique d'un différend.

a) L' aspect géopolitique

La position géographique particulière de l'archipel égéen et sa configuration géophysique compliquée créent des conditions spéciales, selon lesquelles, tous les principes du droit de la mer se voient nécessairement appliqués.

1. La position géographique et la configuration géophysique de la mer Égée

«La notion d'archipel, considéré comme un ensemble d'îles étroitement et géographiquement liées entre elles, provient de l'archipel égéen.³⁸ C'est à juste titre donc que l'Archipel, avec la présence de près de 2 800 îles et îlots grecs, est considéré comme» l'archipel grec par excellence».³⁹

Il s'étend entre la mer Noire et la Méditerranée.⁴⁰ Son étendue est de 210 240 km² entre le Péloponnèse, l'Asie Mineure, les côtes sud de l'île de Crète, de l'île d'Eubée, de la Macédoine et de la Thrace. Cette étendue comprend 187 223 km² d'espace maritime et 23 017 km² de territoire insulaire.⁴¹

Les îles grecques de la mer Égée s'élèvent au nombre de 2 800 environ, d'une étendue de 22 757 km², soit le 7% de la superficie totale de la Grèce. Les îles turques qui sont au nombre de deux ont une superficie de 260 km², soit le 0,0003% de la superficie totale de la Turquie.

La longueur des côtes grecques⁴² en mer Égée—continentales et insulaires—est de 10 942,8 km, autrement dit le 72,8% de la longueur de l'ensemble de côtes maritimes de la Grèce. Les côtes turques en mer Égée s'élèvent à 2 805 km.

Enfin, la population de la Grèce s'élève aujourd'hui à 11 000 000 d'habitants dont un peu plus de 1 600 000 habitent les nombreuses îles grecques en mer Égée.

L'Archipel se situe dans la zone sismique du globe et se veut placé dans l'arc externe des plissements où la fréquence et l'amplitude des phénomènes sismiques rappellent l'instabilité des tréfonds balkaniques.⁴³ Les caractéristiques géophysiques de la région grecque se justifient donc du fait que ce pays se trouve dans une zone (Europe-Asie) du système continental de la rupture de la terre.⁴⁴

C'est ainsi que dans le cadre de la théorie du mouvement des plaques lithosphériques, le géologue britannique D.P. Malkenzie a soutenu la thèse de l'existence d'une petite plaque égéenne autonome qui se déplace rapidement—11 cm par an—vers le sud-ouest en direction de l'Afrique.⁴⁵ Elisabeth Mann Borgese a estimé aussi que «cette plaque supporte le sud de la Grèce, la Crète et l'Isthme d'Eubée... Au large des côtes crétoises se trouve une fosse qui dévore le fond océanique et consomme la plaque africaine».⁴⁶

L'arrangement aussi des îles qui suit le territoire continental, comme la configuration et la direction du fond marin qui suit l'arrangement de l'île d'Eubée jusqu'à l'île de Kos (de l'ouest à l'est) et les prolongements du Mont Athos, ainsi que la profondeur de la mer Égée⁴⁷, prouvent que le plateau continental et le plateau insulaire en constituent le prolongement naturel sans interruption.⁴⁸ Par conséquent, le lien existant entre le continent grec et ses prolongements au-dessus de la mer Égée se trouve justifié.⁴⁹

C'est dans cette région sous-marine que depuis 1973 le United States Technological Institute of Oil, dans le cadre d'une étude sur «les réserves probables de pétrole existantes dans le monde», a constaté que les réserves de la mer Égée sont entre 1 et 4 milliards de barils.

2. Le caractère stratégique de l'Archipel

Du point de vue stratégique, la mer Égée constitue une zone de défense unique. Elle se veut basée sur la dépendance connexe de la mer, la terre et l'air. On pourrait ainsi soutenir que la Grèce avec la mer Égée constitue la clef stratégique en Méditerranée orientale pour les intérêts tant de l'OTAN que de l'Union européenne, mais pour des raisons différentes.⁵⁰

Située à l'extrême sud de l'Europe, la Grèce est en même temps un pays européen, balkanique et méditerranéen. En particulier, la mer Égée est d'une importance stratégique remarquable du fait qu'elle communique avec l'Océan Indien par le canal de Suez, avec l'Atlantique par le détroit de Gibraltar et enfin avec la mer Noire par les détroits des Dardanelles et le Bosphore. Elle constitue la voie maritime la plus importante en Méditerranée.

Enfin, caractérisée comme berceau de la civilisation hellénique, la mer Égée, avec de très importants détroits servant à la navigation internationale⁵¹ qui se situent entre ses nombreuses îles, rend la Grèce à la fois État riverain et véritable usager de la mer.

b) L'approche historico-politique de la crise

«Les décisions du gouvernement turc en novembre 1973 ainsi qu'en juin et en juillet 1974 d'accorder à la Société nationale turque des pétroles (TRAO) des permis de recherches pour des zones sous-marines en mer Égée, considérées par la Grèce comme relevant de sa juridiction, se trouvent à l'origine du différend au sujet du plateau continental relevant des deux pays qui n'est toujours pas réglé».⁵²

Depuis, et jusqu'en février 1975, s'échelonne une série d'actions de la part de la Turquie mettant en cause la souveraineté de l'État grec sur cette région

maritime qui lui a été confiée par le Traité de Lausanne du 24 juillet 1923 et le Traité de Paix de Paris du 10 février 1947.

Les revendications dites complémentaires visant à affirmer la thèse turque d'existence de multiples problèmes entre les deux pays voisins sont:

- . la largeur et la délimitation de la mer territoriale;⁵³
- . le tracé des lignes de base droites;⁵⁴
- . la militarisation des îles grecques;⁵⁵
- . la délimitation de l'espace aérien;⁵⁶
- . le système existant de contrôle de l'aviation civile (F.I.R.);⁵⁷

et tout dernièrement la contestation de la souveraineté grecque sur les îlots Imia en février 1996 et juste après sur une centaine d'autre îles et îlots en mer Égée.

La Grèce n'accepte pas l'existence desdits problèmes à l'exception du différend concernant la délimitation du plateau continental en mer Égée pour lequel elle propose le recours à la Cour internationale de justice.

Pour sa part, la Turquie n'accepte pas le recours juridique et propose la négociation politique directe pour l'ensemble des problèmes dits gréco-turcs. C'est pourquoi, depuis 1973 jusqu'à nos jours, elle a déclenché une guerre froide constituée de déclarations politiques en combinaison avec un système de provocations qui visaient la non-reconnaissance du plateau insulaire en mer Égée pour la Grèce. Il s'agit d'une contestation pure et dure du droit des îles grecques s'y trouvant d'avoir leur propre plateau continental au même titre que toutes les autres îles de tout État, selon le droit de la mer.

Les 23 années de tension entre les deux pays comprennent trois sous-périodes de développement de la crise dite gréco-turque. La première consiste en la formulation des multiples revendications turques et se situe entre 1973 et 1975. La deuxième se déroule entre 1975 et 1995. Plusieurs propositions de nature juridique et politique de part et d'autre ont été soumises pour faire face à la crise. D'habitude ces propositions font leur apparition à l'occasion de provocations de la part de la Turquie qui organise des «mises en scène» en faisant sortir des détroits de Dardanelles des navires océanographiques pour effectuer des recherches au-dessus du plateau continental que la Grèce considère comme sien.⁵⁸

La troisième période vient de commencer avec la crise de février 1996 portant sur la non reconnaissance, pour la première fois, de la souveraineté grecque d'abord aux îlots Imia⁵⁹ et ensuite sur 107 îles et îlots de la mer Égée.⁶⁰

Il s'agit de l'intégration de la politique turque qui s'est développée dans le cadre de la description des prétendus problèmes de délimitation touchant le droit de la mer, pour en arriver à son but final qui consiste à la renégociation du Traité de Lausanne de 1923. Dans ce contexte, la Grèce n'entend que faire respecter le statu quo que lui dicte l'histoire, la géographie et le droit en mer Égée.⁶¹

c) L'application du droit du plateau continental dans le milieu égéen

L'histoire prouve incontestablement que l'ensemble des îles de la mer Égée se caractérise par une homogénéité politique, historique, ethnologique et économique parallèle et identique à celle du territoire continental grec. Aussi, il n'est pas moins vrai qu'avec l'article 12 du Traité de Lausanne, la Turquie a renoncé à tous les droits et titres, de quelque nature que ce soit à l'égard des territoires cédés à la Grèce. C'est exactement la même chose qui se passe de la part de l'Italie avec le Traité de Paix de Paris de 1947 concernant le Dodécannèse.

Le droit conventionnel, résultant de la Convention de Genève de 1958, qui a codifié le droit de la mer existant, fait clairement mention qu'à propos de la notion de plateau continental, elle est utilisée aussi «pour désigner... le lit de la mer et le sous-sol des régions sous-marines analogues qui sont adjacentes aux côtes des îles», reprenant *expressis verbis* l'esprit du projet de Convention présenté par la Commission du droit international en 1956.⁶² Il s'agit d'une disposition de *jus cogens* incluse dans la partie des articles 1-3 de la Convention qui, selon l'article 12, repris par la Cour internationale de justice en 1969 dans l'affaire du plateau continental de la mer du Nord⁶³, constitue de *lege lata*.

L'égalité des droits entre territoires terrestres et insulaires se veut aussi expressément déclarée à l'article 121 par. 2 de la nouvelle Convention de Montego Bay de 1982. Il s'agit d'une règle, d'ailleurs, réaffirmée par la pratique internationale depuis déjà les premières délimitations entre 1948 et 1954.

Ainsi, la Turquie, voyant s'écrouler l'argument visant à priver les îles de plateau continental, a évoqué la disposition des «circonstances spéciales» prévue dans l'article 6 de la Convention de Genève.

Juridiquement, selon le professeur Bardonnnet⁶¹, la délimitation n'est jamais constitutive de droits mais seulement déclarative. On ne peut alors ignorer le titre pour arriver à des résultats équitables au niveau de la délimitation. De l'autre côté, l'équité n'implique pas nécessairement l'égalité, autrement dit, il n'est jamais question de refaire la nature⁶². Ainsi, les circonstances spéciales ne permettent pas de résoudre le problème de souveraineté; elles concernent seulement les problèmes techniques pour tracer les lignes d'équidistance.

C. Conclusion

Le droit international, tel qu'il est développé par la pratique internationale et, plus particulièrement, par les accords sur la délimitation du plateau continental, ne laisse aucune ambiguïté quant au fait que les îles, comme les autres parties riveraines, ont droit à un plateau continental propre et complet⁶⁶. De même la jurisprudence internationale est d'accord sur ce point.

Cependant, le différend gréco-turc sur la délimitation du plateau continental de la mer Égée continue toujours d'être placé au centre d'une crise générale touchant les relations gréco-turques dans leur ensemble depuis 1973; et ceci pour trois raisons.

Premièrement, parce que l'opinion publique internationale veut se convaincre de l'existence et de la nature dudit différend.

Deuxièmement, le côté turc exploite avec succès ce même différend chaque fois qu'il veut renforcer la crise politique entre les deux pays à des périodes bien choisies par Ankara.⁶⁷

Enfin, ce même différend fut toujours l'unique occasion d'ouverture d'un dialogue entre les deux pays, dialogue qui n'a jamais abouti à une solution du problème.

Pourtant, au coeur de la crise gréco-turque se trouve la délimitation du différend compte tenu des considérations différentes. Pour la Grèce il s'agit du respect de ses droits en mer Égée consacrés par les traités internationaux et le droit international. Pour la Turquie il s'agit de la légitimation générale de revendications non fondées en droit international. C'est pourquoi d'ailleurs elle refuse d'aller devant la Cour internationale de justice et exige des négociations politiques.

Ainsi, donc, la Turquie cherche d'un côté à faire renverser le statu quo de l'Archipel et de l'autre côté à renforcer sa thèse dans une future négociation pour son adhésion à l'Union européenne. Pour se faire, les gouvernements turcs ont choisi de développer un climat de guerre froide susceptible de détourner l'opinion publique internationale de véritables problèmes d'ordre interne comme la violation des droits de l'homme.

NOTES

1. Le «Mare Liberum», qui fait partie de *De Juris Praedae* écrit en 1604, a été publié séparément en 1609 et 1618 sous le titre complet *Mare liberum sive de jure quod Batavis competit ad Indicana Commercia* Dissertatio.
2. Voir Gr. TSALTAS, "Le statut juridique du plateau continental selon la nouvelle Convention de 1982 sur le Droit de la mer et les intérêts helléniques", in *Droit International et Politique Internationale*, Thessaloniki, ed. Paratiritis, 1985, p. 191.
3. R. J. DUPUY, "Les contradictions du Droit de la mer", in *Revue Française de l'Energie*, février 1973, extraits, p. 186.
4. C. STAVROPOULOS, "Problèmes de procédures qui se posent à la troisième Conférence sur le droit de la mer", in *Nouvelles de l'UNITAR*, vol. 6, No 1, 1974.
5. Historiquement la notion de plateau continental, pour ce qui est de son aspect géologique, a vu le jour en 1894 lors de recherches *off shore* tout au long des côtes de Californie. Les premiers efforts sérieux de recherche ont été effectués en 1936 au golfe du Mexique. La construction de la première plate-forme d'exploitation *off shore* de pétrole le long des côtes de la Louisiane ainsi que du premier pipeline *off shore* a été faite en 1948. (Voir Gr. TSALTAS, *Droit International de la mer*, vol. II, *Le patrimoine Commun de l'humanité*, Athènes, ed. Papazissis, 1984, p. 34 et suivantes).
6. Voir Gr. TSALTAS, *Le statut juridique du Plateau Continental*, op. cit., p. 192.
7. Gr. TSALTAS, *La Grèce et le Droit de la mer*, thèse pour le doctorat d'État en droit, Université de Nice, 1978, v. I, p. 39.
8. C'est le communiqué de presse fait à l'occasion de la Proclamation qui prend le soin de préciser cette limite dans les termes suivants: «*Generally, submerged land which is contiguous to the continent and which is covered by no more than 100 fathoms (600 feet) of water is considered as the continental shelf*» (v. Hüs. PAZARCI, *La délimitation du plateau continental et les îles*, Ankara, 1982, p. 6).
9. Les revendications les plus connues après la Déclaration Truman sont celles des pays suivants: Mexique (1945), Panama (1946), Argentine (1946), Chili (1947), Pérou (1947), Guatemala (1947), Nicaragua (1948), Costa Rica (1948), Grande-Bretagne (Bahamas-Jamaïque) (1948), Iran (1949), Arabie S. (1949), Philippines (1949), Honduras (1950), Pakistan (1950). Pour l'ensemble de ces actes v. l'analyse de: GARCIA-AMADOR, *Latin America and The Law of The Sea*, Kingston (R.I.), Law of the Sea Institut, 1972, Occasional paper No 14, aussi Chr. ROZAKIS, *The Law of the Sea as developed through the claims of the coastal states*, Athens, ed. Papazissis, 1976, p. 86 ref. 147.

10. Texte complet du **Rapport de la CDI**, Voir «Documents officiels de l'Assemblée Générale», onzième session, supplément, No 9, (A/3159).
11. Voir la résolution A.G. (1105-XI), 21 février 1957.
12. R.J. DUPUY, «L'affectation exclusive du lit des mers et des océans à une utilisation pacifique», in COLLIARD-DUPUY-POLVECHE-VAISSIER, *Le Fond des mers*, Ed. Arm. Colin, 1971, p. 32.
13. Voir article premier de la Convention de Genève de 1958 sur le plateau continental.
14. Voir Al. PAPANDREOU, «La situation juridique des pêcheries sédentaires en haute mer, contribution à l'étude du Droit international maritime», in *Revue hellénique de droit international*, janvier-juin 1958, p. 121.
15. G. SCELLE, «Le plateau continental et le droit international public», *R.G.D.I.P.* 1965.
16. Voir «Déclaration universelle sur le Patrimoine Commun de l'Humanité», A.G. Résolution 2749 (XXV) 17/12/1970.
17. Adoptée le 10 décembre 1982 à Montego Bay en Jamaïque et mise en vigueur le 14 novembre 1994.
18. Voir aussi Al. PAPANDREOU, *op. cit.* p. 110-111.
19. Voir «Considérations scientifiques relatives à la définition de la plate-forme continentale», Document de travail de l'UNESCO, publié sous la cote (Document A/COF. 13/2 et Add. 1).
20. Fr. WODIE, «Les intérêts économiques et le droit de la mer», in *RGDIP*, 1976, tome 3, p. 762-765.
21. La Partie XV de la Convention se référant au Règlement des différends comprend plus spécialement: Section 1, les dispositions générales et l'obligation des États de régler les différends par des moyens pacifiques. Section 2, les procédures obligatoires aboutissant à des décisions obligatoires après recours: a) au Tribunal international du droit de la mer, b) la Cour Internationale de Justice, c) un tribunal arbitral et d) un tribunal arbitral spécial. Section 3, les limitations et exceptions à l'application de la section 2.
22. Voir Gr. TSALTAS, «Le statut du plateau continental», *op. cit.* p. 197.
23. Le paragraphe 3 comprend la disposition selon laquelle «les rochers qui ne se prêtent pas à l'habitation humaine ou à une vie économique propre n'ont pas de zone économique exclusive ni de plateau continental».
24. Voir *Journal Officiel A* 111/172.

25. Voir Gr. TSALTAS, «Les positions helléniques au sein de la Troisième Conférence des Nations unies sur le Droit de la mer», in *La mer Égée et le Nouveau Droit de la mer*, Athènes, ed. A. Sakkoula, 1996, p. 39-49.

26. Projet d'article grec publié initialement sous la cote DOC. ONU A/CONF. 62/C. 2/L/ 25, 26 juillet 1974.

27. Discours du délégué grec (publié initialement sous la cote A/CONF. 62/C. 2/SR. 18, DOC. ONU) lors des travaux de la Deuxième Commission de la Conférence et à l'occasion de la présentation du projet d' article grec.

28. Voir Gr. TSALTAS, «La Grèce et le Droit de la mer», *op. cit.* p. 301.

29. Projets d'articles turcs publiés initialement sous les cotes:

a) A/CONF. 62/C. 2/L. 23

b) A/CONF. 62/C. 2/L. 34

c) A/CONF. 62/C. 2/L. 55

d) A/CONF. 62/C. 2/L. 56 (DOC. ONU).

30. Voir Présentation desdits projets turcs par le délégué M. YOLGA publiés initialement sous la cote A/CONF. 62/SR. 19, (DOC. ONU).

31. La Turquie n'est pas partie à la Convention de Genève de 1958 ni à celle de Montego Bay de 1982.

32. Voir Ordre en Conseil, 24/11/1948, No 2754. U.N. Legislative Series, *Laws and Regulations on the Regime of the High Seas*, vol. 1, 1951, Part I, Chap. I et suppl. 1959.

33. Voir Ordre en Conseil, 26/11/1948, No 2757, U.N. Legislative Series, *op. cit.* 1951, p. 33.

34. Voir Ordre en Conseil, 21/12/1950, No 2100, U.N. Legislative Series, *op. cit.* 1951, p. 305.

35. Aux années qui ont suivi la codification du droit du plateau continental en 1958 et jusqu'à la veille de l'ouverture de la Troisième Conférence sur le droit de la mer nous avons aussi les exemples suivants: 1) Royaume-Uni-Norvège, 10/3/1965, 2) Royaume Uni-Pays-Bas, 6/10/65, 3) Danemark-Norvège, 8/12/65, 4) Finlande-Union Soviétique, 20/5/65, 5) Italie-Yougoslavie, 27/10/69, 6) Finlande-Suède, 29/9/72, 7) Canada-Danemark, 17/12/73.

36. La majorité de ces accords ont été conclus selon le principe de la ligne médiane et de l'équidistance; seulement 18 ont marqué une certaine déviation de ces méthodes pour des raisons purement techniques.

37. Al. PIQUEMAL, *La France et le droit de la mer*, Paris, éd. CNEXO, 1974, p. 13.

38. Le terme «archipelagos», inventé par les Vénitiens pour décrire la mer Égée, a été adopté comme le terme identique pour ledit espace maritime qui sépare la Grèce de la Turquie.
39. Yannis SOULIOTIS, *Le différend gréco-turc au sujet du plateau continental de la mer Égée*, Nice, 1978, p. 209.
40. Le point extrême sud de la mer Égée est le cap Tripiti dans l'île de Gavdos au sud de la Crète. Le point est se trouve à l'île de Strongili au sud-est de l'île de Castelorizo. Au nord vers les détroits turcs les limites de l'Archipel se décrivent de la ligne qui unit le cap Koum Koulé au cap Eli.
41. La largeur minimum de l'Archipel est de 102 m.m. et se situe entre les côtes nord-ouest de l'île d'Eubée et les côtes de l'Anatolie face à l'île grecque de Chios. La largeur médiane est de 145 m.m. ou de 270 km. Voir Gr. TSALTAS, «La Grèce et le Droit de la mer», *op. cit.* vol. II, p. 271.
42. Continentales et insulaires.
43. Voir André BLANC, *Géographie des Balkans*, éd. PUF, col. Que sais-je?, No 1154, p. 10.
44. Le milieu grec présente aussi un haut degré de cours de chaleur par l'intérieur de la terre (principalement en mer Égée du nord), v. Gr. TSALTAS, *op. cit.*, vol. II, p. 274.
45. D.P. MAKENZIE, «Active tectonics of the Mediterranean region», *Geophys. J.R. Astr. Soc.*, No 30, p. 109-185, 1972, v. aussi la recherche «Collision des continents» in *Énigmes de l'univers: magazine sur la recherche de l'inconnu*, juin 1977, p. 51.
46. Elisabeth MANN BORGESE, *La Planète mer*, Paria, éd. Seuil, Paris, 1977, p. 38.
47. La mer Égée est une mer larginale peu profonde. La plus grande partie a une profondeur moyenne de 200 à 500 m; le 7% de cet espace atteint juste les 200 m.
48. Pour une analyse complète voir aussi Yiannis SOULIOTIS, *op. cit.*, p. 209.
49. Voir Gr. Tsaltas, *op. cit.*, vol. II, p. 275-276
50. Du point de vue militaire la Grèce accueille en mer Égée des bases américaines, comme des mouillages de la flotte ex-soviétique. Du côté économique il est vrai qu'elle occupe une position de charnière entre l'Europe et les marchés en voie de développement rapide du Moyen-Orient et de l'Afrique.
51. Parmi ces détroits, les plus importants sont le détroit de Cérigo et le détroit de Scarpanto à l'ouest et à l'est des côtes de l'île de Crète.

52. Th. KATSOUFROS, «Les différends gréco-turcs en mer Égée», in S. VANER, *Le différend gréco-turc*, Paris, éd. Harmattan, 1988, p. 86. Pour un exposé détaillé de l'historique du différend v. aussi; a) plaidoirie de M. EVRIGENIS, devant la CIJ en sa séance de 9 octobre 1978 (CIJ mémoires 1980, p. 303-315) et b) Gr. TSALTAS, «Égée: La mer de la guerre froide», bilan chronologique, IDPD, Nice, 1978.

53. La Turquie n'accepte pas l'application par la Grèce de la limite de 12 m.m. en mer Égée.

54. La Turquie a déjà appliqué le système des lignes de base droites en mer Égée et refuse que la Grèce en fasse autant.

55. Contrairement à la modification du Traité de Lausanne de 1923 par le Traité de Montreux de 1936 qui a révisé la partie concernant la démilitarisation des détroits turcs qui inclut aussi les îles grecques de Limnos et de Samothrace et les îles, aujourd'hui turques de Imvros et de Ténédos, la Turquie a procédé à la militarisation des îles qui lui appartiennent en refusant le même statut pour les îles grecques. De l'autre côté elle a mis en question le Traité de Paix de 1947 quant à la démilitarisation des îles du Dodécanèse bien que pour ce pays qui n'en est pas partie contractante constitue *res inter alios acta* et que le Traité ne contient pas de clause *in favorem tertii*.

56. Dernièrement, la Turquie n'accepte pas la largeur de l'espace aérien grec de 10 m.m. adopté depuis 1931.

57. Le FIR pour la mer Égée a été confié pour des raisons de sécurité à la Grèce par l'OACI depuis déjà 1953 sans que la Turquie ne s'y oppose.

58. Voir les missions des navires turcs Sismik I et II etc. A l'occasion de ces actes illicites selon le droit de la mer on a eu l'accord de Berne de 1976, la rencontre de Montreux entre Caramanlis et Ecevit en 1978 et ledit dialogue de Davos entre Papandréou et Ozal en 1987.

59. En février 1996, la Turquie a contesté la souveraineté grecque sur les îlots Imia du Dodécanèse que l'Italie a cédé à la Grèce depuis le traité de Paix de 1947 (Paris). D'ailleurs dans le Protocole de 1932 signé entre l'Italie et la Turquie (Ankara, 4/1/1932) et dans le chapitre intitulé «les autres îles» l'alinéa 30 décrit clairement que la ligne médiane qui délimitait la mer territoriale entre les deux pays, à l'époque voisins, se trouvait à la moitié de la distance entre les îlots Imia et l'Anatolie. La délimitation dudit milieu maritime a été marquée dans les cartes hydrographiques anglaises No 236, 872 et 1546.

62. Six mois après la crise d'Imia, le Commandement des Académies de Guerre de la Turquie, dans son «Rapport pour le mer Égée», publié le 7 août dans le journal turc *Cumhuriyet*, revendique la souveraineté sur 107 îles et îlots en mer Égée dans la région du Dodécanèse et de la Crète du nord-est.

61. Th. KATSOUFROS, *op. cit.*, p. 74.

62. Voir article 1b de la Convention de Genève de 1958, v. aussi Gr. TSALTAS, *op. cit.*, v. II, p. 310.

63. ICJ Reports 1969, alinéa 72, p. 41-42, v. aussi la toute récente thèse de doctorat de Ch. DJIMITRAS, *Le droit au titre face à la délimitation: le plateau continental des îles dans la jurisprudence internationale*, Athènes, 1996.

64. D. BARDONNET, *Les frontières terrestres*, RCADI, 1976, p. 23.

65. Voir paragraphe 91, arrêt de la CIJ, 1969.

66. Gr. TSALTAS, *op. cit.*, v. II, p. 322.

67. La dernière crise ayant trait à la revendication des îlots Imia en février 1996 a été déclanchée juste le lendemain de l'élection du nouveau premier ministre grec M. Simitis et trois jours avant que le nouveau gouvernement ne se présente au Parlement.

The International Legal Status of the Athinai FIR

Angelos Yokaris*

RÉSUMÉ

Cet article examine le statut légal du FIR d'Athènes à un moment où la Turquie conteste le droit de la Grèce à un espace aérien de dix milles. De ce qui est exposé, il est clair que la position de la Grèce est solide sur le plan légal et se base sur les conventions internationales adressées par des organisations. Par ailleurs, la Turquie a aussi consenti à cette délimitation du FIR d'Athènes par sa participation aux rencontres internationales pour la navigation aérienne de Paris (1952) et de Genève (1958) qui ont déterminé les limites du FIR d'Athènes et d'Istanbul, sans exprimer aucune réserve.

ABSTRACT

This article focuses on the legal status of Athinai FIR at a moment when Turkey contests Greece's right to have a ten-mile air space. From what is exposed, it is clear that Greece's position is legally solid and based on international conventions and international practice endorsed by international organizations. On the other hand, Turkey also consented to the delimitation of the Athens FIR at ten miles and participated in the Regional Air Navigation Meetings of Paris (1952) and Geneva (1958) which determined the limits of the Athinai and Istanbul FIRs without expressing any reserve.

Article 1 of the 1944 Chicago Convention on international civil aviation¹ reconfirms the customary and established international principle for the complete and exclusive sovereignty of each State over the «air space above its territory». The terms «complete» and «exclusive» used for the characterization of the State's exercise of its sovereignty rights specify two specific principles. The first principle is that the State's sovereignty rights extend to unlimited height in the air space; the second, that a generally established freedom of overflight through national air space does not exist—with the sole exception of the right of transit which is recognized by the Convention and the two Agreements attached to it, but only for the contracting parties and only for civil aircraft. This is the meaning and consequence of the distinction between civil and state aircraft established in Art. 3 of the Chicago Convention and of the submission of the military aircraft admission in the national air space of a third State to a previous concession of a State authorization which in fact is granted through diplomatic channels.²

Freedom of flight for all aircraft (civilian or state including military) exists only in the international air space over the high seas, under the condition of compliance with the international aeronautical regulations, observance of which falls under the jurisdiction of the coastal State's authorities for the Flight Information Region (FIR) under its responsibility.

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A. Sovereignty and Jurisdictions within the National Air Space

The Chicago Convention acknowledges the right of each contracting state to issue legislative and administrative enactments concerning matters of air traffic regulation and control, delimitation of air corridors and of entrance and exit points from the national air space (Art. 9 par. 2, 10 and 11), determination of customs airports for landings and take offs or of security matters, as the establishment of prohibited areas (Art. 9 par. 1).

The Chicago Convention also acknowledges the jurisdictions and competences of the coastal State to a larger area of the international air space, above the high seas in a FIR under its responsibility for reasons of control and regulation of air navigation.

1. The Delimitation of the National Air Space in Relation to the Sovereign Rights of the Coastal State.

The delimitation of the lateral limits of the Hellenic air space was formalized by presidential decree of 1931 based on the relevant authoritative provisions of Law 5017/1931 «for civil aviation».

According to the single article of the presidential decree issued the 6/18-9-1931 «for the delimitation of the lateral limits of the territorial waters concerning the matters of aviation and air police» (Official Journal 325 A'), the lateral limits of the territorial waters were defined in a distance of ten nautical miles from the state's coasts (Art. 2, Law 5017 / 1931).

As a result, the lateral limits of the Hellenic air space were defined in ten nautical miles, with reference to the delimitation of a special subject territorial zone of ten nautical miles, serving the requirements of aviation and air police.

The above-mentioned system was adopted by the Air Law Code in its Art. 191, which provides (par. 1) for the delimitation of the Hellenic air space, the lateral limits of the territorial waters is defined by presidential decree, issued after a proposal of the Council of Ministers. Until its issue, the presidential decree of 1931 remains in force. The only difference consists in the fact that the 1931 presidential decree makes explicit reference to the «State's coasts» as a method of delimitation, that is the normal base line of the lower «shallow waters.» On the contrary, Art. 191 of the Code does not follow this method. Consequently there is the possibility of adopting other methods of delimiting the lateral limits of the territorial waters.

2. The Notification of the Hellenic Air Space Delimitation at Ten Nautical Miles According to International Procedures

Delimiting the lateral limits of the national air space and setting its boundaries on aeronautical charts constitute a unilateral act of the state which, to have legal effect on international level towards the other neighbouring states, must be both in accordance with international law³ and noted at the international level according to the relevant provisions of the Chicago Convention and international aeronautical regulations.

Based on the compulsory Law 602/1937 concerning the «movement of aircraft over the Hellenic territory» (o.j . 136 A') and in view of the relevant obligation of Greece deriving from Annex «F» of the 1919 Paris Convention on air navigation concerning the «aeronautical charts», notification to the CINA (Commission internationale de navigation aérienne) of air space charts, delimitation of «air ways» (according to the terminology of that time) and points of «transit» of the north and east borders has taken place. These charts were published in Annex I of the presidential decree 7/14-8-1931 (O.J. A'273) concerning Air traffic Regulation.

The first aeronautical charts of ICAO were published in 1949 after Annex 4 of the Chicago Convention concerning Aeronautical Charts came into effect. These charts were based on the CINA charts. In their second publication in 1955, new aeronautical charts were included. These were published by Greece with a clear description of Greek national air space boundaries. It should be noted that the corresponding Turkish aeronautical charts also show the boundaries of the Hellenic air space, according to the provisions 2.10.1 of Annex 4 of the Chicago Convention, which stipulate that the international boundaries must be shown on the aeronautical charts.

The limits of the Athinai FIR were determined during the Regional Air Navigation Meetings of Paris (1952) and Geneva (1958) based on the external limits of the territorial waters and the boundaries of the adjacent FIRs (Istanbul and Athinai) of the neighbouring States. Turkey participated to these Regional Meetings without reservation. During these meetings, the relevant Air Navigation European Plan chart was approved.

It must be noted that in the minutes of the 1958 Regional Meeting, explicit reference⁴ is made to the Hellenic aeronautical charts of which the ICAO was notified in 1955. These charts describe, among other things, the limits of the Hellenic air space (international boundaries of the Balkan Region and European part of Turkey) as ten nautical miles. In the 1958 Meeting, Turkey participated without reservation.

Finally, it must be emphasized that the official notification of the Hellenic air space delimitation, with reference to the 1931 presidential decree, was published in the Aeronautical Information Manual edited, according to Annex 15 of the Chicago Convention, by the Civil Aviation Authority: AIP Greece, vol. 1, RAC 0-1.2.1. «in connection with Civil Aviation and Air Police, the territorial waters extend up to ten¹⁰ NM from the coast».

The differentiated status of the external limits of territorial waters and the lateral limits of the national air space was still in force from 1931 when the relevant presidential decree was issued and uniformly applied without any contestation of its legitimacy from third party countries, according to the procedures provided by ICAO or even the institutions of the Civil Aviation Organization and in particular by the Council (Articles 54 and 84 of the Chicago Convention).

B. International Air Space - The Flight Information Regions

International air space lies above the high seas and other sea zones except the territorial waters and the internal waters of each state. Its legal status is based on the principle of free overflying for each aircraft, with the one reservation of observance of air traffic regulations of the International Civil Aviation Organization. Article 12 of the 1944 Chicago Convention concerning International Civil Aviation, which founded ICAO, stipulates that above the high seas the rules of air navigation issued by the ICAO Council, according to the procedures provided by the Convention, are applied.

As a result, the Chicago Convention provides for freedom of overflying in international air space and the international aeronautical regulations, to which Article 12 refers, are included in Annexes 2 and 11 of the Convention concerning the «Rules of the Air» and «Air Traffic Services» respectively.

Annex 2 in particular includes the air traffic rules for aircraft flying above the high seas and imposes the strict observance of instructions of the Air Traffic Control Centers of each Flight Information Region, according to the provisions of Annex 11.

The air space, national and international, has been divided into nine Air Navigation Regions, each one including several Flight Information Regions (FIRs) which are submitted to the jurisdiction of the States of the Region.

1. Technical Characteristics and Criteria of Delimitation

The FIRs above the high seas or in an air space of undetermined sovereignty (e.g. the Antarctic), as well as the FIRs which are composed of national or international air space zones, are delimited by Regional Air Navigation Agreement (Annex 2: 2.1.2. and Annex 11: 2.1.2.) which must be approved by the ICAO Council.

Annex 11 of the Chicago Convention and the Regional Plans of Air Navigation contain specific rules on the delimitation of FIRs. They require that the delimitation of the FIRs be made on the basis of technical and operational criteria in order to ensure greater efficiency in the exercise of air navigation control and aircraft flights. On the other hand, according to Annex 11, 2.9.2.1, FIRs must be determined in order to cover all the structures of the air ways of each FIR area. Lastly, it is recommended (Annex 11, 2.9.1) that the delimitation of the FIR Regions be made considering carefully the structure of the network of the air ways of the FIR Region, in each particular case, as well as the national borders. It is recommended in this point (Annex 11, 2.9.1, Note 1) that the conclusion of agreements concerning the delimitation of FIRs along national borders must prevail, if this fact facilitates the provision of air navigation services. From this perspective, the delimitation of FIR borders by tracing direct lines would be preferred, as far as the qualitative application of the rules determining the provision of air navigation services is concerned.

2. The Procedure of Determining FIRs and Their Limits

The Flight Information Regions (FIRs), their limits and the State whose «competent authority» will have the responsibility of providing the air navigation services above the high seas, in the international air space, are determined by ICAO Council decisions following the conclusion of a Regional Air Navigation Agreement within the framework of a Regional Conference on Air Navigation (Annex 2: 2.1.2. and Annex 11: 2.1.2). In the footnotes of rules 2.1.2. of Annexes 2 and 11, respectively, it is specified that «the phrase Regional Air Navigation Agreement refers to an agreement approved by the Council of ICAO, normally on the advice of a Regional Air Navigation Meeting». We must conclude that this procedure can take place outside the framework of a Regional Meeting with the sole participation of the interested states.

The power and authority of the ICAO Council for the approval of the procedures prescribed in Annexes 2 and 11 of the Chicago Convention concerning the determination of the FIRs, the definition of their limits and the establishment of the competent authority of the State which will be in charge of controlling air navigation find their basis in the provisions of Articles 49 and 54 of the Convention. These articles specify the roles and powers of the General Assembly and the Council of the ICAO.

The competence of the ICAO Council for the division of the total air space in Air Navigation Regions, each one including a certain number of FIRs, is based on the same provisions.

Today, there are nine Air Navigation Regions, including the European Region. The latest revision took place in 1967, when the ninth—the North American—region was added, after a Council decision.

The determination and delimitation of the Air Navigation Regions is made by ICAO Council decisions upon recommendation of the Air Navigation Commission (ANC).

3. The Delimitation of the Athinai FIR

The institutional and procedural arrangements for the delimitation of the FIRs of the European Air Navigation Plan took place at the third (Paris 1952) and the fourth (Geneva 1958) Regional Air Navigation Meetings.⁵

The preparatory work for the delimitation of Athinai and Istanbul FIRs was completed during the Second Middle East Regional Air Navigation Meeting (Istanbul, October - November 1950).

In the Final Report to the ICAO Council⁶ the «Rules of the Air and Air Traffic Control Committee» submitted to the Council, the first recommendation refers to the delimitation of the eastern limits of the Athinai FIR and the western limits of the Istanbul FIR, whose limits coincide with the Greek-Turkish sea borders, in the eastern Aegean Sea. In fact, in point 2. 1 of the Final Report to the Council (including the first Recommendation) it is noted that both the Turkish and the Greek delegations indicated the coordinates of their sea boundaries in eastern Aegean (eastern sea boundaries of Greece and western sea boundaries of Turkey) in order to delimit their respective FIRs. The respective coordinates coincide absolutely. The Final Report and Recommendation 1 included in point 2.1 were unanimously approved by the ICAO Council during its session on December 14, 1950.

The delimitation of the Athinai FIR is based on the first Recommendation of the 1952 regional meeting and Recommendation 9/2 of the 1958 meeting. The layout of its limits was reported on Chart 7 of the Air Navigation Plan for the European Region. The Recommendations of the regional conferences of 1952 and 1958 were unanimous; in other words, with the consent of Turkey. The Athinai-Istanbul FIR border coincides with the Turkish western frontiers in the Aegean sea, as shown in the relevant ICAO map, number 7, and by the 1953 official Turkish international Air Navigation Map published in Ankara. (See Annex/Maps V and VI)

During sessions on June 23, 1952 and May 15, 1958, the same Council decisions, based on the Recommendations of the Regional Meetings, delimited the Regions of responsibility for search and rescue operations. These limits coincide with those of the corresponding FIRs.⁷

It should also be noted that, as reported in point 2.6.2. of the Council Report of the fourth Regional Navigation Meeting of 1958, during the delimitation of the Athinai FIR, the aeronautical charts that Greece had published in 1955

covering the Balkans and the western part of Turkey looking onto the Aegean and the eastern part of the Mediterranean placed the lateral limits of the Hellenic national air space at ten nautical miles. These details were taken into consideration without any objection from Turkey.

C. The Jurisdiction of the Air Traffic Control Services (ATS) Authority in the FIRs

1. The Control and the Provision of Air Traffic Services

In international practice, when the FIRs are delimited and within their limits are included parts of international air space over the high seas, then air traffic control is confined to the coastal adjacent State which designates the competent ATS authority for the provision of air traffic services (Annex 2, 2.1.2 and Annex 11, 2.1.1. and 2.1.3). In this case, the air traffic control services, flight information services, centres of flight information control of the coastal state (Annex 11, 2.3. and 2.6) cover the national air space and the parts of international air space that are included in the FIR under the jurisdiction and the responsibility of the coastal state.

A problem arises in the case of simultaneous air traffic control and the provision of flight information services in an air space, which for the needs of air navigation in conformity with the objectives set out in Annex 11, point 2.2.; namely, security, efficiency and regularity of air navigation, constitutes a unified air space. This situation is problematic because the FIR under the jurisdiction of the coastal state is composed of units of air space which do not fit in any unique legal regime. In the FIR, which includes the national air space, the coastal state exercises sovereign rights under international law and the Chicago Convention. The same state therefore has the right to apply the international aeronautical regulations with the reserve of national regulations, in all cases where the latest ones are different from the international regulations. The procedure of how differences are reported must be carried out as set out in Article 38 of the Chicago Convention.

On the contrary, in the part of the FIR which contains parts of the international air space, the coastal state and the ATS competent authority exercises its jurisdiction strictly within the limits set by Annexes 2 and 11 of the Convention. These Annexes cover surveillance of the application by aircraft of the «rules of the air» set by Annex 2 without any deviation, air traffic control and provision of air traffic control services (ATS).

The differentiation of the authority which the coastal state exercises on the part of the international air space of its FIR—not sovereignty rights but a limited jurisdiction—led to ICAO's General Assembly's specifying in Resolution A29-7 that approval by the Council of a Regional Navigation Agreement attributing control rights to the coastal state in a FIR comprising a part of international air space does not entail a recognition of the sovereignty of this state in this part of the international air space.

As detailed in Annex 11, the international body considers the FIRs of a coastal state—comprising parts of national and international air space—a unique air space. It thus recognizes strictly limited expansion of the national jurisdiction to this part of the FIR which comprises a zone of international air space only for the provision of air traffic services (e.g. flight control for reasons of security, efficiency, and regulation of air navigation).

This limited expansion of the national jurisdiction in the international air space must be approved by the other States belonging to the same Air Navigation Region and must be based on a Regional Agreement, approved by the ICAO Council (Annex 1 1, 2.1.2).

2. The Provision of Search and Rescue Services by the Authorities of the FIR Region

The obligation to provide search and rescue services for aircraft in danger within the national air space of each contracting state is defined in Art. 25 of the Chicago Convention. This article declares that each contracting state is obliged to take all feasible measures to assist aircraft in danger over its territory and, subject to the control of its own authorities, to permit the owners of the aircraft or the authorities of the state where the aircraft is registered to take all necessary measures of assistance according to the circumstances.

Each contracting state undertaking the search for an aircraft which has disappeared will co-operate with the co-ordinated measures which might be recommended in accordance with the Convention.

The provisions of Article 25 of the Convention were completed by the aeronautical regulations included in Annex 12 of the same convention concerning search and rescue in the Regional Plans of Air Navigation, like the Air Navigation Plan of the European Region (ICAO doc. 7754, Part IX-SAR, Search and Rescue Services), and by the Directives included in the Manual of ICAO concerning search and rescue missions (ICAO, doc. 7333).

The obligation of providing search and rescue services was expanded by Annex 12 to the international air space over the high seas by the establishment of Search and Rescue Regions subject to the responsibility of each adjacent coastal State

(Annex 12, 2.1.1 .1.). The delimitation of the SAR Regions was made by Air Navigation Regional Agreements which were approved by the ICAO Council (Annex 12, 2.1.1.1. and Resolution A 29-7 of the ICAO General Assembly. Appendix 0, point 7), that is by similar procedures to those provided in Annexes 2 and 11 concerning the delimitation of the FIR Regions.

It is stipulated that the contribution of a coastal State to a SAR Region for the provision of search and rescue services in the international air space and the corresponding zone of high seas does not entail any recognition of sovereignty rights on the delimited zone. The delimitation of this SAR Region must be based on technical and operational criteria and, finally, that the limits of the SAR Region must correspond to those of the corresponding FIR subject to the responsibility of the same coastal state both for the air traffic control and for search and rescue services (Annex 12, 2.2.1.1. and Resolution A29-7). The adopted procedure was followed for the delimitation of the SAR Regions of the Air Navigation Plan for the Region of Europe. During the third (Paris 1952) and fourth (Geneva 1958) Regional Conferences of the Regional Bureau of ICAO in Paris, it was agreed that the limits of the SAR Regions would be drawn in order to conform to the limits of the corresponding FIR Regions.⁸

The Regional Navigation Agreements were submitted as Recommendations to the ICAO Council and were approved during the sessions held June 23, 1952 and May 15, 1958.

After the delimitation of the Search and Rescue (SAR) Regions for Europe, their limits were depicted on ICAO aeronautical charts for SAR Regions (Recommendation 11/1 of the Council Report in 1958, table of SAR Regions 1, attached to the 1958 Report and chart SAR-1, attached to the Air Navigation Regional Plan for the Region of Europe, ICAO doc. 7754, Part IX-SAR).

Thus, the limits of the responsibilities of the competent Hellenic authorities for the provision of SAR services within the national and international air space conform to those of the Athina FIR. This aeronautical information has been published in accordance with Annex 15 concerning the aeronautical information, at the AIP Greece, vol. 1, point 1.1.

3. The Jurisdiction of the «Competent Authority» of the Flight Information Region for Military Activities in the Air Space

As a general principle we must consider the provision contained in the Rules of the Air and Air Traffic Services, point 2.6.3, according to which temporary air space reservations, either stationary or mobile, may be established for the use of large formation flights or other military air operations. Arrangements for the reservation of such air space will be accomplished by co-ordination between the

user and the appropriate ATS authority. Co-ordination will be carried out according to the provisions of Annex 11 and completed early enough to permit timely promulgation of information in accordance with the provisions of Annex 15.¹⁰

These procedures reflect the international practice and the position of the doctrine. The right to conduct exercises or other military operations in peacetime, within the air space of a FIR Region is not absolute since, on the one hand, an exercise is subject to a series of very rigid conditions and on the other hand, the exercise is not left exclusively to the discretionary power of the military authorities, since it is the competent authority of the concerned FIR Region which has the power to concede, temporarily, the requested national or international air space zone, where the military activities will take place and for the conduct of which the competent ATS services have the exclusive right and obligation to promulgate the relevant information (NOTAM) after the co-ordination with the military authorities responsible for the conduct of the operations.

The common use of the international air space in the FIRs by the civil and military aircraft (the imperative of co-ordinated use which should satisfy both the specific military requirements and the security the regularity and efficiency of the international civil air traffic) led the ICAO institutions, the Council and the Air Navigation Commission, to publish a set of regulatory provisions concerning the co-ordination of civil and military procedures, which should be followed and applied when there is a temporary concession of an air zone for military use.

This regulation was incorporated, basically, in Annex 11 of the Chicago Convention and in the Air Navigation Regional Plan, as in the Navigation Plan for the European Region.

The basic principle of the provisions concerning civil and military coordination is the postulate for the establishment and maintenance of close co-operation between the military authorities relevant to such activities as military exercises that might affect the flight of civil aircraft, and the ATS authorities which are competent in the concerned FIR Region.¹¹

More specific to those activities which might present a potential danger to civil aircraft, e.g. activities which are planned and conducted by military authorities, the basic rule is the one provided in point 2.17¹² of Annex 11. In accordance with point 2.16.1, activities presenting a potential danger to the civilian aircraft, either over the territory of a State or over the high seas, will be co-ordinated with the competent ATS authorities of the FIR which is affected by the military activities.

The provisions of Annex 11 concerning the coordination between the civil and military authorities are of a great importance since activities presenting a potential danger for the civilian aircraft in flight are taking place outside the national air space, within an international air space zone of a FIR Region subject to the jurisdiction of another state.

In any case, the rule is that the initiative of the coordination process belongs to the military authority which takes over actions that could present a potential danger for the civil aircraft in flight. This is also true for cases in which the military organization taking over the manoeuvres belong to the state that has the responsibility for air traffic control services charged with the control and administration of the FIR whose national or international air space zone would be affected by the progress of the exercises. This is, however, also true for cases in which the military authorities of a state are planning to conduct military exercises in an international air space zone within a FIR subject to the jurisdiction of a neighbouring state by virtue of a Regional Air Navigation Agreement and the ATS services of that state which assume the air traffic control. In this case, according to the provisions of point 2.17.1.1. of Annex 11, if the competent ATS authority with which the military authority must cooperate is not that of the state where the organization planning the activities is located, initial coordination shall be effected through the ATS authority responsible for the air space over the state where the organization is located. This provision was raised from simple recommendation to a mandatory norm (standard) by an ICAO Council decision.¹³

The procedure of coordination is concluded by the publication of a NOTAM of international distribution. In accordance with Annex 15 of the Chicago Convention, each State undertakes the obligation to organize an Aeronautical Information Service whose mission is to make available to the other State Aeronautical Information Services all necessary information for the security, efficiency and regulation of civil aviation.¹⁴ Included is the obligation to distribute all information concerning the events that might affect air navigation and all information on any activity that might present a potential danger for civil aircraft in flight, including the conduct of military exercises.¹⁵

The responsibility of each Aeronautical Information Service is extended to the national and international air space zone of a FIR for which the ATS organ of a state undertakes the responsibility of administration and control.¹⁶ This means that even if dangerous activities, e.g. military exercises, are held by the military authorities of a neighbouring state, the Aeronautical Information Systems of the state whose ATS services monitor the affected FIR are accountable and have the duty to publish by NOTAM through international distribution the information on the dangerous activities that will take place.

4. Reconnaissance - Interception of Aircraft

Annexes 2 and 11 of the Chicago Convention include provisions that rule the procedures of reconnaissance and interception of unidentified aircraft violating the national air space or not observing the «rules of the air» and the international

aeronautical regulations which govern air navigation in the FIR, either in the national air space or in the international air space of the FIR under the jurisdiction of each coastal state.¹⁷

The possible reactions of national ATS, which are responsible for air traffic control, the provision of air traffic services and the security, efficiency and flight of aircraft in the FIR Region under their jurisdiction, are reconnaissance, interception and forced landing (in the last case only for aircraft flying in the national air space) procedures which are justified by general public international law and are explicitly detailed in the provisions of Annexes 2 and 11.

These provisions are found in points 3.8.1 and 3.8.2 of Annex 2 (3.8: Interception), point 2 of Appendix A of Annex 2 (2: signals for one in the event of interception), Appendix B of Annex 2 (Appendix B: Interception of civil aircraft), Attachment A to Annex 2 (Attachment A: Interception of civil aircraft) and the directives (guidance material) contained in the «Manual concerning interception of civil aircraft» (ICAO doc. 9433-AN/926 of 13-12-1987).

We must note, however, that in accordance with point 3.8.1 of Annex 2, national authorities also have the right to issue national regulations and administrative directives for the reconnaissance and interception of aircraft, this set of internal regulations must conform to the normative framework ruling on this matter as given in Annexes 2 and 11.

For the uniform application of national regulations with the principles and directives of Annex 2, its Appendixes and Attachments, when the relevant air traffic services of the coastal state have recourse to the reconnaissance and interception of aircraft in the international air space of the FIR under its jurisdiction, directives are provided in the Procedures for Air Navigation Services (Rules of the Air and Air Traffic Services, PANS-RAC, ICAO Doc. 4444, Chapter 3-22, point 19). Greece is applying the procedures in conformity with the international regulations of ICAO, which are outlined in the AIP Greece, vol. 1, 15-11-1976, RAC 8.1.1.

After the unanimous adoption by the ICAO General Assembly, during its extraordinary session of 1984, of an additional Protocol to the Chicago Convention, Article 3 bis was added. Referring to the case of interception, this addition prohibits the use of weapons against civil aircraft in flight and stipulates that the security of the aircraft and the lives of the passengers on board must not be endangered (point A of Art. 3 bis).¹⁸

NOTES

1. Convention on International Civil Aviation, 7.12.1944, 15 UNTS 295, International Air Services Transit Agreement, 7.12.1944, 84 UNTS 389, Agreement on International Air Transport 7.12.1944, 171 UNTS 387.
2. Chicago Convention, art 3 (c): «No state aircraft of a contracting State shall fly over the territory of another State or land thereon without authorization by special agreement or otherwise, and in accordance with the terms thereof».
3. In the Anglo-Norwegian Fisheries Case, the International Court of Justice outlined that: «... although it is true that the act of delimitation is necessarily a unilateral act, because only a coastal State is competent to undertake, the validity of the delimitation with regard to other States depends upon international law» (1951, ICJ Rep. p. 116, 132).
4. Point 2.6.2. of the Report of the European Regional Bureau to the ICAO Council, Document 7870 EUM/IV.
5. Report of the third European Mediterranean Regional Air Navigation Meeting, Paris, February - March 1952, ICAO doc. 7280, EUM II 1; see also Report of the fourth European Mediterranean Regional Air Navigation Meeting, Geneva 28 January - 21 February 1958, IC AO doc. 7870 EUM IV.
6. Final Report of the Rules of the Air and Air Traffic Control Committee, Second Middle East Regional Air Navigation Meeting (Istanbul, October - November 1950), ICAO Doc. 7055, MID/2 - Rac, ICAO Publ. February 1951
7. Points 2.2.1. of 1952 and 1958 Council Reports.
8. Point 2.2.1 of the ICAO Council Report of the Third Conference on Regional Air Navigation (Paris 1952): «In preparing the search and rescue plan there was unanimous agreement to observe, in principle, Recommendation 3.1.2 of Annex 12 in defining the search and rescue area boundaries to conform to those of the flight information regions recommended by the RAC Committee»; see also Council Report of the fourth Conference on Regional Air Navigation (Geneva 1958), point 11.1.1: «The attached Table SAR - 1 indicates the proposed lateral limits of the search and rescue areas. Each of them corresponds generally to a single flight information region of the lower air space».
9. Rules of the Air and Traffic Services, ICAO doc. 4444RAC.
10. Annex 15: Aeronautical Information Services
11. Annex 11, Air Traffic Services, point 2.16.1; Air Navigation Plan, European Region, Part V ATM, 3.PC. 4.3.
12. Annex 11, point 2.17 « Coordination of activities presenting a potential danger for the flight of civil aircraft.

13. Air Navigation Commission Minutes 120-8, 17-2-1989. Attachment B to state letter AN 13/1.8, AN 13/13-5-89/51.

14. Annex 15, points 3.1.1 and 3.1.3

15. Annex 15, point 5.1.1.1., «e».

16. Annex 15, point 3.1.1.1.

17. Annex 2 contains a formal provision (3.3.1.2. submission of a flight plan) recognizing the rights of ATS Services of a FIR Region to request the submission of a flight plan even for the international air space zones of the FIR Region. This concerns even military aircraft of a third State, when they are flying an adjacent FIR Region.

18. See also Attachment A to Annex 2, point 8: Refraining from the use of weapons, point 8-1: «The use of tracer bullets to attract attention is hazardous, and it is expected that measures will be taken to avoid their use so that the lives of persons on board and the safety of aircraft will not be endangered».

L'Union européenne et la crise gréco-turque d'Imia

Jean Catsiapis*

ABSTRACT

During the night of January 30, 1996, Greece and Turkey were on the verge of war for Imia (Kardak for Turks), an uninhabited Aegean islet located between the Turkish city of Bodrum and the Greek island of Kalymnos.

Both countries claimed sovereignty on Imia. Thanks to the American intervention, an armed conflict between two NATO members was avoided. Oddly enough, the EU, in which Greece enjoys full membership and Turkey seeks the same status, remained a passive observer of the events on Imia. The various EU institutions waited for the outcome of the crisis before taking a position on this Greek-Turkish dispute.

RÉSUMÉ

Dans la nuit du 30 au 31 janvier 1996 la Grèce et la Turquie ont été au bord de la guerre au sujet de l'îlot inhabité d'Imia (Kardak pour les Turcs) situé en mer Égée entre la ville turque de Bodrum et l'île grecque de Kalymnos, dont les deux pays revendiquent la souveraineté. C'est grâce à l'intervention des États-Unis qu'un conflit armé a pu être évité de justesse entre ces deux États membres de l'OTAN. Il est curieux d'observer que l'Union européenne dont la Grèce est membre et à laquelle la Turquie est associée a été un observateur passif lors du déroulement de la crise d'Imia. Ce n'est qu'à l'issue de cette crise que les différentes institutions de l'Europe des Quinze ont pris position sur ce différend gréco-turc.

1. Les faits

Dans la nuit du 25 au 26 décembre 1995, le cargo turc «Figen Akat» transportant du ciment s'est échoué sur l'îlot rocheux d'Imia. Le capitaine du cargo refuse l'aide des autorités helléniques, prétendant qu'il se trouvait dans les eaux territoriales turques. Après des pourparlers entre autorités grecques et turques, le 28 décembre, finalement, le cargo est remorqué par une société grecque dans le port de Gulluck.

Le 29 décembre, Ankara, dans une note verbale, expose que Imia est enregistrée dans le cadastre de la province turque de Mugla. Athènes, de son côté, le 10 janvier 1996, rejette la position turque et souligne que cet îlot, conformément au traité de paix de Paris de 1947, fait partie du territoire grec. Le 27 janvier

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un hélicoptère turc affrété par le groupe de presse «Hurriyet» se pose sur Imia et des journalistes y hissent un drapeau turc à la place du drapeau grec déployé après l'incident de décembre. La marine hellénique, le lendemain, remplace le drapeau turc par le drapeau grec. Le 30 janvier, des bâtiments de la marine de guerre turque descendent du Bosphore, provoquant une riposte de l'État-major grec qui décide d'installer des troupes sur Imia. Grâce à la médiation du président Clinton et du secrétaire d'État adjoint Richard Holbrooke dans la nuit du 30 au 31 janvier, la crise d'Imia est désamorcée, la Grèce et la Turquie acceptant de rappeler leurs navires de guerre.

2. La médiation américaine et la passivité européenne

La guerre des drapeaux sur l'îlot d'Imia, qui a failli dégénérer en véritable conflit armé, s'est déroulée dans l'indifférence des partenaires de la Grèce au sein de l'Union européenne. Cette passivité de l'UE a été dénoncée par R. Holbrooke dans des termes très sévères pour l'Europe:

«Pendant que le président Clinton était au téléphone avec Athènes et Ankara, les Européens étaient littéralement en train de dormir. On peut se demander pourquoi l'Europe ne semble pas capable de prendre une décision sur son propre terrain».¹

Le fait est que tout au long de la crise d'Imia les différentes instances européennes, pourtant parfaitement tenues au courant par des télégrammes diplomatiques de la dangereuse escalade gréco-turque en mer Égée, se sont abstenues de toute initiative pour éviter la détérioration des relations entre Athènes et Ankara. C'est ainsi que le 29 janvier, au coeur même de la crise, les quinze ministres des affaires étrangères de l'Union se retrouvent à Bruxelles pour leur réunion mensuelle et ne prononcent aucun mot sur le conflit d'Imia.

Ce silence des Européens est d'autant plus curieux que depuis le traité de Maastricht, l'UE est censée avoir les moyens d'une politique étrangère et de défense commune (PESC) qui lui donne la capacité d'agir. Ce n'est que le 2 février, soit une semaine après le début de la crise, que les ambassadeurs de la «troïka» (Espagne, Italie, Irlande) chargée de représenter l'Union dans le domaine de la PESC se sont rendus à Athènes.

A l'inverse des Européens, les Américains ne sont pas restés inactifs, soucieux d'éviter un affrontement dans une région stratégique entre deux pays membres de l'OTAN. Ils ont immédiatement proposé leurs bons offices et ont pu ainsi faire retomber la température en mer Égée. Finalement un affrontement armé entre la Grèce et la Turquie a pu être évité grâce à la modération du gouvernement grec dont le chef, Costas Simitis était soumis le 31 janvier, le jour culminant de la crise, à une vive critique de l'opposition de droite à la Chambre des députés dont il sollicitait l'investiture².

3. La position de la Commission

Organe de l'UE siégeant en permanence, la Commission a été la première à réagir aux événements concernant Imia. Le 31 janvier, Jacques Santer, le Président de la Commission, en réponse aux questions de plusieurs parlementaires, déclare: «On ne peut pas tolérer que deux États dont l'un (la Grèce) est membre de l'Union européenne et l'autre (la Turquie) a avec l'UE une union douanière aient des relations conflictuelles». Il ajoute que la crise d'Imia relève de la coopération politique et que la Commission ne peut donc «outrepasser» ses compétences dans cette question. Il souhaite aussi que le Conseil prenne «une attitude ferme».

Ainsi la Commission s'estimant incompétente se défausse sur le Conseil. Compte tenu de la tension qui persiste, la Commission, le 7 février, publie une déclaration³ dans laquelle elle exprime sa profonde préoccupation à propos des événements autour d'Imia. Tout en se refusant à condamner la Turquie, elle exprime sa pleine solidarité avec la Grèce. Cette solidarité avec Athènes, qui, au demeurant, n'aura aucun effet pratique et qu'exprimera aussi plus tard la Présidence de l'Union va susciter la colère de la Turquie. Ainsi le 12 février le ministère turc des affaires étrangères, dans un communiqué, indique que cette déclaration de la Commission «était intervenue sans analyse sérieuse du litige, uniquement fondée sur le fait que l'une des parties au conflit est membre de l'UE.» Ankara ajoute: «Il est clair que ceux qui adoptent de telles positions superficielles se sont exclus d'eux-mêmes de pouvoir jouer un rôle positif pour une solution aux problèmes entre la Turquie et la Grèce.»

Par la suite, la Commission, tout en gardant un profil bas, s'efforcera de concilier les positions opposées de la Grèce et de la Turquie.

4. La position des États membres de l'Union européenne

Athènes pour affermir sa position face à Ankara va jouer la carte européenne sur deux plans. D'une part, le gouvernement grec va utiliser l'arme du veto pour bloquer une aide de 375 millions d'Ecus à la Turquie. D'autre part, celui-ci, fort de son bon droit, s'efforce d'obtenir le soutien de ses partenaires européens à sa proposition transmise au gouvernement turc de porter le différend sur Imia devant la Cour internationale de justice de la Haye.

Costas Simitis, fin février, se rend dans plusieurs capitales européennes pour expliquer la position de son gouvernement. Il a alors la désagréable surprise d'observer que ses interlocuteurs se refusent à dénoncer clairement la responsabilité de la Turquie dans le déclenchement de la crise d'Imia et pratiquent la politique de l'équidistance entre Athènes et Ankara. Si le Premier ministre grec, qui rencontre le président Chirac le 23 février, obtient l'appui de

la France pour un recours à la justice internationale, en revanche il se heurte à la désapprobation de Paris concernant «le chantage grec» contre la Turquie: «Nous en avons par dessus la tête de voir revenir le chantage au blocage de l'aide financière à la Turquie et à l'ajournement des conseils d'association» fait-on savoir avec humeur du côté français en ajoutant que les autres partenaires de la Grèce au sein de l'Union se trouvent sur la même ligne.⁴

De fait les partenaires européens de la Grèce pour essayer d'obtenir d'elle qu'elle renonce à perturber les relations de l'UE avec la Turquie lui font observer que l'accord du 6 mars 1995 prévoyait à la fois un accord d'union douanière avec la Turquie et la promesse d'adhésion de la République de Chypre à l'UE. Cet accord fait-on remarquer aux Grecs forme «un tout indissociable». Si la Grèce s'obstine à paralyser les relations de l'Europe des Quinze avec la Turquie, elle risque donc en conséquence de compromettre la future adhésion de Chypre à l'UE.

Le gouvernement grec va résister aux pressions européennes concernant son veto à l'aide financière à la Turquie prévue par l'accord d'union douanière. Il va même accentuer son opposition à Ankara en refusant d'approuver, le 22 avril, le Règlement relatif à la coopération financière de l'UE avec les pays tiers méditerranéens (MEDA). Ce deuxième veto grec, qui visait la Turquie, aura pour conséquence de priver d'aide beaucoup d'autres pays méditerranéens. Le 15 juillet, Athènes va se résoudre à lever son opposition à l'adoption du Règlement MEDA moyennant l'adoption d'une prise de position européenne sur la crise d'Imia.

Si tout au long du premier semestre 1996, la Grèce n'a pas été surprise des attitudes de Bonn et de Londres plutôt favorables aux positions turques, en revanche elle a été étonnée des positions ouvertement pro-turques de Paris. Depuis l'élection du président Chirac, en mai 1995, il est certain que la France se fait le champion des intérêts turcs en Europe.

5. La position de la Présidence de l'UE

La Présidence de l'Union a été assumée par l'Italie puis par l'Irlande au cours de l'année 1996. Pendant le premier semestre de cette année l'Italie a observé une attitude très prudente compte tenu du fait qu'elle se trouvait impliquée, malgré elle, dans le conflit d'Imia. En effet, c'est en vertu du traité de Lausanne du 24 juillet 1923 que la Turquie renonce en faveur de l'Italie à tous ses droits et titres sur les îles du Dodécannèse ainsi que sur les îlots qui en dépendent. Puis l'Italie et la Turquie signent le 4 janvier 1932 une convention et, le 28 décembre de la même année, un accord complémentaire concernant leur frontière maritime et qui vise en particulier Imia. La Grèce, qui par le traité de Paris du 10 février 1947 récupère le Dodécannèse, est donc l'État successeur de l'Italie.

Au nom de la Présidence de l'Union, le secrétaire d'État italien, Gardini, le 14 février, déclare, devant le Parlement européen à propos de la crise d'Imia que l'Union n'avait pas été chargée de cette question et que l'Italie fait le nécessaire pour répondre à la demande de la Grèce de retrouver les textes juridiques de référence conclus en 1932 et 1947. Il assure aussi Athènes de toute la solidarité de la Présidence. A vrai dire cette solidarité affirmée en termes très généraux n'a en rien bénéficié à la Grèce pour résoudre la crise d'Imia.

Quelques jours plus tôt, le 7 février Mme Suzanna Agnelli, ministre italien des affaires étrangères, en sa qualité de président du Conseil de l'Union européenne se borne à déclarer «qu'elle est convaincue que le contentieux gréco-turc pourra trouver une solution sur le plan juridique». Le 26 février, lors du Conseil des affaires générales, elle précise que «la menace vient de la partie turque» mais ajoute que «l'UE a confirmé» ses engagements envers la Turquie». Ainsi les relations entre la Turquie et les Européens ne sauraient être affectées par le différend gréco-turc sur Imia.

L'Irlande, qui préside l'UE au cours du second semestre 1996, parvient à faire fléchir la Grèce, qui, ainsi qu'il a été dit plus haut, lève le 15 juillet son opposition à l'adoption du Règlement MEDA.

6. La position du Conseil des affaires générales

Il est remarquable que la plus haute instance de l'UE, le Conseil européen, qui réunit les chefs d'État et de gouvernement, n'a pas directement pris position sur la crise d'Imia. Au Conseil de Florence des 21 et 22 juin 1996, le président du Conseil italien Romano Prodi déclare que «des tentatives avaient été faites afin de convaincre la Grèce de lever son veto au Règlement MEDA, à cause de ses contentieux avec la Turquie». De son côté, en marge du Conseil européen le président Chirac, à propos de ce Règlement, «regrette que le contentieux gréco-turc conduise Athènes à bloquer sa mise en oeuvre», car ainsi «Tout le monde est sanctionné, même ceux qui n'ont rien à voir». Le chef de l'État français exprime en outre le souhait qu'à l'occasion du Congrès du PASOK, qui devait avoir lieu fin juin, les autorités grecques «puissent trouver une solution qui permette de lever leur blocage».

Il est certain que les Quinze chefs d'État et de gouvernement ne tiennent aucune rigueur à Ankara de sa responsabilité dans le déclenchement de la crise d'Imia puisque le Premier ministre turc, démissionnaire, Mesut Yilmaz est convié à leur dîner du 22 juin où la Grèce est représentée par son ministre des affaires étrangères Théodore Pangalos.

C'est donc au niveau du Conseil des affaires générales que l'Union va prendre position sur la crise d'Imia, le 26 février et le 15 juillet 1996.

Le 26 février, le Conseil des affaires générales, modifiant la position adoptée par M. Gardini, le 14 février, devant le Parlement européen «confirme que la situation en mer Égée, au delà de la Grèce, concerne l'Union toute entière et ses relations avec la Turquie». D'autre part il «considère que les contentieux et les litiges territoriaux doivent être réglés par le seul recours au droit, c'est à dire par la Cour internationale de justice».

Toutefois ce texte du Conseil n'a qu'une valeur limitée. En effet, la Grande-Bretagne s'est opposée à ce que ce document possède la valeur de «déclaration du Conseil». Au nom de la Grèce, M. Pangalos s'est déclaré satisfait du texte du Conseil, qui reconnaît que le conflit d'Imia relève du droit international et qu'il affecte l'UE en tant que telle. La Turquie a aussi manifesté sa satisfaction à l'égard de ce document, indiquant «que la Grèce, malgré tous ses efforts, n'a pu obtenir le soutien qu'elle attendait». Ankara a également souligné le fait que le Conseil confirmait les engagements de l'UE à son égard. Ainsi grâce à des formules qui permettaient différentes interprétations le Conseil des affaires générales n'a mécontenté ni la Grèce ni la Turquie.

Le 15 juillet, le Conseil, en adoptant un texte qui s'inspire de l'avis formulé, le 21 juin, par le Parlement européen relatif à l'assistance financière MEDA, parvient à faire lever le veto d'Athènes qui bloquait celle-ci sans que la Grèce obtienne pour autant ce qu'elle demandait depuis le début de la crise d'Imia: l'acceptation par la Turquie de sa proposition de soumettre ce différend à la Cour internationale de justice. Pour arracher ce veto grec la présidence irlandaise a été soutenue par la France, dont le ministre des affaires européennes, Michel Barnier, se rend à Athènes juste après l'élection de Costas Simitis, le 30 juin, à la présidence du PASOK.⁵

Dans sa déclaration⁶, le Conseil souligne «que les cas de litige créés par des revendications territoriales, telles que le cas d'Imia devraient être soumis à la Cour internationale de justice». Il rappelle que «les relations entre la Turquie et l'Union européenne doivent reposer sur un engagement clair, sur le principe du respect du droit international ainsi que de la souveraineté et de l'intégrité territoriale des États membres et de la Turquie». En conclusion de sa déclaration le Conseil «demande à la Présidence d'inviter la Turquie à indiquer si elle s'engage au respect de ces principes».

On devine que ce texte très ambigu n'est nullement contraignant pour la Turquie. En effet le 18 juillet, Mme Ciller le ministre des affaires étrangères de Turquie devait déclarer à son homologue irlandais Dick Spring que l'examen par son gouvernement des «principes» que le Conseil lui avait demandé de partager était en cours et que par conséquent, elle n'était pas encore en mesure de réagir de manière définitive. Il est clair que pour la Turquie l'accord sur ces principes ne représente pas une condition pour l'entrée en vigueur du Règlement MEDA.

A Bruxelles le porte parole de la Commission a de son côté confirmé que le Règlement est à considérer comme définitivement adopté. En d'autres termes aucune réponse formelle d'Ankara n'est exigée à la Déclaration du Conseil.

7. La position du Parlement européen

De tous les organes de l'UE, le Parlement européen, dont les pouvoirs sont limités, est celui qui s'est rangé le plus ouvertement aux côtés de la Grèce.

C'est Pauline Green, la présidente du groupe socialiste qui la première, le 31 janvier, a dénoncé la folie de «la diplomatie des canonnières» dans l'affaire de l'îlot contesté. De nombreux parlementaires se sont joints à elle, dont le socialiste grec Avgerinos qui accuse la Turquie d'avoir violé le droit international.

Le 15 février, le Parlement européen par 342 voix contre 21 et 11 abstentions adopte une résolution⁷ des groupes socialistes, du PPE, de l'Union pour l'Europe, libéral, de la gauche unitaire et des Verts. Dans ce texte, il est demandé, en particulier, à la Turquie de respecter les traités internationaux et les règles de l'OSCE selon lesquelles toutes les disputes doivent être réglées de manière pacifique. Le Parlement européen déplore aussi l'incapacité de l'UE et de ses États membres d'agir de manière efficace à propos de cette crise dans le cadre de la PESC et affirme que «même sur les cartes géographiques turques des années 60, ces îlots figurent comme territoire grec.» Enfin il souligne, à la grande satisfaction d'Athènes, que «les frontières de la Grèce constituent également une part des frontières extérieures de l'Union européenne».

Cette très forte majorité obtenue au Parlement européen contre la Turquie s'explique par le fait que celui-ci en décembre 1995 avait été très partagé lors de la ratification du traité d'union douanière conclu par l'UE avec ce pays. A l'époque beaucoup de parlementaires européens en acceptant d'approuver ce traité avaient fait le pari que la Turquie se comporterait comme un État respectueux du droit international. Or l'attitude d'Ankara, quelques semaines plus tard, dans l'affaire d'Imia a prouvé à ces parlementaires que leur pari était perdu. C'est pourquoi le Parlement européen a entendu par sa résolution du 15 février prendre nettement ses distances à l'égard de la Turquie.

Le 21 juin, le Parlement de Strasbourg, consulté une seconde fois sur le Règlement MEDA a tenu compte de la crise d'Imia en modifiant le texte que lui soumettait le Conseil dans le sens suivant: le respect de l'intégrité territoriale ainsi que des frontières extérieures des États membres et des pays méditerranéens et le respect du droit international sont ajoutés au respect des libertés fondamentales en tant que conditions auxquelles est subordonnée l'aide financière. La Déclaration du Conseil des affaires générales en date du 15 juillet sur le Règlement MEDA s'est inspirée notamment de cette modification votée le 21 juin par le Parlement européen.

8. La crise d'Imia et la Conférence intergouvernementale

La Conférence intergouvernementale dont l'objet est de réexaminer le traité de Maastricht a commencé ses travaux le 29 mars 1996 à Turin. La Grèce y a fait des propositions qui ont tenu compte de la passivité européenne lors du déclenchement par la Turquie de la crise d'Imia.

Premièrement, Athènes souhaite que l'Europe s'affiche plus unie et se montre plus efficace sur la scène mondiale. Le gouvernement hellénique est ainsi favorable à des changements importants dans le fonctionnement actuel de la PESC et se prononce pour un transfert partiel, voire total de la politique étrangère et de sécurité commune dans le domaine communautaire, par opposition à la coopération intergouvernementale, assorti d'une plus grande participation de la Commission et du Parlement.

Deuxièmement, la Grèce suggère d'inscrire dans les objectifs du traité de Maastricht «une garantie explicite sur les frontières de l'Union et de ses États membres accompagnée d'une clause d'assistance mutuelle», en cas d'agression ou de violation du territoire d'un État membre. Actuellement elle considère que l'appartenance à l'Union n'offre pas suffisamment de garanties pour la sécurité de ses membres, ce qui représente une sérieuse lacune pour une entité qui se présente aux yeux du monde comme une Union».

Troisièmement, le gouvernement grec propose l'intégration progressive de l'Union de l'Europe occidentale dans l'Union européenne et appuie le principe que l'UEO puisse mener des opérations dans le domaine de la sécurité (opération de maintien de la paix par exemple) sous l'autorité de l'UE.

Au total, Athènes nourrit un projet européen «proche du modèle fédéral», qui lui permettrait d'obtenir le maximum de sécurité face à la Turquie, qui au delà du cas d'Imia, estime qu'il y a en mer Égée une zone grise d'une centaine d'îlots, ne figurant pas, car trop petits, sur les cartes de 1932 et dont le statut juridique est incertain.

D'autres pays que la Grèce, notamment ceux qui sont candidats à l'adhésion à l'Union européenne et qui appartiennent à l'ancien camp communiste possèdent des frontières dont ils souhaitent la garantie. Leur candidature à l'UE s'explique autant par un besoin de sécurité que pour des raisons d'ordre économique. Tôt ou tard l'Europe devra résoudre la question de la protection de ses frontières extérieures. Faute d'assurer la sécurité de ses États membres, l'Union européenne risque de sombrer dans l'impuissance et de n'être qu'une simple union économique ou monétaire dépourvue de tout ressort politique et sans poids réel sur la scène internationale.

NOTES

1. Jean QUATREMER, «Pax americana en mer Égée», *Libération* des 10 et 11 février 1996.
 2. Le gouvernement de Costas Simitis, qui prête serment le 22 janvier, obtient un vote d'investiture de la Chambre des députés le 31 janvier 1996.
 3. Voir Annexe 1.
 4. Philippe LEMAÎTRE, «Athènes repart en guerre contre le rapprochement de l'Union européenne avec la Turquie», *le Monde* des 24 -25 février 1996.
 5. En visite à Athènes, début juillet, Michel Barnier déclare «Le blocage du Règlement MEDA doit être impérativement levé avant la fin juillet. Il y a une grande urgence. Si nous n'y parvenons pas, le programme méditerranéen de l'UE sera retardé d'une année. Ce sera un échec pour sa crédibilité, et la Grèce courra un risque d'isolement et d'incompréhension».
- Voir *Europe* du 12 juillet 1996.
6. Voir Annexe 3.
 7. Voir Annexe 2.

Annexe 1

Union européenne: déclaration de la Commission (Bruxelles 7 février 1996)

La Commission a lors de sa réunion d'aujourd'hui abordé la question des tensions récentes entre un des États membres de l'Union et la Turquie.

1) A cette occasion elle a exprimé sa profonde préoccupation à propos des récents événements autour des îlots d'Imia en mer Égée. Tout en se félicitant du fait que ces incidents aient finalement pu être contrôlés par les Gouvernements des deux pays et n'aient pas débouché sur des développements plus graves, elle considère qu'il y a lieu d'éviter tout risque de renouvellement de pareils incidents.

2) La Commission a exprimé sa pleine solidarité avec la Grèce, État membre de l'Union européenne. En même temps, elle a considéré qu'il faut réduire durablement la tension dans la zone et oeuvrer à rétablir des relations de bon voisinage entre la Grèce et la Turquie.

3) La Commission rappelle que les décisions prises par le Conseil le 6 mars 1995 concernant l'Union douanière avec la Turquie, et approuvées par le Parlement européen le 13 décembre visaient précisément à créer les conditions d'un niveau de relations élevé et fondé sur le respect des principes démocratiques et du droit international et excluant définitivement tout recours à la force.

Annexe 2

Parlement européen: résolution sur la situation en mer Égée (Strasbourg, 15 février 1996)

Le Parlement européen

A. inquiet des actions militaires de provocation menées par la Turquie au sujet de l'îlot rocheux d'Imia dans la partie orientale de la mer Égée,

B. préoccupé par le risque de réactions disproportionnées si ce différend se prolonge,

C. considérant les déclarations officielles turques alléguant des revendications territoriales et contestant les droits souverains d'un État membre de l'Union européenne,

D. considérant que l'îlot d'Imia appartient à l'archipel du Dodécanèse en vertu du traité de Lausanne de 1923, du protocole entre l'Italie et la Turquie de 1932 et du traité de Paris de 1947, et que, même sur les cartes géographiques turques des années 60, ces îlots figurent comme territoire grec,

E. considérant que ces agissements de la Turquie s'inscrivent dans le cadre d'une politique plus large de contestation du statu quo en mer Égée,

F. considérant les déclarations de la présidence en l'occasion du Conseil d'association du 6 mars 1995 selon lesquelles le Conseil «estime de la plus grande importance d'encourager les relations de bon voisinage entre la Turquie et les États voisins membres de l'Union européenne», et considérant que ces liens privilégiés entre l'Union et la Turquie devraient d'office exclure toute forme d'agression;

1. exprime la vive préoccupation que lui inspire cette dangereuse violation par la Turquie des droits souverains de la Grèce, État membre de l'Union européenne, et s'inquiète de la montée de la tension militaire dans la mer Égée;

2. déplore que la Grèce et la Turquie se soient trouvées au seuil d'un conflit et réclame l'arrêt immédiat de toutes les actions qui mettent en danger la paix et la stabilité dans cette région;

3. souligne que les frontières de la Grèce constituent également une part des frontières extérieures de l'Union européenne;

4. demande que la Turquie se conforme aux traités internationaux et, en particulier, aux règles de l'OSCE selon lesquelles tout litige doit être réglé par des voies pacifiques conformément au droit international;

5. déplore que l'Union européenne et ses États membres ne soient pas parvenus à réagir efficacement à cette crise dans le cadre de la politique étrangère et de sécurité commune;

6. invite le Conseil à prendre les mesures qui s'imposent pour améliorer les relations entre la Grèce et la Turquie ;

7. charge son président de transmettre la présente résolution au Conseil, à la Commission, au gouvernement de la Turquie, au parlement grec et à la Grande assemblée nationale turque.

Annexe 3

Déclaration du Conseil des Affaires générales (Bruxelles, 15 juillet 1996)

«Le Conseil a suivi avec beaucoup de préoccupation la situation qui a été créée par le problème soulevé par la Turquie concernant l'îlot d'Imia. Les frictions qui en résultent font intervenir d'une part, un État membre avec lequel existe une solidarité naturelle et, d'autre part, un pays voisin avec lequel la Communauté européenne souhaite développer plus en avant une situation de dialogue et de coopération dans tous les domaines résultant de l'Union douanière. Le Conseil rappelle son attachement au développement de relations de bon voisinage entre tous les pays de la région. Dans ce contexte, le Conseil rappelle que les relations entre la Turquie et l'Union européenne doivent reposer sur un engagement clair sur le principe du respect du droit international et des accords internationaux et des pratiques internationales pertinentes, ainsi que de la souveraineté et de l'intégrité territoriale des États membres et de la Turquie. Le Conseil considère que les litiges doivent être réglés exclusivement sur la base du droit international. Dès lors, le Conseil lance un appel à la modération et attire l'attention sur la nécessité d'éviter toute action susceptible d'accroître les tensions, et spécifiquement l'utilisation de la menace, et considère que le dialogue doit être poursuivi selon les orientations qui ont émergé lors de précédents contacts entre les parties intéressées, lesquelles peuvent contribuer à l'amélioration des relations bilatérales ainsi qu'à l'établissement d'un mécanisme de prévention des crises. Le Conseil souligne en outre que les cas de litige créés par des revendications territoriales, telle que dans le cas d'Imia, devraient être soumis à la Cour internationale de justice. Le Conseil demande à la Présidence d'inviter la Turquie à indiquer si elle s'engage au respect de ces principes».

Greek-Turkish Relations in the Post-Cold War Era

Implications Of The American Response

Van Coufoudakis*

RÉSUMÉ

Au lieu de passer en revue les questions habituelles qui constituent l'ordre du jour des relations gréco-turques, je propose plutôt d'examiner les implications de la réponse américaine face aux problématiques qui affectent les relations gréco-turques dans la période de l'après Guerre froide et voir comment ces questions peuvent être résolues. L'analyse qui suit ne constitue pas, pour la résolution pacifique des problèmes au sein des relations gréco-turques, un effort de transfert de la responsabilité à un acteur externe comme les E.U. ou même de blâmer de tierces parties pour le manque de volonté à résoudre ces problèmes. C'est plutôt la confirmation que les politiques et les prétensions de la guerre froide ont joué un rôle crucial dans la définition et la conduite de la politique grecque, turque et américaine dans la région et que la politique américaine a constitué l'influence externe la plus significative dans les relations bilatérales de la Grèce et de la Turquie.

Les relations gréco-turques se sont détériorées depuis la fin de la Guerre froide, depuis que la Turquie a capitalisé sur les conditions du nouvel environnement international dans la région. En encourageant le rôle ambitieux que la Turquie veut se donner dans les Balkans, en Asie Centrale et au Moyen-Orient, Washington a aussi encouragé les objectifs révisionnistes Turcs dans la mer Égée et à Chypre.

ABSTRACT

Rather than reviewing the known issues that currently make up the agenda of Greco-Turkish relations, I propose to examine the implications of the American response to the issues affecting Greco-Turkish relations in the post-cold war era and how these issues may be resolved. The analysis that follows is *not* an attempt to shift the burden for the peaceful resolution of problems in Greco-Turkish relations to an external actor such as the United States, or to blame third parties for the lack of resolution of these problems. It is an affirmation, however, that Cold War policies and assumptions played a pivotal role in the definition and conduct of Greek, Turkish and American policy in the region and that American policy has been the most significant external influence in the bilateral relations of Greece and Turkey.

Greco-Turkish relations have deteriorated since the end of the Cold War because Turkey has capitalized on the conditions of the new international environment in order to promote its revisionist objectives in the region. Washington, by fostering Turkey's ambitious role in the Balkans, in Central Asia and in the Middle East has encouraged Turkey's revisionist objectives in the Aegean and in Cyprus.

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The Cold War Legacy

Let me begin with two fundamental assumptions. One is that a realistic analysis of post-cold war Greek-Turkish relations must be made not only in the context of the perceptions, assumptions, motives and policies of the two countries, but also those of the United States towards each of the countries and Turkey in particular. And, second, that post-cold war American perceptions, assumptions, motives and policies towards the two countries and their problems cannot be separated from the security considerations and perceptions that guided American policy to this region during the Cold War.

The foundations of American policy towards Greece and Turkey were laid soon after the end of World War II. First, a devastated Britain appeared unable to perform its traditional security role in the region, the political deadlock in Greece set the stage for the third round of the Greek Civil War, and the Soviet Union demanded from Turkey various strategic concessions, while the United States and the Soviet Union confronted each other over Iran. It was in this context that the U.S.S. Missouri paid its symbolic visit to Greece and Turkey in the Spring of 1946. The American commitment to the region was formalized nearly a year later with the proclamation of the Truman Doctrine on March 12, 1947. This economic and military assistance program was primarily designed to address the problems confronting Greece, while the coverage extended to Turkey was only a secondary consideration.

However, the emergence of the Cold War, and the transformation of the aid package to Greece and Turkey into America's global containment doctrine, had a catalytic effect on American relations with the two countries and on bilateral Greek-Turkish relations.

Fifty years ago, the United States was a newcomer to the politics of this region despite its earlier economic, cultural, and religious involvement in the area¹, and Woodrow Wilson's failed attempt to extend American influence in the region and to promote the aspirations of Armenians who had long suffered under the Ottoman Empire.

Political reality is influenced by the images and perceptions of policy makers.² Such images and perceptions provide a simplified world view and comforting rationalizations for choices made by policy makers. Perceptions can also cause serious policy problems if there is a wide gap between image and reality. The rise to power and the reforms of Kemal Atatürk helped redefine the negative American perceptions of the Ottoman Empire. American diplomats and missionaries³ had vividly portrayed and reported the annihilation of the Armenian and Greek minorities of the Ottoman Empire. Moreover, Turkey had sided with the Germans during World War I. Kemal Atatürk had emerged as modern Turkey's George Washington, as the leader who restored Turkey's

sovereignty, curtailed external interference, and set his country on the road to secularization, westernization and reform. Thus, the old image of Turkey soon vanished under the pressures of the Cold War and Atatürk's legacy.

Turkey was perceived as a «proud and independent country»⁴ by American officials during the debate on the Truman Doctrine in 1947. This image of Turkey in the United States has not changed since then. The inevitable conclusion of this perception has been that the Turks would not tolerate external interference in their politics and policies⁵, and that political conditions in that country limited the exercise of American influence.

Another American perception of Turkey was inherited from British imperial policy. Throughout the 19th century Britain considered the Ottoman Empire's control of the Straits as vital to the containment of Russia. During the Cold War, Washington defined in similar terms Turkey's geopolitical value. In turn, Ankara effectively exploited this strategic asset to promote and protect its interests in the United States. American officials acknowledged the interdependent strategic role of the «two sisters», Greece and Turkey. They did attribute, however, far greater strategic significance to Turkey because of its control of the Straits, its common—even though frequently impassable—land frontier with the Soviet Union, and the size of the Turkish Army. Moreover, Turkey's size and location made it a barrier to Soviet expansion in the Middle East and American stepping stone to the Middle East and to the vital Persian Gulf region.

In contrast to Turkey, Greece, during the Cold War failed to assert its independence and/or its strategic importance.⁶ Ideological biases and the dependence of Greek political elites on American support for their political survival created conditions confirming the American perception that Greek politics could be externally manipulated. Thus, if a policy choice had to be made between Greece and Turkey, Washington believed especially prior to 1974 that the negative Greek reactions could be adequately managed.⁷

Cold War realities and domestic needs confirmed Washington's perceptions of Greece and Turkey. On September 20, 1951, despite European objections, the North Atlantic Council recommended the accession of Greece and Turkey in NATO. By 1953 both countries had concluded bilateral defense cooperation agreements with and granted bases to the United States. Both countries engaged Yugoslavia in a short lived Balkan political and strategic cooperation agreement in 1953,⁸ and dispatched troops to Korea.⁹ Turkey became NATO's southeastern anchor and America's partner in the quest for a Middle East alliance that culminated in the formation of the Baghdad Pact (CENTO) in 1955.

Turkey's pragmatic policies during the first twenty years after the end of World War II were a departure from Atatürk's foreign policy. They were designed however to attain specific policy objectives which included the American

guarantee of Turkey's security, the modernization of its armed forces, the development of the Turkish economy, and the full acceptance of Turkey in the Western family of nations. Turkey, through astute diplomacy in World War II¹⁰ escaped the ravages of the war but could not escape its consequences. This is why Turkey sought America's commitment to both its security and its economic and social modernization. During the Cold War then, Washington, Ankara and Athens at one level pursued complementary objectives. Shared Cold War interests could not however withstand the pressures of Greco-Turkish relations and Cyprus. Washington made its policy choices on the basis of Cold War needs and not on the merits of the issues involved in these disputes. A few examples of America's policy choices follow.

Manifestations of the Cold War Legacy

Cyprus became the first issue to test the cozy relationship that had emerged since 1946 between the United States, Greece and Turkey. England and Turkey effectively exploited Washington's Cold War concerns and gained her support for their objectives on the island. Thus, the interests of the Cypriots were sacrificed on the altar of the Cold War as Washington sought the resolution of the problem at any cost and in a way that met NATO's and Turkey's concerns. Solutions proposed through NATO and/or American mediation sought to avoid a Greco-Turkish conflict and promoted positions demanded by Turkey. American diplomacy was also mobilized to oppose resolutions upholding Cypriot objectives at the United Nations, to water down or defeat resolutions critical of Turkey, and since 1974 to avoid the imposition of sanctions on Turkey for its violations of international law.¹¹

The logic behind these policies had been that external interference would increase Turkey's intransigence and would harm its strategic relationship with the United States. It also reflected the American belief that Turkish politics and policies were not open to external manipulation. With little sympathy for Cyprus during the Cold War because of its independent actions, and the ability of the United States to manipulate Greek politics prior to 1974, Washington threw its weight behind Turkey's policy priorities in the Cyprus problem. Thus, Washington's assumptions about Turkey and Cyprus have remained relatively constant over the last four decades.

Another manifestation of American policy since the beginning of the Cold War has been the attempt to appear even-handed during Greco-Turkish crises. Characteristic was the American response to the Turkish government sponsored pogroms against the Greeks of Istanbul and Izmir in September 1955. Secretary of State John Foster Dulles' response to the anguish felt in Greece in the aftermath of these pogroms was a terse cable addressed to both governments calling

on them to «mend their fences», to concentrate on the fight against communism, and to seek a compromise over Cyprus in the interest of allied solidarity.¹² Dulles' cable placed on an equal footing the victim and the perpetrator of the crime. By placing the burden of responsibility equally on both governments Washington adopted a response pattern that was to be repeated over the next forty years. Because of America's perceptions of Turkey, Washington avoided confronting Turkey over its violations of international law in the name of allied solidarity and of the cooperation of Turkey in America's Cold War policies in the region. Throughout the Cold War Washington appeared far more concerned over Turkey's reactions to American policies than those of Greece.

A final example of the greater strategic significance attached to Turkey by the United States has to do with the negotiations for the reintegration of Greece in NATO's military wing (1975-1980). Throughout these negotiations Washington backed Turkey's claims for revisions to NATO's operational and control areas in the Aegean because of changed circumstances since the founding of the alliance. However, Turkey's demands had direct implications on the resolution of other bilateral Greco-Turkish issues such as that of the Greek territorial waters, the Greek airspace, et. al. In all these issues Washington pressed Greece to show flexibility to Turkey's emerging security and economic concerns, and to negotiate with Turkey over these issues regardless of their legal merit or effect on Greek sovereignty and territorial integrity.

The Deviations from the Rule

Despite the coincidence of American and Turkish objectives during the Cold War, and the assumptions about the limited influence the United States possessed over Turkey, there are at least three instances of policy disagreements that challenge these assumptions. It is the author's view, however, that these three instances were deviations from the rule required by circumstances that affected broader American interests. While Turkey exploited these disagreements to enhance its independent foreign policy and its bargaining power in the international system, Washington found itself apologizing to Turkey for upholding the rule of law and for offending Turkish sensibilities.

The first case of discord involved Lyndon B. Johnson's June 5, 1964, «ultimatum»¹³ to Turkey that stopped the impending invasion of Cyprus. What motivated the American action was not, however, a disagreement with Turkey's objectives on Cyprus, but with its tactics which risked a confrontation with the Soviet Union less than two years after the Cuban missile crisis. The continuity of the American assumptions and objectives in the Cyprus dispute was shown that Spring with George Ball's mission, with the NATO plan on Cyprus, and with the Acheson plan.¹⁴

The second example involves the pressures exerted in 1971 on the weak government of Nihat Erim by the Nixon administration to suspend the cultivation of opium in return for a three year assistance package to Turkish farmers affected by the ban. The decision by the Nixon administration was in response to public and Congressional pressures about the influx of drugs from Turkey in the United States. The ban was unilaterally revoked by the Ecevit government that emerged from the inconclusive 1973 elections. Despite protests, Washington did not take any further steps to penalize Turkey. An unanticipated consequence of this dispute turned out to be that it temporarily blemished Turkey's image in the United States as America's loyal ally and assisted those seeking the imposition of an arms embargo on Turkey following the 1974 Turkish invasion of Cyprus.

The third and final example involves the imposition of a limited arms embargo on Turkey by the U.S. Congress in 1975, following Turkey's invasion of Cyprus. This limited arms embargo was the result of Congressional action in response to pressures from various constituencies.¹⁵ The embargo was imposed despite the opposition of the Executive branch which had traditionally been Turkey's proponent in the United States. The Executive branch systematically opposed the embargo, took steps to subvert it through NATO and other allied countries, and systematically campaigned on behalf of Turkey for the lifting of the embargo. Arguing that the lifting of the embargo would bring greater flexibility in Turkey's policies on Cyprus, the Carter administration succeeded in its efforts in 1978.

What these three examples suggest is that Washington confronted Turkey only when Turkey's actions risked broader American security interests, as in the case of the 1964 «ultimatum», or when domestic pressures prevailed over the traditional political and security preferences of the Executive branch. Turkey, however, has effectively manipulated the Executive branch, Congress and American public opinion and placed Washington on the defensive by claiming that the American actions had hurt Turkey's national pride, and that Turkey could not count on the reliability of the American commitment. On the basis of this argument Turkey also rationalized restrictions placed on the use of American military facilities in Turkey, its close association with the Soviet Union during the 1973 Middle East crisis, and its acceptance of Soviet economic assistance. During the Cold War successive American administrations took pains to reaffirm the continuing American commitment to Turkey, and to acknowledge that the 1964 «ultimatum» and the embargo were mistakes that would not be repeated again.

What this brief look into the Cold War experience suggests is that this period set the basic assumptions and parameters of the American relationship to Turkey and Greece. Despite the end of the Cold War, these assumptions continue to guide U.S. policy towards the two countries. It should also be noted that Turkey, capitalizing on the evolving conditions of the Cold War, eagerly demonstrated its independent foreign policy in order to protect its national interests.

The Post-Cold War Experience

Greece entered the post-cold war era with a sense of optimism. It anticipated that the «new world order» would restore balance in the American assessments of Greece and Turkey given the absence of the Soviet threat and the emphasis placed by the United States on the rule of law. Moreover, the outbreak of the Gulf War and the American-led response to that crisis, displayed once more the strategic value of Greece and Cyprus in such contingencies.¹⁶

The Greek optimism proved short lived. Realpolitik continued to dominate American policy considerations despite the absence of the Soviet threat. Moreover, the American rule of law rhetoric excluded Cyprus and the outstanding Greco-Turkish issues. Greece, however, faced additional problems that affected its international standing. In addition to the long list of outstanding Greco-Turkish issues,¹⁷ Greece faced serious economic problems that affected her standing in the European Union. The crisis in the former Yugoslavia directly impacted on Greece because of its ties to Serbia and its policy on the recognition and the denomination of the Former Yugoslav Republic of Macedonia. Greece was also concerned about the fate of the Greek minority in Albania, about Turkey's involvement in the Balkans, and the rise of nationalism and irredentism in the region. The combination of all these problems along with some of the Greek responses to the crisis in the Balkans undermined the role of Greece as a source of stability in the region, and as a promoter of economic, social, and political change among the former communist states in the Balkans.¹⁸

Turkey underwent its own soul searching as the Cold War came to an end. Turkey's foreign policy elite feared that the end of the Cold War would diminish Turkey's strategic value and thus its leverage with the superpowers. The collapse of the Soviet Union and Yugoslavia, the charismatic presence and vision of the late president Turgut Ozal combined with the Gulf War, helped Turkey redefine its role in the post-cold war era and project its new look in positive terms which were compatible with the objectives of the sole surviving super power, the United States.

What were the elements of this post Cold War image that was so effectively cultivated by Turkish leaders, by American media and by other supporters of Turkey in the United States and Europe? Ozal envisioned a Turkey whose influence and role extended from the Adriatic to the Wall of China. The 21st century was to be the «century of the Turks». Turkey was the source of stability and regional leadership in a region of instability which encompassed the Balkans, the Middle East and the Turkic republics of Central Asia. It was a regional role model for others in the area in terms of its economic and political development, especially because Turkey was an Islamic country that was also secular and democratic. In view of its location and its cultural and political ties to the Balkans and

to the Turkic republics of Central Asia, Turkey saw itself as a conduit for trade and investment to this developing region. Turkey stood ready to abandon dated policies such as statism, to espouse free markets and privatization and consolidate democratization not only at home but in the region at large.

To the United States and Europe Turkey presented its foreign policy as one of moderation and responsibility, and of a commitment to an international order based on commonly shared values and a common European «mind set». Turkey's leadership, prior to the rise of Erbakan to power in 1996, while down playing the Islamic threat at home and in the region, promoted itself as both a bridge to that region and as a barrier to turmoil in the European fringe. Thus, former prime minister Tansu Ciller reminded her audiences of the dilemma that would have faced the members of NATO if a stable Turkey was absent from this «sea of turmoil», or if a nation of a «different character» was in Turkey's place. Finally, depending on the receptivity of the European Union to Turkey's overtures for membership, Turkey also courted the United States with a reminder of Turkey's important and continuing role in NATO, an organization still serving security needs.¹⁹

Turkey's significance to the United States has another dimension, although less advertised: access to Caspian Sea oil. The United States has consistently opposed alternative oil transportation routes through Russia, Iran or Iraq and has backed the transportation of this lucrative new source through Turkey and Turkey's Kurdish region.²⁰

Turkey, despite its serious domestic economic and political problems succeeded where Greece failed: i.e. in selling this glorified image to the United States and to a limited degree in Europe. The mere compatibility of Turkey's new image to America's emerging objectives in the region, provided US policy makers with the appropriate rationalizations to continue their cozy relationship with Ankara on even stronger terms than those seen during the Cold War.

Manifestations of the Post-Cold War Legacy

The post-cold war trends in the attitudes of the United States towards Greco-Turkish relations have been manifested in at least four areas: i.e., the Imia crisis and the on-going Turkish military challenge in the Aegean; the Kurdish insurrection; Cyprus and Erbakan's rise to power.

The Imia Crisis and the Turkish Military Challenge in the Aegean

Starting late in 1973 Turkey undertook a coordinated campaign to revise the status quo in the Aegean which had been defined under international agreements. The challenge to the status quo included the delimitation of the

Aegean continental shelf, the airspace, the Greek territorial waters, the militarization of certain Greek islands in the Aegean, etc. The attempt to revise the Aegean status quo was carried out in conjunction with Turkey's efforts to revise NATO's command and control areas in the Aegean, with American support, during the negotiations for Greece's re-entry to NATO's military wing.

The January 1996 Imia crisis was not the first «hot» incident in the Aegean that required American intervention to prevent the outbreak of Greco-Turkish hostilities. It had been preceded by the Summer 1976 Chora incident and the March 1987 Sismik incident. However, in the post-cold war period there has been an escalation of the violations of the Greek airspace by armed aircraft of the Turkish air force that have led to the loss of aircraft and pilots by both sides. Moreover, on June 8, 1995, the Turkish Grand National Assembly authorized the government of Turkey to use force to prevent Greece from extending its territorial waters to 12 miles, following the ratification of the latest Law of the Sea Treaty.

During the January 1996 crisis over Imia, the intervention of the White House prevented a Greco-Turkish conflict. It is instructive to see the American response to this crisis, its motives, and policy implications.

a) Once the crisis was defused, the White House called for a resort to the International Court of Justice (ICJ) or another form of international arbitration. The White House explicitly stated that it did not recognize Turkey's claims to sovereignty over Imia, and that it opposed the threat or use of force for the resolution of bilateral differences in the Aegean. However, president Clinton went on to question Greek sovereignty over Imia based on doubts expressed by his legal advisors as to interpretations of documents and agreements dating back several decades. Thus, the resort to the ICJ was recommended in order to «weigh impartially the legal arguments of both sides.»²¹ This response was a classic example of the American policy of maintaining «equal distance» among the parties in the dispute. In reality, however, Washington's position agreed with the Turkish challenge of Greek sovereignty over Imia. This was a serious error because, in order to satisfy Turkey, Washington undermined a fundamental rule of American foreign policy, i.e. the respect for established boundaries and for the continuing validity of international agreements. That was the principle involved in the Imia crisis and Washington dismissed it in order to appease Turkey.

b) Because of the escalating incidents in the air and at sea in the Aegean, Washington urged the implementation of confidence building measures (CBM) to reduce the chances of accidental war.²² This included a bilateral Greco-Turkish agreement to suspend military exercises in the Aegean from July 1 to September 1, 1996. However, Washington continued arming Turkey at an alarming pace with sophisticated weapons with the justification that such

armaments were needed because of threats emanating from the region.²³ In addition, Turkey has received technical assistance and investments from the United States to develop a sophisticated arms industry. Both of these developments threaten peace and stability in the region and undermine the military balance between the two countries.

c) Having attained its goal to challenge Greek sovereignty in the Dodecanese through the Imia case and through the American position questioning earlier international agreements, Turkey, in the Summer of 1996, presented new claims of contested sovereignty in the Aegean. These included the island of Gavdos, and some one hundred other islands in «grey areas» of the Aegean on the grounds that they were not specifically listed in the treaties ending World Wars I and II.

This latest set of claims brought a measured American response during press briefings at the U.S. Department of State²⁴, attributing these claims to a low level Turkish official assigned to NATO, and to contingency games in a Turkish military academy. The press spokesman, Nicholas Burns, confirmed the Greek sovereignty over Gavdos, but proceeded to qualify his response by indicating that questions of sovereignty should be discussed between Greece and Turkey. Seeking campaign support from the Greek-American community, President Clinton issued a statement on October 19, 1996, in which he repeated the known positions on the issue of Imia. He also criticized «frivolous territorial claims» such as those over Gavdos.

The ambivalence of American policy has encouraged Turkish claims. On October 22, 1996 we had another manifestation of this ambivalence when State Department press spokesman Nicholas Burns spoke of the existence of islands in the Aegean that may not belong to either Greece or Turkey under international agreements. He went on to suggest that the Greco-Turkish boundaries should be respected and that any changes should come peacefully and by mutual consent. In the storm of protest that followed these comments, which contradicted those of the president to the Greek-American community, the Department of State spokesman on October 24, 1996, attributed his comments to an error and emphasized once more the traditional position about a resort to the ICJ.

d) Turkey, consistently since 1974, has attempted to force Greece into negotiations questioning its borders. Turkey has mastered the art of creating incidents and provocations which are systematically followed by calls for negotiations in a show of goodwill and peaceful international conduct. If Greece rejected these offers it was accused of intransigence. These tactics have found a sympathetic ear in Washington. Since 1974, the policy of the United States has been to urge negotiations regardless of the motives and of the validity of Turkey's demands. Washington's implied questioning of earlier international agreements, its ambivalence over Turkey's actions in the Aegean, and the praise given to Turkey for its role in the post-cold war era, have encouraged Turkey's revisionism in the Aegean and thus the risks to peace in the region.

The Kurdish Insurrection

The first challenge to the post-cold war order was Iraq's invasion of Kuwait. Despite Turkey's delayed and reluctant support of the actions of the United States and its coalition allies, Turkey gained significant American recognition for its important strategic role and participation in that war. One aspect of the war that was of interest to Turkey and to the United States was the issue of Kurdish autonomy in Iraq. Turkey had been embroiled in massive military efforts to eradicate the Kurdish insurrection in southeastern Turkey. It asked and received American support for the unity of Iraq. Splitting off the Kurdish sections of Iraq would set a negative precedent for Turkey. Despite the massive evidence by international human rights organizations, and by the U.S. Department of State *Report on Human Rights Practices* about the gross violations of Kurdish human rights in Turkey, Washington developed a hypocritical and contradictory policy on this issue. On the one hand Washington supported the Turkish army's repression of the Kurdish insurrection in Turkey as well as its cross border raids into Iraq and provided Turkey with intelligence, supplies and political support. This was done in the name of combating terrorism, a common goal of Turkey and the United States. On the other hand, Washington launched Operation Provide Comfort out of bases in Turkey for the protection of the Kurds in Iraq whose insurrection against Saddam Hussein gained them the designation of «freedom fighters».

Strategic considerations in the context of Turkey's upgraded role in the post-cold war era gave Turkey a free hand to deal with its Kurdish problem despite its gross violations of international law.

Cyprus

The Cyprus issue has been and continues to be the issue that exemplifies the American assumptions about Turkey both before and after the end of the Cold War. I will only provide five examples of the manifestations of American policy since the end of the Cold War. In this period we have witnessed the active engagement of the United States in the search for a solution with the dispatch of presidential emissaries, the appointment of State Department Coordinators on Cyprus, and other diplomats to the region. Presidents Bush and Clinton have stated that the status quo in Cyprus is unacceptable. In the heat of the 1996 presidential campaign statements have been made indicating that the Cyprus problem is a high priority of American policy and that president Clinton would consider the lack of a solution of the Cyprus problem as a «personal failure».²⁵

Without disputing the significance and the necessity of the American involvement in the search for a solution of the Cyprus problem, the reality remains that the substance of American policy and its fundamental assumptions about Turkey's interests in the Cyprus dispute have not changed. Here are some characteristic examples:

a) In the aftermath of the Kuwait crisis and the American policy of implementing all the United Nations resolutions on Kuwait and Iraq, Cyprus failed to get the same consideration from Washington. Official Washington responses were framed in superfluous legal arguments that attempted to separate United Nations resolutions adopted under Chapter VI from those adopted under Chapter VII of the Charter. These arguments could not, however, hide the fact that Washington has consistently opposed the implementation of United Nations resolutions on Cyprus, especially when they contained goals that differed from those of the United States and Turkey.

b) Although much effort was exerted in the search for a solution in cooperation with the United Nations, the American position did not substantially differ from that of Turkey on the issues of the constitutional structure of the republic and on the issue of the external guarantees. The American position amounted to an acceptance of Turkey's views regarding a loose confederation and the continued presence of significant numbers of Turkish troops in the occupied part of the island. The only serious disagreement with Turkey was over the territorial concessions to be made to the Greek Cypriots in return for their acceptance of the Turkish endorsed confederation proposals. To increase the pressure on the Greek Cypriots for the acceptance of these proposals threats were implied of more formal ties with the unrecognized regime of the occupied areas, and the linkage of a constitutional solution to the Cypriot application for membership in the European Union.

c) The United States has opposed the unified defense dogma that has placed Cyprus within the Greek defense space. It has also opposed the holding of joint military maneuvers between Greece and Cyprus, and the arms purchase programs of the Cyprus National Guard. Washington has objected to these activities, much like Turkey has done, on the grounds of their impact on the process of resolving the Cyprus problem. It is ironic, however, that Washington has not complained publicly to Turkey about the impact of the continued presence of 35,000 heavily armed Turkish troops in the occupied area. Only recently did the U.S. Ambassador to the U.N. Madeleine Albright²⁶ speak of the «illegality of the Turkish Army's occupation» of Cyprus. Welcome as this statement may have been, it is doubtful that it reflects the administration's policy. The Albright statement may have been motivated by electoral considerations and by the Ambassador's personal ambitions.²⁷

d) During the fall of 1996, a number of incidents occurred in the neutral zone in divided Cyprus during which unarmed Greek Cypriots were murdered in cold blood by Turkish Cypriot security operatives and Turkish right-wing thugs brought into Cyprus by the Denktash regime in cooperation with the government of Turkey. The lukewarm reaction of the United States to the first murder in Dherynia clearly encouraged the repetition of Turkey's violent

conduct. When pressed for a reaction to these killings the Department of State spokesman called for «mutual restraint». His qualified response implied that Turkey's actions were in response to Greek Cypriot provocations. Washington also used these killings as a pressure tactic on the government of Cyprus to reopen a face to face dialogue at the highest level with the Turkish Cypriots, and to open talks for military disengagement along the dividing line.

These pressures, however, failed to account for the absence of common ground in the positions of the two parties, and that a limited disengagement along the dividing line did not address the issue of the withdrawal of the Turkish occupation forces from Cyprus. Finally, the condemnation of these killings that was included in the statement of President Clinton to the Greek-American community has to be seen in the context of the president's re-election campaign. If this statement reflected American policy, it would have been made a lot earlier and in an unequivocal manner by the Department of State spokesman. This did not occur.

e) The Clinton administration reversed the position of earlier administrations on the involvement of the European Union in the search for a solution of the Cyprus problem. It has also expressed its support for the eventual membership of Cyprus in the E.U.

The shift in the Clinton policy would be welcome if it were intended to develop new options in the search for a solution of some of the intractable issues in the negotiations such as those of human rights (three freedoms), the issue of guarantees, borders, etc. Washington, working in cooperation with Britain, has clearly linked the accession of Cyprus to the European Union with that of the political solution of the Cyprus problem. This, despite the fact that Washington has no voice in the E.U.'s membership policies. Moreover, the linkage implied in the American policy contradicts positions adopted by the E.U. that the Cypriot membership is not "hostage" to Turkey. Washington's policy then is clearly intended to use the incentive of E.U. membership to impose the kind of political settlement demanded by Turkey. Throughout the discussions between the E.U. and Turkey over the latter's membership application and the debate over the Turkish Customs Union agreement, Washington actively lobbied on behalf of Turkey.

Washington's policy on both of these issues parallels and reinforces that of Turkey which objects to the entry of Cyprus in the E.U., not only prior to a political solution on the island but also prior to the entry of Turkey in the E.U.

The Rise and Challenge of Erbakan

The rise to power of Turkish Islamists in the spring of 1996, provides a classic example of the inherent rationalizations and the contradictions of American policy towards Turkey. The United States had extended its full support to Tansu Ciller for being a reformist, female, westernizing prime minister of an Islamic democratic state which was facing economic and political instability as well as a serious challenge from the rising Islamic movement. Ciller was therefore promoted as the pro-Western barrier to the Islamic takeover of Turkey. To Washington's great surprise, the coalition between Ciller and Erbakan brought to power the very nemesis of the United States.²⁸ Erbakan's anti-American, anti-western and anti-Israeli views, and his support of Islamic movements that threatened America's Middle Eastern allies distinguished him from all other Turkish politicians.

Erbakan challenged the United States soon after coming to power. In an attempt to bolster ties with radical Islamic states Erbakan set out to visit and to strike new business deals with countries such as Libya, Iran and Nigeria. Not only were these countries on Washington's black list for sponsoring terrorism, but they were also the object of new American sanctions that were imposed in the Summer of 1996. In his visit to Iran, Erbakan struck a \$21 billion gas pipeline deal that violated American sanctions. In Libya, while visiting Qaddafi's home that had been bombed by the United States in 1986, Erbakan described Libya as the «victim of terrorism» rather than the «sponsor» of terrorism. He also struck a \$2 billion deal that violated American sanctions. Erbakan also remained silent while Qaddafi criticized Turkey for its ties to the United States, NATO and Israel, and described Turkey as a country «under Western occupation». Qaddafi also called for the establishment of an independent Kurdish state.

Erbakan, along with Ciller, had expanded their political and economic cooperation with Iraq on the basis of inadequate Western compensation for losses suffered by Turkey since the Gulf war. Moreover, Ciller and Erbakan urged the Iraqi regime to end Kurdish autonomy in Iraq and obstructed the use of Turkish bases by Operation Provide Comfort and for the enforcement of the no-fly zone over Iraq by arbitrarily implementing ATC regulations.

Erbakan's exploits were criticized during press briefings at the Department of State²⁹ by press spokesman Nicholas Burns. He found Erbakan's statements and actions to be «objectionable», «off base», «unwarranted», and that they sent the «wrong message» to countries such as Iran. He apologetically indicated that it was «unusual to speak this way about a NATO ally» but «given the circumstances...we had no choice». Burns was quick to point out that the United States conveyed similar messages privately. The United States did not wish to involve itself in the internal Turkish debate, and Mr. Burns expressed the «hope» that Erbakan's actions were not in violation of American sanctions. The press spokesman concluded that the United States stood by Turkey, a country victimized by terrorism, and felt that Turkey should do the same for the United States.

Despite the frustration expressed by the press spokesman of the Department of State, official Washington stood ready to rationalize the situation in Turkey³⁰ along the following lines:

- 1) That the majority in Turkey remains secular and pro-Western.
- 2) That the Erbakan-Ciller coalition was temporary and the result of internal political maneuvering rather than support for Erbakan.
- 3) That Turkey should be treated with sensitivity. While keeping the Islamists at «arms length», avoid alienating and undermining America's «real allies» in Turkey.
- 4) That the Turkish Army was the ultimate guarantee of secularism.
- 5) That Erbakan would self destruct by his actions, and
- 6) That the United States needed Turkey's military facilities more than ever before and that it should not do anything to strain its relations with a «very important ally» located in a «tough neighborhood». Other apologists for Turkey³¹ continued to describe Turkey as the «antidote to Islamic fundamentalism and Russian imperialism» and that it was in the Western interest to be frank with the Turks but keep them as friends and to help them practice a «comfortable form of Islam».

In the final analysis, wishful thinking and rationalizations of Turkey's behavior characterized Washington's post-cold war assessments of Turkey. Moreover, Washington failed to appreciate the Erbakan Ciller gambit, the continuing abandonment of Atatürkism, the internal reaction to the failures of secular politicians, and the fact that the rank and file of the Turkish military may not be as unified as in earlier periods of Turkish politics. Decades of contradictions, ambivalence, and the conflicting priorities of American policy towards Turkey³², and the unqualified support extended to Turkey for its geopolitical importance, especially since the end of the Cold War, have contributed to Ankara's self-importance and arrogance. Thus, the United States has been the most important contributor to Turkey's international misconduct.

Implications for Greece and Cyprus

Despite the frustration felt in Washington because of prime minister Erbakan's behavior and challenge to American policy, American officials appear prepared to ride the storm and wait for him to self-destruct or for the Turkish military to remove him from power by direct or indirect action. Washington is not likely to upset its long-term relationship with Turkey by interfering in Turkish politics. Nor is it likely that Turkish political elites would welcome such interference. Thus, it is anticipated that Turkish-American relations will remain in the domain

of bureaucratic policy whose parameters have already been outlined.

With stable governments in Greece and Cyprus American pressures are likely to be exerted in the direction of Athens and Nicosia rather than in Ankara in the search for solutions to regional problems. Another reality check for Athens and Nicosia ought to be the fact that despite promises by American presidential candidates and/or the president elect, in the absence of a crisis, Greco-Turkish relations and Cyprus will remain bureaucratic problems. Generalized pronouncements affected by campaign needs should not be confused with the fundamental American assumptions as to how the Greco-Turkish problems and Cyprus might be resolved. These assumptions have not changed.

Greece and Cyprus have sought Washington's involvement in the region's problems because of the influence Washington potentially possesses in Ankara. Neither country should expect that Washington will abandon Turkey. Both countries do expect American policy to show greater balance and take a clear stand on issues that affect longterm American foreign policy principles, such as the respect for international frontiers and for international agreements. In view of the experience with American policy in the Aegean and Cyprus during 1996, both countries ought to be prepared to face pressures for the conclusion of a package deal settlement accommodating Turkey's demands in the Aegean and in Cyprus.

What can Greece and Cyprus do?

a) Avoid the temptation of package deal solutions. While positive movement on Cyprus may contribute to an improvement in the Greco-Turkish political climate, Cyprus cannot be held hostage or be blackmailed because of the serious issues raised by Turkey's revisionism in the Aegean. Greco-Turkish issues have their own dynamics.

b) Greece must not engage in another interminable dialogue with Turkey until Ankara renounces the threat or the use of force in its relations with Greece, and acknowledges in unequivocal terms the validity of the frontiers and of the status quo established in the region under relevant international agreements since the end of the Balkan Wars. Turkey must renounce any claims as to «grey areas» in the Aegean.

c) Cyprus must not venture into another high level meeting with the Turkish Cypriots until some common ground has been established and the Turkish Cypriot side has renounced claims to sovereignty. Further, prior to entering into another round of high level talks, Cyprus must not repeat the tactical error of making concessions up front prior to the commencement of negotiations and without any reciprocal concessions by the Turkish/Turkish Cypriot sides.

d) Neither Greece nor Cyprus should be drawn into «Camp David» or «Dayton style» negotiations. Their sovereignty and territorial integrity is likely to be affected in such talks.

e) Greece and Cyprus should not suspend or renounce their defense cooperation agreement until such a time as a definite timetable for the withdrawal of Turkish forces has been agreed upon, and appropriate international provisions have been agreed upon for demilitarization and for the presence of an expanded international peacekeeping force. Moreover, the presence of such an international force cannot subvert the sovereignty of Cyprus or the standing of its government, as it was the case with the NATO plan of 1964, and it is the case with the current Bosnian model.

f) Turkey has mastered the art of creating threats of conflict and later retreating to calls for peaceful negotiations in order to display to the international community its peaceful intentions. There are issues over which negotiations are appropriate, as in the case of the delimitation of the Aegean continental shelf. There is no room for negotiations or for resort to arbitration over Greece's established sovereign rights and/or its frontiers.

g) Cyprus will soon have to respond to American and European initiatives for a political solution of the problem. Cyprus must stand firm against a Bosnia style solution that will only confirm and legitimize the partition of the island. Instead, proposals ought to be presented capitalizing on new options available to resolve what may have been major obstacles in earlier negotiations. For example, NATO and the E.U. can provide creative new alternatives on issues such as human rights (three freedoms), borders and guarantees.

h) Even though the integration of Cyprus in the E.U. is a top Cypriot priority, Cyprus ought to be prepared to tell its European partners that it will not pay any price in return for membership. Cyprus cannot be victimized twice.

i) Greece and Cyprus can cooperate with the United States in the search of defining ways to reduce tensions in the Aegean and along the dividing line in Cyprus. Moratoria in active military exercises, cooling off periods, hot lines, arms limitations and deconfrontation arrangements are possible once Turkey acknowledges the Aegean status quo and renounces the use or the threat of force in its relations with Greece and Cyprus. Further, deconfrontation and demilitarization proposals in Cyprus and the Aegean are meaningless if they are not mutual and in depth. This includes the withdrawal of the occupation forces from Cyprus and arms limitations along Turkey's Mediterranean and Aegean coasts.

What this paper has argued is that American policies have contributed to the inflation of Turkey's ego and self-importance and, thus, to Turkey's revisionism in the Aegean and Cyprus both before and after the Cold War. America's assumptions about Turkey have remained relatively constant since the end of

World War II. This is why Athens and Nicosia ought to be realistic about forthcoming American initiatives in the region. Athens and Nicosia can protect their fundamental interests in the post-cold war environment by pursuing realistic, consistent and credible policies. These policies ought to place their national interests above party and personal interests, and build on the strengths both countries bring to the post-cold war international environment.

NOTES

1. Stephen A. LARRABEE, *Hellas Observed: The American Experience of Greece 1775-1865*. New York: New York University Press, 1957.
2. There is a large body of work on this subject. See the pioneering work by Kenneth E. BOULDING, «National Images and International Systems», *Journal of Conflict Resolution*, Vol. 3, June 1959, pp. 120-131.
3. George HORTON, *The Blight of Asia*. Indianapolis: Bobbs Merrill and Co., 1926. Henry MORGENTHAU, *Ambassador Morgenthau's Story*. Garden City: Doubleday, Page and Co., 1918.
4. United States Senate, Committee on Foreign Relations, *Legislative Origins of the Truman Doctrine*, Hearings held in Executive Session on S938, First Session, 80th Congress, Historical Series. Washington, DC: G.P.O., 1973, pp. 78-80.
5. Van COUFOUDAKIS, «Turkey and the United States: The Problems and Prospects of a Post-War Alliance», *Journal of Political and Military Sociology*, Vol. 9, No. 2, Fall 1981, pp. 179-196. Harry J. PSOMIADES, «American Images of Greece and Turkey Since 1945» in Theodore A. COULOUMBIS and John O. IATRIDES (eds), *Greek American Relations: A Critical Review* (New York: Pella Publishing Co., 1980), pp. 91-106.
6. Despite the small size of Greece, its strategic significance during the Cold war was even more important than that of Turkey, especially in relationship to Turkey's control of the Straits and the presence of the 5th Eskadra in the Mediterranean. Van COUFOUDAKIS, «The Eastern Mediterranean in the Defense of the West-The Case of Greece», *NATO's Sixteen Nations*, October 1986, Vol. 31, No. 6, pp. 34-39. Also: «The Essential Link: Greece in NATO», *NATO's Sixteen Nations*, July-August 1988, Vol. 32, No. 4, pp. 35-44. Jesse W. LEWIS, Jr. *The Strategic Balance in the Mediterranean*. Washington, DC: The American Enterprise Institute, 1976.
7. Theodore A. COULOUMBIS, *Greek Political Reaction to American and NATO Influences*. New Haven and London: Yale University Press, 1966.
8. John O. IATRIDES, *Balkan Triangle-Birth and Decline of an Alliance*

Across Ideological Boundaries. The Hague, Paris: Mouton, 1968.

9. Turkey's decision to send troops to Korea was made by its top leadership without the sanction of the Grand National Assembly. It was a calculated decision to gain American support for Turkey's admission to NATO. See Feroz AHMAD, *The Turkish Experiment in Democracy, 1950-1975.* Boulder: Westview Press, 1978, p. 391.

10. Turkey remained neutral during the war having failed to meet its treaty obligations to Greece and Britain. Turkey joined the allied powers days before the 1945 Yalta conference. During the war Turkey courted both Germany and Britain, but neither country was willing to meet Turkey's strategic and territorial demands. Frank G. WEBER, *The Evasive Neutral-Germany, Britain and the Quest for a Turkish Alliance in the Second World War.* Columbia and London: University of Missouri Press, 1979. Edward WEISBAND, *Turkish Foreign Policy 1943-1945-Small State Diplomacy and Great Power Politics.* Princeton: Princeton University Press, 1973.

11. Van COUFOUDAKIS, «U.S. Foreign Policy and the Cyprus Question: An Interpretation», *Millenium-Journal of International Studies*, Vol. 5, No. 3, Winter 1976-77, pp. 245-268.

12. Theodore A. COULOUMBIS, *Greek Political Reactions...*, op. cit., pp.95-97.

13. For the text of this unusually strongly worded letter to Turkish Prime Minister Inonu see Republic of Cyprus, Public Information Office, *Cyprus: The Problem in Perspective.* Nicosia: PIO, 1969, pp. 36-37.

14. Van COUFOUDAKIS, «U.S. Foreign Policy and the Cyprus Question...», pp.245-268.

15. Clifford P. HACKETT, «The Role of Congress and Greek-American Relations», in Theodore A. COULOUMBIS and John O. IATRIDES (eds.), op. cit., pp. 131-148. Lawrence STERN, *The Wrong Horse-The Politics of Intervention and the Failure of American Diplomacy.* New York: Times Books-Quadrangle, 1977.

16. Nearly 90% of the logistical support of the allied operations in the Gulf moved through the Mediterranean. Greek and Cypriot facilities played a major supporting role in these operations.

17. These issues included: the Muslim minority in Western Thrace; the Greek minority of Istanbul and the Ecumenical Patriarchate; the delimitation of the Aegean continental shelf; the width of the Greek airspace; the extension of the Greek territorial waters to 12 miles; NATO command and control areas; search and rescue areas in the Aegean; and the militarization of certain Aegean islands.

The Cyprus issue is also part of the Greco-Turkish agenda, even though it is not a Greco-Turkish issue per se.

18. Van COUFOUDAKIS, «Greek Foreign Policy in the Post-Cold War Era: Issues and Challenges», *Mediterranean Quarterly*, Vol. 7, No. 3, Summer 1996, pp. 28-29.

19. Among the many recent studies and statements promoting Turkey's «new role» see Dr. Tansu CILLER, «Turkey and NATO: Stability in the Vortex of Change», *NATO Review*, No. 2, April 1994, pp. 3-6; Graham E. FULLER and Ian O. LESSER (eds.), *Turkey's New Geopolitics-From the Balkans to Western China*. Boulder: Westview/RAND, 1993; and Andrew MANGO, *Turkey-The Challenge of a New Role*. Westport: Praeger, 1994.

20. See the paper presented at the Conference on Security in the Eastern Mediterranean by Fiona HILL, «Pipeline Politics, Russo-Turkish Competition and Geopolitics in the Eastern Mediterranean» held at Intercollege, Nicosia, Cyprus, January 17, 1996.

21. See the letter of president Clinton, dated February 26, 1996, to Angelo Tsakopoulos and other leaders of the Greek-American community.

22. See the letter of president Clinton to Greek prime minister Simitis dated July 1, 1996.

23. See the Clinton letter of February 26, 1996, to the Greek-American leadership. In addition to weapons acquired by Turkey under NATO's cascading policy, Turkey received from the United States air tankers for the refuelling of its F-16's in flight, the new short range ATACM missiles and attack helicopters. All these systems pose a clear and present danger to the Greek islands in the Aegean and in Cyprus.

24. Daily Press Briefing, U.S. Department of State, June 17, 1996.

25. See president Clinton's statement to the Greek-American community of October 19, 1996.

26. In a speech to the Annual Awards Gala of the Cyprus Federation of America in New York, September 28, 1996.

27. Washington political observers consider Albright as a contender for the position of Secretary of State in a new Clinton cabinet. Ed. note: This article pre-dates the last American presidential elections.

28. Jim HOAGLAND, «Political Con Game in Turkey», *The Washington Post*, July 11, 1996. By this unholy alliance Ciller may have escaped prosecution for various financial scandals from her previous administration.

29. Especially in those of October 7 and October 8, 1996.

30. An excellent example of this rationalization is the op-ed by Alan MAKOVSKY, a Turkish expert who held various official positions in Washington. See his «Responding to Turkey's Eastward Drift», *The New York Times*, August 17, 1996.

31. Amos PERLMUTTER, «Turkey's Strategic Mideast Position», *The Washington Times*, September 23, 1996, and Andrew MANGO, *op. cit.*, pp. 85 and 133.

32. For example: the subordination of human rights to security considerations.

Recensions/Book Reviews

ELIAMEP, *Epeterida 1995 (Annual Review)*, Athens, 1995

IDIS, *Epeterida 1996 (Annual Review)*, Athens, 1996

We are considering here two recent annual reviews published by the two most important centers for the study of international relations (IR) in Greece: The Hellenic Foundation for European and Foreign Policy (ELIAMEP) and the Institute of International Relations (IDIS).

Although an Institute of Public International Law and International Relations has existed in Thessalonike since the early sixties, the scientific analysis of IR came relatively late to Greece. Previously IR were dominated by the traditional academic treatment of a historical and legalistic orientation. Only with the reestablishment of democracy in the mid-seventies and Greece's entry into the European Community in the early eighties did political science finally enter the field of IR in full force.¹

ELIAMEP was established in 1988 as an independently funded body to study Greek foreign and defense policy. Headed by University of Athens professors Theodore Couloumbis (Chairman), Christos Rozakis (Secretary General), Thanos Veremis (General Director) and Yiannis Valinakis (Research Director), the foundation includes generals, admirals, ambassadors, journalists, industrialists, artists and other outstanding citizens interested in international relations.

In addition to ongoing research programs, ELIAMEP organizes periodic lectures, seminars and conferences; the results of which are eventually published as monographs or articles. Some of these are written in English and are included in the *Southeast European Yearbook*.

Since 1992, ELIAMEP has published its annual *Review of Defense and Foreign Policy* in Greek. The 1995 issue is a 400-page volume covering the current burning issues of Greek external affairs focused on the Balkans, Turkey, EU, US and NATO.

The Review leads off with an optimistic retrospective of the year's developments by Professor Valinakis, followed by four presentations from representatives of the main political parties of Greece. The rest of the Review contains 17 articles written by academics, politicians, journalists and other specialists in IR. Finally, this annual includes a documentary, statistical and bibliographical section, noting the year's key events, figures, publications and 35 short book reviews.

Among its leading articles are speeches by PASOK Defense Minister Gerassimos Arsenis on "Greece in Balkan Security and Cooperation" and his Nea

Dimokratia equivalent Ioannis Varvitsiotis on "Collective Security in Foreign Policy." Also noteworthy is an article by the Greek Orthodox Archbishop of Albania, Anastasios, on the religious situation in that country.

Shortly after the establishment of ELIAMEP in 1989, Panteion University of Social and Political Sciences in Athens instituted the only Greek academic center exclusively devoted to IR. Led by the former Rector of the University, Dimitri Conostas, the scientific council of IDIS is thereby composed by professors from its department of political science.

Like ELIAMEP, IDIS is actively involved in research, lectures, seminars, conferences and publications, on a wide range of topics relating to Greek foreign policy. Last year it moved to a renovated neoclassical building in Plaka, the famous old town of Athens, where it expanded activities and inaugurated a monthly publication in English, the *Cosmos Newsletter*, designed especially for the Greek diaspora, as well as its first annual review in Greek.

The 1996 Review, a 340-page volume, is quite similar to that of ELIAMEP, in that it treats the moot points and 'hot spots' of Greek diplomacy. Introduced by the director of the institute, the IDIS Review contains 25 articles by various academics and professionals, 3 speeches by diplomats and politicians, as well as 4 documents and 15 bibliographical notes.

Among its outstanding contributors are the PASOK Minister of External Affairs, Theodore Pangalos, Nea Dimokratia Leader, Miltiades Evert, as well as Political Spring Party Leader and former Nea Dimokratia Foreign Minister, Antonis Samaras. Most of the other articles are by noted academics associated either with Panteion or with Athens University.

From a professional point of view, however, the most interesting articles are those on the state of the art of IR in Greece. These articles go beyond the summary description or usual analysis of current events which very often seem indistinguishable from journalistic reviews or commentaries and enter into a heated debate on theoretical and ideological divisions of the Greek intelligentsia.

What comes out of this debate is the confrontation of the two main schools of IR: the Realist and the Idealist. In this perhaps oversimplified dichotomy, it would appear that IDIS belongs to the former and ELIAMEP to the latter school. Representing each side, the intellectual duel between Professors Panayiotis Ifestos and Christos Rozakis is most revealing of the rivalry and antagonism between the two sides.²

The crux of the argument is the issue of Greece's adopting a strategy of national interest in a realpolitik balance of power game, or rather a Eurocentric policy of international interdependence in a post-modern global system. This stark alternative poses a question not merely esoteric and exciting only to IR

specialists, but also presents a practical difference to official policy-makers. Of course, the answer may not be simply one or the other option, but both or neither. The choice is thus important in conceptualizing and conducting IR, not only in Greece but in the world at large.

In any event, these two Reviews, not only highlight the salient events of Greek foreign policy and defense strategy, but bring us up to date with the academic turmoil surrounding the contemporary study of IR in Athens. We will be awaiting further developments on all fronts in next year's Reviews.

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NOTES

1. See Stephanos CONSTANTINIDES, «Greek Foreign policy: Theoretical Orientations and Praxis», *Études helléniques/Hellenic Studies*, (Montreal), Vol. 4, No 1, Spring 1996, pp. 43-61.

2. Ibid.

Irène LAGANI, Le "rapt" des enfants et les relations gréco-yougoslaves

1949-1953, Athènes, Sidéris 1996

Au cours de la guerre civile grecque, vingt-huit mille enfants ont été transférés en Yougoslavie et dans d'autres démocraties populaires sur ordre du parti communiste (KKE) sous prétexte de les sauver de la "barbarie monarcho-fasciste". Irène Lagani, spécialiste des Balkans, expose dans son dernier livre l'histoire étrange de ces jeunes grecs dont beaucoup ne reviendront pas dans leurs foyers. Elle s'interroge sur l'attitude du gouvernement hellénique qui après avoir essayé de les rapatrier à l'issue de la guerre civile semble, dès janvier 1950, se désintéresser de leur sort pour des raisons politiques et idéologiques.

L'ouvrage d'Irène Lagani, fondé sur une enquête et des témoignages ainsi que sur un travail d'archives, en particulier du ministère des affaires étrangères d'Australie, pays où certains des enfants de la guerre civile grecque vinrent rejoindre, dans les années cinquante, leurs parents qui y avaient émigré, constitue un document utile pour comprendre un sujet qui demeure encore tabou dans la Grèce d'aujourd'hui.

Jean Catsiapis

Université de Paris X

Chronologie-Grèce

Période du 1er janvier au 30 septembre 1996.

15 janvier: Andréas Papandréou, gravement malade démissionne de ses fonctions de Premier ministre.

18 janvier: Costas Simitis, par 86 voix contre 75 à Akis Tsohatzopoulos, est désigné comme Premier ministre par le groupe parlementaire du PASOK.

22 janvier: Prestation de serment du gouvernement Simitis.

30 janvier: Intervention de commandos de la marine turque sur l'îlot d'Imia dont Ankara dispute la souveraineté à Athènes.

15 février: Le Parlement européen par 324 voix pour, 21 contre et 11 abstentions, condamne la Turquie dans le différend qui l'oppose à la Grèce en mer Egée.

22 février: La Grèce bloque, dans le cadre de l'Union européenne, une aide de 375 millions d'Ecus à la Turquie.

27 avril: Rencontre à Bucarest, en marge de la Conférence sur la coopération en Mer noire des ministres des affaires étrangères de Grèce et de Turquie. Ankara subordonne son acceptation de la saisie de la Cour internationale de justice proposée par Athènes à des négociations préalables sur l'ensemble des problèmes en mer Egée.

22-26 mai: XIVème Congrès du parti communiste (KKE).

23 juin: Décès d'Andréas Papandréou.

27 - 30 juin: IVème Congrès du PASOK qui élit comme nouveau président, Costas Simitis.

5 juillet: La Grèce et la Turquie décident de s'abstenir de toutes manoeuvres militaires en mer Egée pendant la période estivale.

15 juillet: La Grèce lève son veto à l'aide des Quinze aux pays méditerranéens. Athènes avait imposé son veto sur cette aide qui concerne en particulier la Turquie, juste après les incidents d'Imia.

22 septembre: Elections législatives anticipées, selon le mode de scrutin de la représentation proportionnelle renforcée, à la suite de la dissolution de la Chambre des députés par Costas Simitis. Victoire du PASOK qui obtient avec 41,51 % des voix 162 sièges sur 300. La Nouvelle démocratie avec 38,13 % des suffrages remporte 108 sièges. Trois autres partis sont représentés au Parlement hellénique dont le mandat est de quatre ans: le KKE (communiste) avec 11 députés, la Coalition de la gauche et du progrès avec 10 sièges et le Mouvement démocratique, DIKKI, fondé en 1995 par l'ancien ministre du PASOK, Dimitri Tsovolas qui entre pour la première fois à la Chambre fort d'un groupe parlementaire de 9 membres.

Chronologie-Chypre

Période du 1er janvier au 30 septembre 1996

29 janvier - 2 février: Transfert dans la zone militaire d'occupation de Chypre de 100 chars modernisés M 48. La Turquie affirme que ces chars, dont le début du transfert a commencé avant la crise d'Imia, remplacent simplement des blindés de type plus ancien.

5 février: A la suite du refus du gouvernement hellénique de le recevoir, le secrétaire d'Etat adjoint américain, Richard Holbrooke décide d'annuler sa visite à Nicosie, Athènes et Ankara au cours de laquelle il devait étudier les conditions d'une solution de la question chypriote.

1er mars: Rauf Denktash, le chef de la communauté chypriote turque déclare que les 1619 Chypriotes grecs disparus lors de l'invasion, en 1974, de la République de Chypre par l'armée turque sont morts. Selon lui, ceux-ci auraient été tués par des milices paramilitaires chypriotes turques.

29 mars: Chypre est invitée à la Conférence Intergouvernementale visant à réformer les institutions de l'Union européenne, qui commence ses travaux à Turin.

23 avril: John Kornblum, le nouveau secrétaire d'Etat adjoint américain déclare que 1996 doit être l'année de la solution de la question chypriote, et que tel est le souhait du président Clinton qui agit en concertation avec l'Union européenne pour traiter cette question.

26 mai: Renouveau de la Chambre des Représentants de Chypre dont les 56 membres sont élus à la représentation proportionnelle pour une durée de 5 ans. Le Rassemblement démocratique (DISY) fondé par le président Cléridès arrive en tête avec 34,5 % des voix et 20 sièges, suivi par l'AKEL (communiste) qui obtient 33 % des suffrages et 19 sièges. Le parti démocratique (DIKO) de l'ancien président Kyprianou (centre droit) remporte 10 sièges et le parti socialiste EDEK 5. Le nouveau parti des démocrates libres (libéral) de l'ancien président Vassiliou fait son entrée à la Chambre des Représentants avec 2 députés.

3 juin: Un jeune soldat Chypriote grec est tué à Nicosie au cours d'un incident sur la ligne de démarcation de la zone militaire turque d'occupation.

11 août: Un jeune Chypriote grec, Tassos Isaac, est mort à Dhérynia, lynché à coups de barres de fer par un groupe de Turcs (membres d'un groupe paramilitaire d'extrême droite, spécialement venus de Turquie) alors qu'il tentait de pénétrer en zone militaire turque d'occupation.

14 août: Mort par balle dans la tête d'un manifestant chypriote grec, Solomos Solomou, tirée par un officiel turc, juste après les obsèques de Tassos Isaac.

20 septembre: En adoptant une résolution commune à sept groupes politiques sur la situation à Chypre, le Parlement européen condamne «les assassinats de deux jeunes Chypriotes grecs par l'armée turque d'occupation et les membres du régime illégitime de Denktash».

Documents on Cyprus

The European Parliament

- having regard to its previous resolutions on Cyprus, in particular its resolutions of 12 July 1995 on Cyprus's application for membership of the European Union, and 19 September on the situation in Cyprus,

A. shocked by the latest cold-blooded murder in Cyprus of yet another Greek Cypriot, Petros Kakoulis, in Cyprus by the Turkish occupation army,

B. whereas this totally unjustified act took place near the former police station of Achna, a territory controlled by the British military base at Dhekelia, while the base police and officials of the United Nations peacekeeping forces were not permitted to approach the site of the incident,

a.emphasising the fact that the victim was the fourth unarmed Greek Cypriot murdered without reason over the last months by the Turkish occupation army or Turkish paramilitary organisations, which could be an indication of the real intentions of some extremist circles to create the false impression that the two communities of the island of Cyprus cannot peacefully coexist,

b. having regard to the refusal of the occupation authorities to comply with the repeated request from the European Parliament's Subcommittee on Human Rights for authorisation to visit Greek Cypriots imprisoned in the occupied part of Cyprus in conditions which are in breach of those set out in the relevant international conventions, as is demonstrated in the UN Secretary-General's recent report to the Security Council,

c. having regard to the continuing violation of the basic human rights and fundamental freedoms of the Greek Cypriots and Maronites living in the enclave in Turkish-occupied Cyprus, including the right of education, given the refusal by the occupying regime to allow one of the three Greek Cypriot teachers in Karpassia who is retiring to be replaced,

1. Strongly condemns the murder of Petros Kakoulis by the Turkish occupation forces, expresses its sincere condolences to the victims's families and asks the Commission and the Council to inform the Turkish occupation forces of the deep indignation of the European Union with regard to the incident;

2. Calls for a thorough investigation of the incident in order to identify those responsible and bring them to justice;

3. Believes that the people of Cyprus, Greek and Turkish Cypriots alike, wish

to put an end to the killings and to the division of the island, and that Cyprus's accession to the EU will benefit both communities and contribute to a solution of the Cyprus problem;

4. Reminds the Turkish Government that relations between Turkey and the EU depend partly on the Turkish Government's policy on Cyprus and reiterates its decision to freeze financial cooperation with Turkey as well as the MEDA programs with regard to Turkey, with the exception of those aspects concerning the promotion of democracy, human rights and civil society;

5. Calls on Turkey to respect the human rights and the fundamental freedoms of the Greek Cypriot and Maronites in the enclaves, to put an end to any action or omission which violates these rights and freedoms and to implement faithfully the provisions of the Third Vienna Agreement of 1975, particularly with regard to prisoners of whatever faith or origin, who are imprisoned in the occupied part of Cyprus;

6. Calls upon the Member States to respond with continued firm pressure on Turkey with the aim of freeing the island of the presence of all Turkish troops, guaranteeing freedom of movement for all citizens and working for a just and peaceful solution to the current Cypriot problem, along the lines of relevant UN Security resolutions;

7. Reiterates its support for the Cypriot Government's proposal to demilitarise the island and calls on Turkey to withdraw the occupying forces and to comply with the UN resolutions on Cyprus;

8. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the government and parliaments of Cyprus and Turkey and the United Nations.

UNITED NATIONS FORCE IN CYPRUS
UNFICYP

Press Release

The Demonstrations of 11 August 1996

The United Nations Force in Cyprus (UNFICYP) has completed its review of the events surrounding the demonstrations of Sunday, 11 August. The facts that have emerged are as follows:

1. On Sunday, 11 August, some 3,500 persons gathered at various locations in anticipation of proceeding to Dherinia, the originally intended starting point for the demonstration route. The demonstrators included some 120 motorcyclists from 12 countries who had arrived in Cyprus on 10 August, following a journey which began in Berlin on 2 August. During the weeks leading up to the demonstration, UNFICYP liaised closely with all relevant authorities to ensure that all necessary measures be taken to prevent a violation of the United Nations buffer zone.

2. On 10 August, the Secretary-General issued a statement in which he expresses his concern at reports that a Greek Cypriot motorcycle association was planning to violate the cease-fire lines as well as the United Nations buffer zone in Cyprus. He expresses his hope that the organizers of this event would avoid a course of action that could only harm efforts to resolve the long standing Cyprus problem. The Secretary-General also called on the Government of Cyprus to take effective measures, in exercise of its responsibilities, to prevent any unauthorized entry into the United Nations buffer zone.

3. In response to an appeal from President Clerides early on Sunday morning, the President of the Cyprus Motorcycle Federation agreed to cancel the planned demonstration route and instead called on all participants to assemble in Makarios Stadium in Nicosia. Some 1,500 motorcyclists and associated motorists proceeded to Makarios Stadium late on Sunday morning to hear the message from their leader who also conveyed a message from President Clerides.

4. Meanwhile, a major counter-demonstration had been organized in north Nicosia of some 2,500 persons, including a significant number of members of the Grey Wolves who had come from Turkey. This demonstration remained peaceful.

5. Shortly before noon, the demonstrators left the Makarios Stadium, split up into many groups, and began to move around the city and beyond to various des-

tinations that were difficult to anticipate. Groups of motorcyclists and persons in cars assembled in various locations in Nicosia, notably the Ledra Palace checkpoint, the United Nations Protected Area Foxtrot Gate and the Presidential Palace. These demonstrations remained peaceful.

The main incidents

6. A group of some 150 Greek Cypriot demonstrators, who were subsequently joined by another 200, arrived at the United Nations buffer zone at the Old Famagusta road at about 1240 hours. The Cyprus Police (Cypol) lifted the National Guard (NG) cease-fire line barrier from where the demonstrators quickly proceeded into the United Nations buffer zone eventually right up to the Turkish Forces (TF) cease-fire line, starting fires as they went along. UNFICYP troops in the area, subsequently reinforced by elements of UNFICYP's Force Reserve, interposed themselves between the demonstrators and the TF who were soon joined by the Turkish Cypriot Police Element (TCPE) in riot gear. Although the situation became very tense, UNFICYP managed to keep it under control, not least because the TF and TCPE acted in a very disciplined and restrained manner despite considerable verbal provocations from the demonstrators. Cypol was not effective in controlling the demonstrators who had arrived at that location. By 1400 hours the crowd began to disperse and by 1730 hours all demonstrators had left the United Nations zone, there were no casualties.

7. At about 1200 hours, some 150 Turkish Cypriot demonstrators appeared along the Sovereign base Area (SBA) at the link road near the junction with the Old Nicosia Road. At 1330 hours, some 200 Greek Cypriot motorcyclists arrived along with several TV crews. The 12 SBA police deployed there were unable to keep the situation under control and the two sides began to throw stones at each other. Some Greek Cypriots crossed a few metres beyond the Turkish Forces Cease-fire line and planted a Greek flag. The Turkish Cypriot demonstrators responded by firing shotguns at the Greek Cypriots who retreated and proceeded to set fires. By 1500 hours, the Greek Cypriot motorcyclists left the area and proceeded in the direction of Dhekelia. According to reports, 10 Greek Cypriot demonstrators were wounded, some by shotgun pellets, as were 2 SBA policemen.

8. The most serious incident took place in Dherinia. On Sunday morning, a peaceful demonstration by some 250 Cypriots took place. They entered the United Nations buffer zone and requested to deliver a petition to the Turkish Cypriot checkpoint. When the latter refused to receive the petition, the demonstrators left the United Nations buffer zone, but remained in the area. At 1430 hours, some 300 motorcyclists together with some 700 persons in vehicles escorted by Cypol arrived at the NG cease-fire line checkpoint in Dherinia.

Cypol deployed along the NG cease-fire line but left the checkpoint unattended, thus enabling the demonstrators to enter the United Nations buffer zone unimpeded.

9. In the meantime, the Turkish Forces had allowed some 1,000 persons in buses to pass through their 3 km deep military zone and to assemble along the TF cease-fire, including persons carrying the flag of the Grey Wolves who had come from Turkey.

10. The situation soon became violent, after Greek Cypriot demonstrators entered the buffer zone and approached the TF cease-fire line to provoke the TF, the TCPE and demonstrators assembled there with verbal abuse and throwing stones. Cypol was not effective in controlling the Greek Cypriot demonstrators.

11. At about 1600 hours, the Turkish Forces allowed the Turkish Cypriot demonstrators to enter the United Nations buffer zone armed with bats and iron bars. The Turkish Cypriot demonstrators, joined by the Turkish Cypriot Police, then proceeded to pursue the Greek Cypriots and mercilessly beat all those who they were able to catch. At the same time, there was shooting, including by Turkish Cypriot police, behind the Turkish Forces cease-fire line towards the Greek Cypriot demonstrators.

12. During this period, a Greek Cypriot demonstrator, Anastasios Isaak, was beaten to death by a number of Turkish Cypriot demonstrators, including three Turkish Cypriot policemen. By 1800 hours the situation began to calm down. In addition to the one dead, it was reported that some 54 Greek Cypriots and 17 Turkish Cypriots were injured. 12 UNFICYP personnel suffered injuries.

13. The UNFICYP investigation revealed conclusively that the killing of Anastasios Isaak had occurred some 50 metres from the scene shown on television in which three Greek Cypriots were being severely beaten by Turkish Cypriot demonstrators while helplessly entangled in barbed wire. Two UNFICYP Irish Civilian Police had done their best in trying to rescue Anastasios Isaak at considerable personal risk.

14. The two United Nations Civilian Police had observed two Greek Cypriot demonstrators being set upon by two groups of Turkish Cypriot demonstrators who proceeded to beat them with brutal force. The two United Nations Police went to the assistance of one of the Greek Cypriots and managed to facilitate his escape. When they turned to assist the second Greek Cypriot (Isaak), and were finally able to push aside the Turkish Cypriots, including three Turkish Cypriot policemen, who were still beating him, it was too late. The location of the killing inside the United Nations buffer zone was about 95 metres from the National Guard cease-fire line and about 32 metres from the Turkish Forces cease-fire line.

15. A video broadcasted on «Euronews» *inter alia* clearly shows the killing of Anastasios Isaak and the intervention of the two United Nations police. The autopsy, attended by UNFICYP, which was performed late afternoon of 13 August, revealed that Anastasios Isaak died of «multiple blunt trauma to the head». UNFICYP has completed the collection of the evidence at the scene of the crime and is in the process of completing its investigation in cooperation with Cypol.

The role of UNFICYP

16. Following the cancellation of the original demonstration route, the Greek Cypriot demonstrators broke up into numerous small groups with unknown destinations. As a result, their moves could not be anticipated, making it difficult for UNFICYP to reinforce in advance the likely flashpoints. At the same time, UNFICYP had to place effective coverage at all critical locations along the buffer zone while maintaining minimum coverage in other areas. UNFICYP's force reserve had to be moved over considerable distances at short notice in order to respond to fast developing situations. Given the prevailing situation on the ground as described above, UNFICYP's resources were stretched to the extreme.

UNITED NATIONS FORCE IN CYPRUS
UNFICYP

Press Release

The Demonstrations of 14 August 1996

The United Nations Force in Cyprus (UNFICYP) has completed its review of the events surrounding the demonstration of Wednesday, 14 August 1996. The facts that have emerged are as follows.

On Wednesday 14 August, about 3,000 people and some 500 motorcyclists attended in Paralimni the funeral of Anastasios Isaak who had been killed by a group of Turkish Cypriots during the demonstrations in Dherinia the previous Sunday (see UNFICYP press release of the demonstrations of 11 August).

After the funeral service, at about 1345 hrs, some 200 motorcyclists and a number of vehicles arrived at the northern outskirts of Dherinia where members of Cypol (Cyprus Police) had been stationed. As during the events on Sunday, Cypol was not effective in preventing the demonstrators from entering the United Nations Buffer Zone (UNBZ). Some 150 Greek Cypriots passed the police line and outflanked the UNFICYP troops deployed inside the UNBZ.

As the Greek Cypriot demonstrators made their way into the UNBZ, Turkish Forces and Turkish Cypriot military and police, which until then had remained out of sight, deployed in full view and in added strength along the TF CFL (Turkish Forces Cease-Fire Line). UNFICYP requested both Turkish Forces and Turkish Cypriots military and police to exercise restraint and not to over-react. It also reminded them that UNFICYP has sole responsibility to deal with incursions into the buffer zone and that there must be no interference.

By 1420 hours, some 200 Greek Cypriots were inside the UNBZ, but UNFICYP was in control of the situation. The demonstrators were being rounded up and moved out of the UNBZ. The main group of Greek Cypriots were no closer than about 30 metres from the Turkish Forces Cease-Fire Line (TF CFL).

At about that time, a Greek Cypriot male, later identified as Solomos Spyrou Solomou, broke free from the main group and ran towards the Turkish Cypriot check point. He was chased by two UNFICYP soldiers, who caught up with him at the guard post, but the demonstrator broke free and began to climb a flag pole which was flying the Turkish flag just inside the Turkish Cypriot check point. The UNFICYP soldiers were pursuing him a few feet behind.

Solomou was some 3 metres off the ground (less than a fourth of the way to the top of the flag pole), when he was shot by a Turkish or Turkish Cypriot soldier and fell to the ground with blood flowing profusely from his neck (the autopsy revealed that Solomou was hit by five bullets). Turkish or Turkish Cypriot soldiers then proceeded to fire some 25 to 50 rounds indiscriminately into the crowd inside the buffer zone. The whole incident was witnessed by the UNFICYP Force Commander and the Commanding Officer of the Austrian Battalion who were in the UNBZ some 35 metres from the TF CFL. They observed uniformed Turkish Cypriot military personnel kneeling down and firing in the direction of the demonstrators inside the UNBZ.

As a result of the indiscriminate shooting by Turkish or Turkish Cypriot soldiers, two British UNFICYP soldiers were shot from behind and two Greek Cypriot civilians were also hit by gunfire. Three were inside the buffer zone and one of the civilians, who sustained a serious gun shot wound to the abdomen, was standing outside the UNBZ close to the National Guard checkpoint. During the demonstration, two Cypol officers and five Greek Cypriot civilians suffered non-gunshot related injuries.

The Force Commander of UNFICYP accompanied by the Chief of Staff met with the Commander of the Turkish Forces in Cyprus late in the afternoon of 14 August to strongly protest the totally unwarranted use of force by Turkish or Turkish Cypriot military personnel which resulted in the killing of Solomou and in injuries to two peace-keepers and two civilians.

Nicosia, Cyprus, 17August 1996

Activités académiques/Academic Activities

Launching of Spring Issue of *Hellenic Studies/ Études helléniques*

Number 1, Volume 4 of the Journal was launched at a Banquet held in Montreal on the 9th of June. Present on that occasion were Athanasios Exintaris, Greek Ambassador to ICAO, Nikos Vamvounakis, Greek Consul General in Montreal, as well as many academics and other supporters of the publication.

The Guest Speaker was Professor Yannis Philippoussis, member of the Board of the Centre of Hellenic Studies and Research, who spoke on "The sense of Democracy in Solon and Pericles." The Consul General, Mr Vamvounakis, also spoke briefly to underline the important work of the Centre, under whose auspices the Journal is published. Finally, Dr. Stephanos Constantinides, the Centre's Director, thanked his collaborators as well as all those present and closed the meeting.

The Greeks in English Speaking Countries

The third Biennial Conference on Greeks in English Speaking Countries, organized by the Hellenic Canadian Congress, was held in Toronto, Canada, at the end of June. Speakers included scholars, professionals, artists and community leaders from the United States, Canada, Australia and Cyprus.

The Center for Hellenic Studies and Research was represented by its director Dr. Stephanos Constantinides (Université du Québec à Montréal) and Professor Peter Chimbos (Brescia College, University of Western Ontario).

The main themes discussed were:

1. The influence of Hellenic culture on English-speaking countries;
2. Hellenes in Politics;
3. the contributions of Hellenic culture on English-speaking countries;
4. the contributions of Hellenic immigrant women;
5. problems of adjustment and social integration;
6. Hellenes and the Allied efforts in World War II;
7. Hellenes in business, industry and the professions;
8. Hellenic artists in the diaspora; and
9. the future of Hellenism.

Dr. Constantinides presented a paper on the *Hellenic-Canadian Congress* as a case study of «Hellenic Organizations as Political Pressure Groups in Canada» and Dr. Chimbos made a historical and sociological analysis on «The Greek Resistance 1941-44 and its contribution to the Allied War Efforts Against Axis Powers.»

At the conclusion of the conference, Athan Anagnostou, Director of the Hellenic Studies Institute of South Australia, announced plans for the fourth Biennial Greeks in English-Speaking Countries Conference, to be held in Adelaide, Australia in 1998.

Summer Activities in Greece

Professor Paris Arnopoulos, President of the Board of Directors of the Centre for Hellenic Studies and Research, spent the Summer as a Visiting Scholar at the Institute of International Relations of Panteion University in Athens.

In the middle of August, Professors Arnopoulos and Philippoussis, presented two papers on classical Greek political theory at the International Conference of Philosophy and Interdisciplinary Studies in Olympia.

Coordinating Committee of the Research Institutes of Hellenism

The representatives of the eleven social science research institutes forming the Coordinating Committee met in Thessaloniki in mid-July. The host of the meeting was the Center for European Studies (EKEM) in collaboration with the Institute for Balkan Studies (IMXA).

The Centre for Hellenic Studies and Research (Canada) was represented at the meeting by its Director Dr. Stephanos Constantinides. Alternative Greek Minister of Foreign Affairs George Romeos addressed the meeting referring to the importance of research in the present world.

The meeting was held to discuss the activities of the research institutes and coordinate cooperation among them. The Coordinating Committee decided that the Cyprus Research Center (KYKEM) would continue to serve as the ad hoc secretariat and that the Hellenic Studies Forum (Melbourne Australia) will be the host of the second world conference of the Research Institutes of Hellenism in Melbourne on July 1997. The working topic of the conference will be *Hellenism in the Twentieth Century*.

Book Launching in Cyprus

Dr Stephanos Constantinides, was invited by the University of Cyprus and the Union of Cypriot Journalists on the occasion of the launching of his latest book *To Kypriako Proulima*. The ceremony took place in the Grand Auditorium of the University of Cyprus in the presence of the Minister of Education and Culture Mrs Clairi Angelides, many scholars, students and interested public on the 23 of October.

Seminar on Greco-Turkish Relations

The Centre for Hellenic Studies and Research organized a seminar on Greek-Turkish relations given by Professor of International Relations and Strategic Studies of the Panteion University of Athens, Dr. Athanassios Platias.

The seminar was held at Concordia University on November 15, and discussed the topic of *Strategic and Diplomatic visions of Greco-Turkish relations*.

Lancement du numéro I, volume 4 de la revue académique *Études helléniques/Hellenic Studies* à Montréal

Le numéro I, vol.4 de la revue académique *Études helléniques/Hellenic Studies* a été lancé à Montréal le 9 juin 1996 en présence de l'ambassadeur de la Grèce auprès de l'OACI M. Athanassios Exintaris. Par la même occasion, une conférence a été donnée par le Professeur Yannis Philippoussis membre du Conseil d'administration du Centre de recherches helléniques (Canada) sous le titre *Le sens de la démocratie chez Solon et Périclès*.

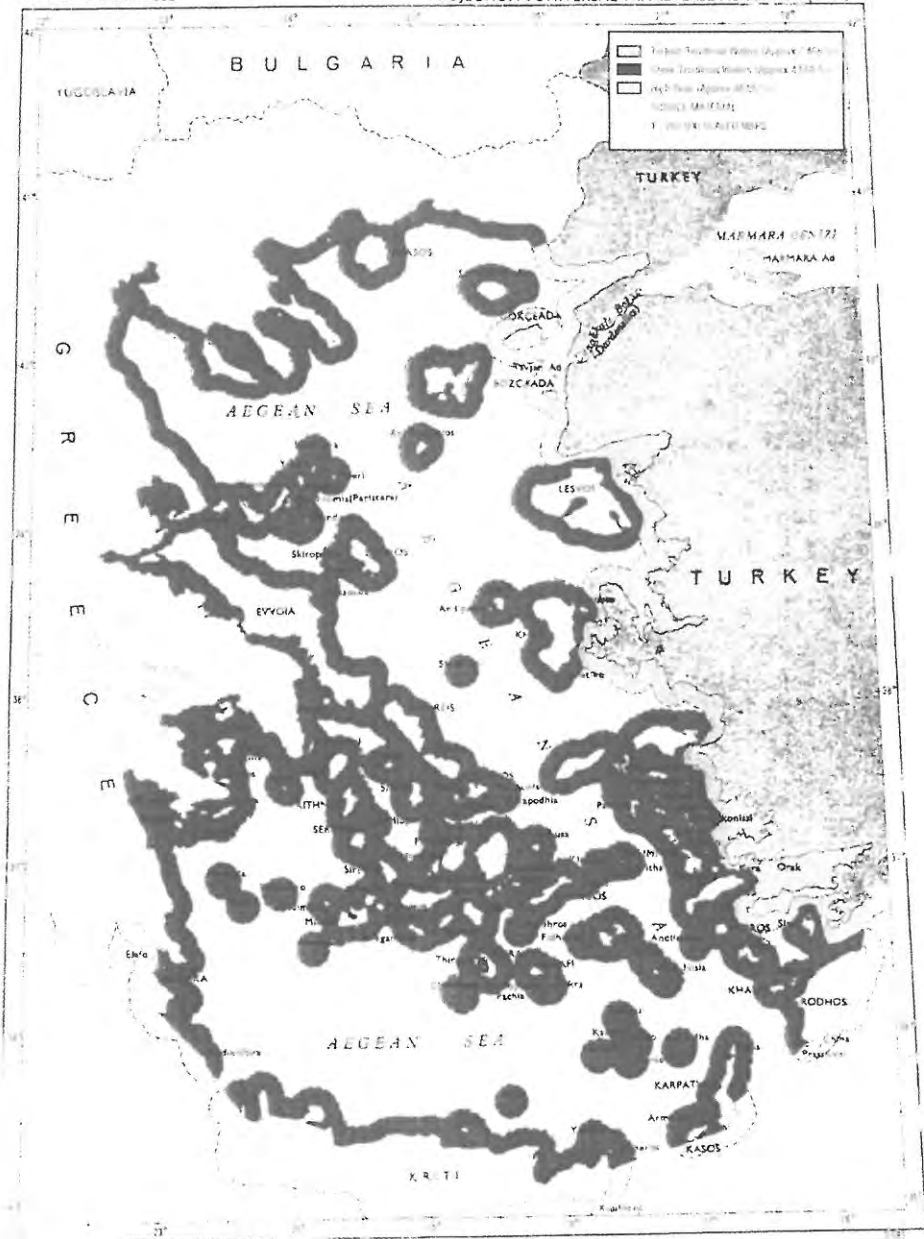
Le consul général de la Grèce M. Nikos Vamvounakis a aussi brièvement pris la parole pour souligner l'importance du travail accompli par le Centre de recherches helléniques (Canada) qui publie la revue *Études helléniques/Hellenic Studies*, alors que le directeur du Centre Stephanos Constantinides a présenté ce nouveau numéro et a remercié tous ceux qui ont collaboré pour sa publication.

Livres reçus/Books Received

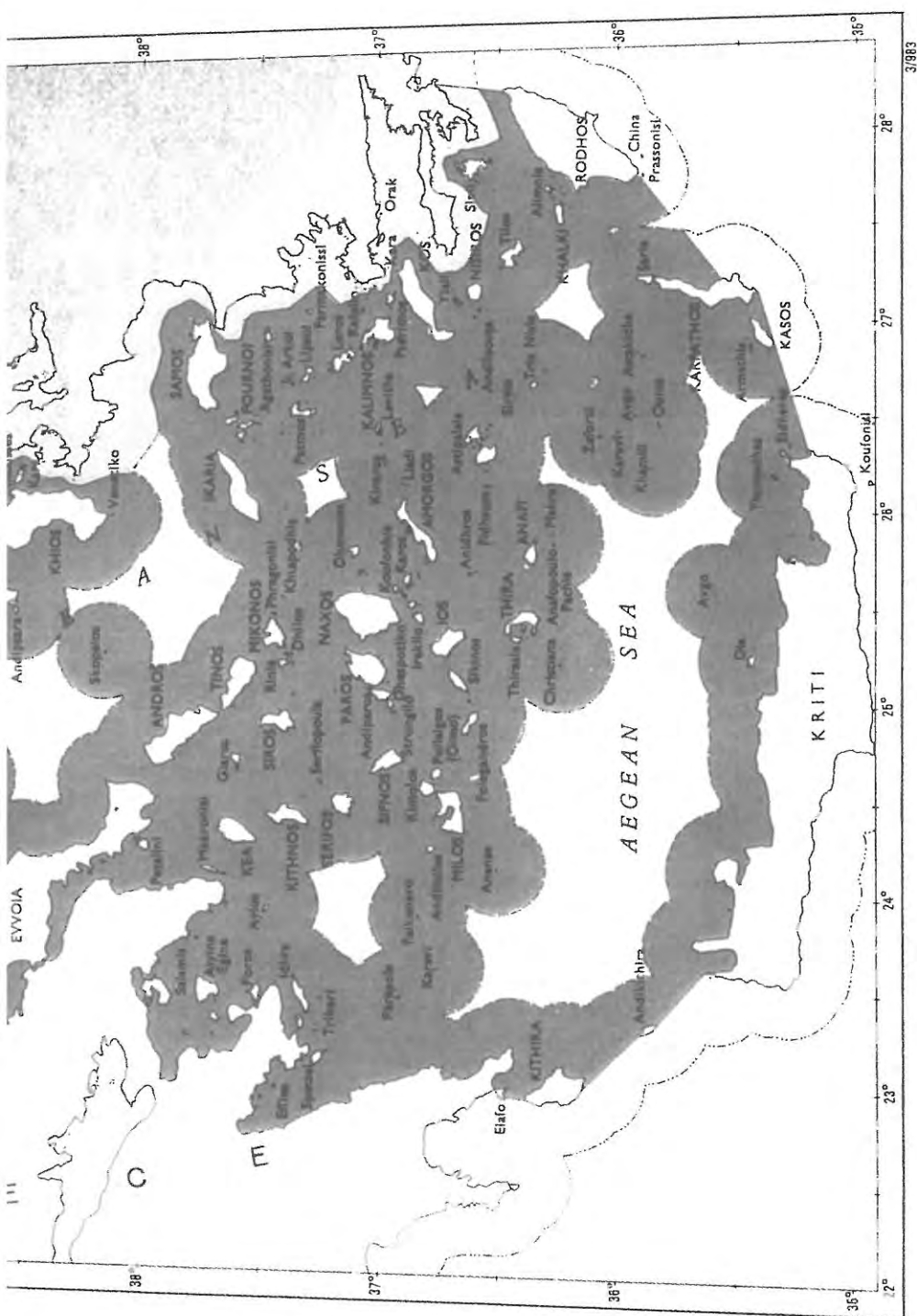
1. Thanos Veremis, *Greece's Balkan Entanglement*, Athènes, ELIAMEP-YALCO, 1995.
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4. *Valkanika Symmikta*, 8 (*Balkan Studies*), Thessaloniki, The Institute of Balkan Studies, 1996 (in Greek).
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6. Angelos Yokaris, *Droit international de l'air et de l'espace*, Athènes, Éditions Ant. N. Sakkoulas, 1996 (en grec)

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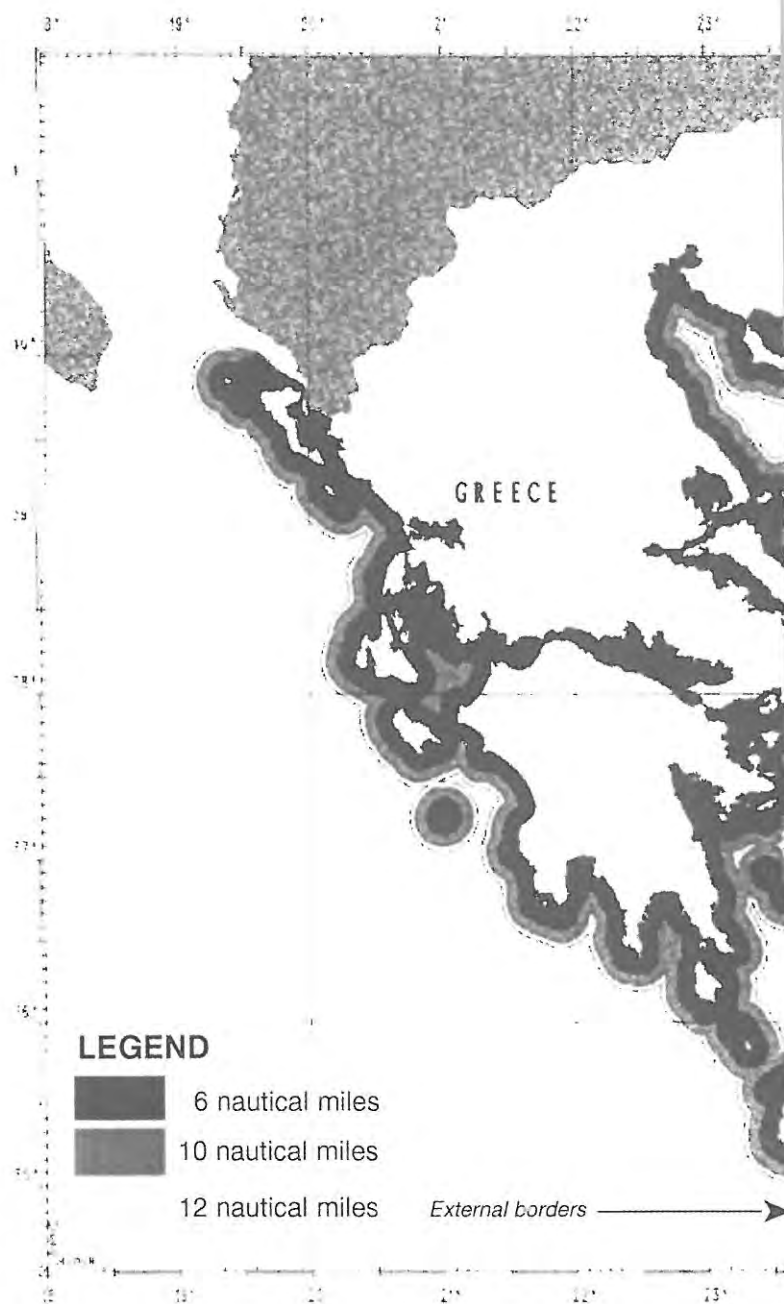
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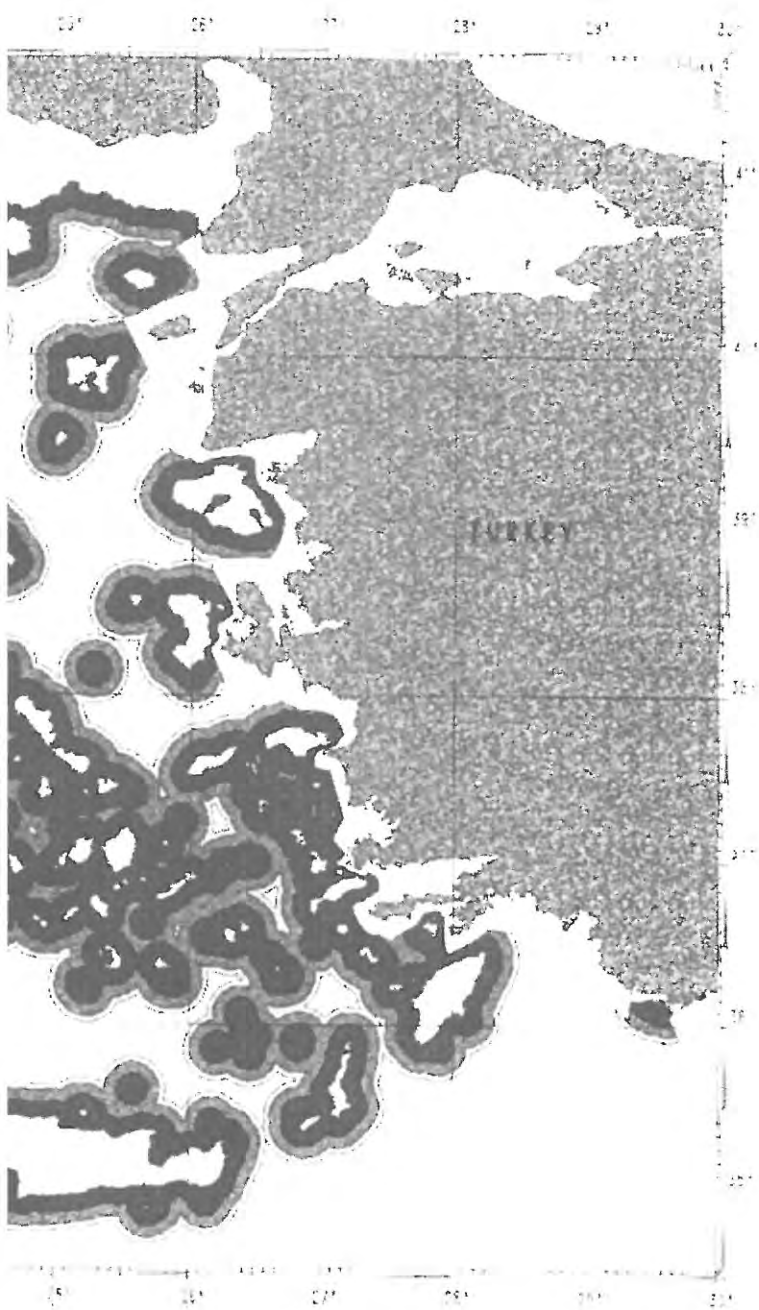


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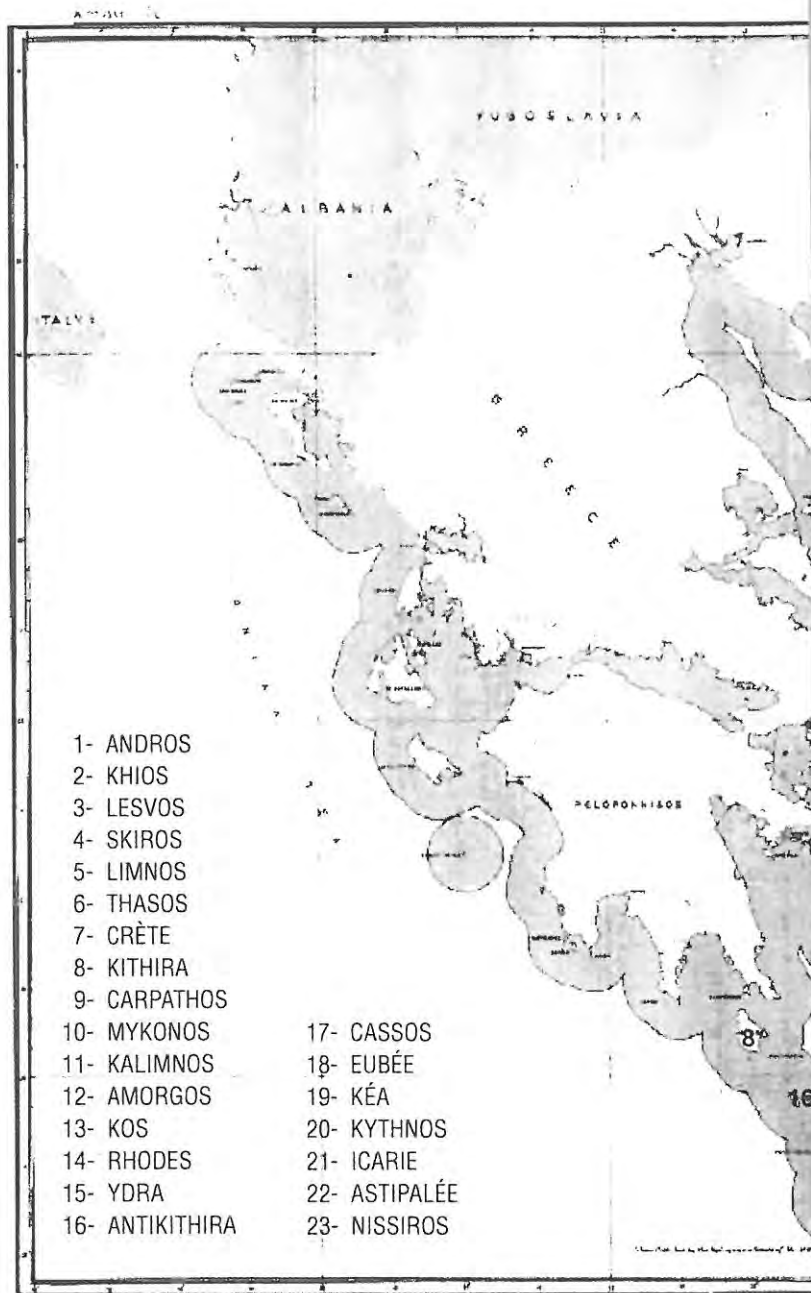


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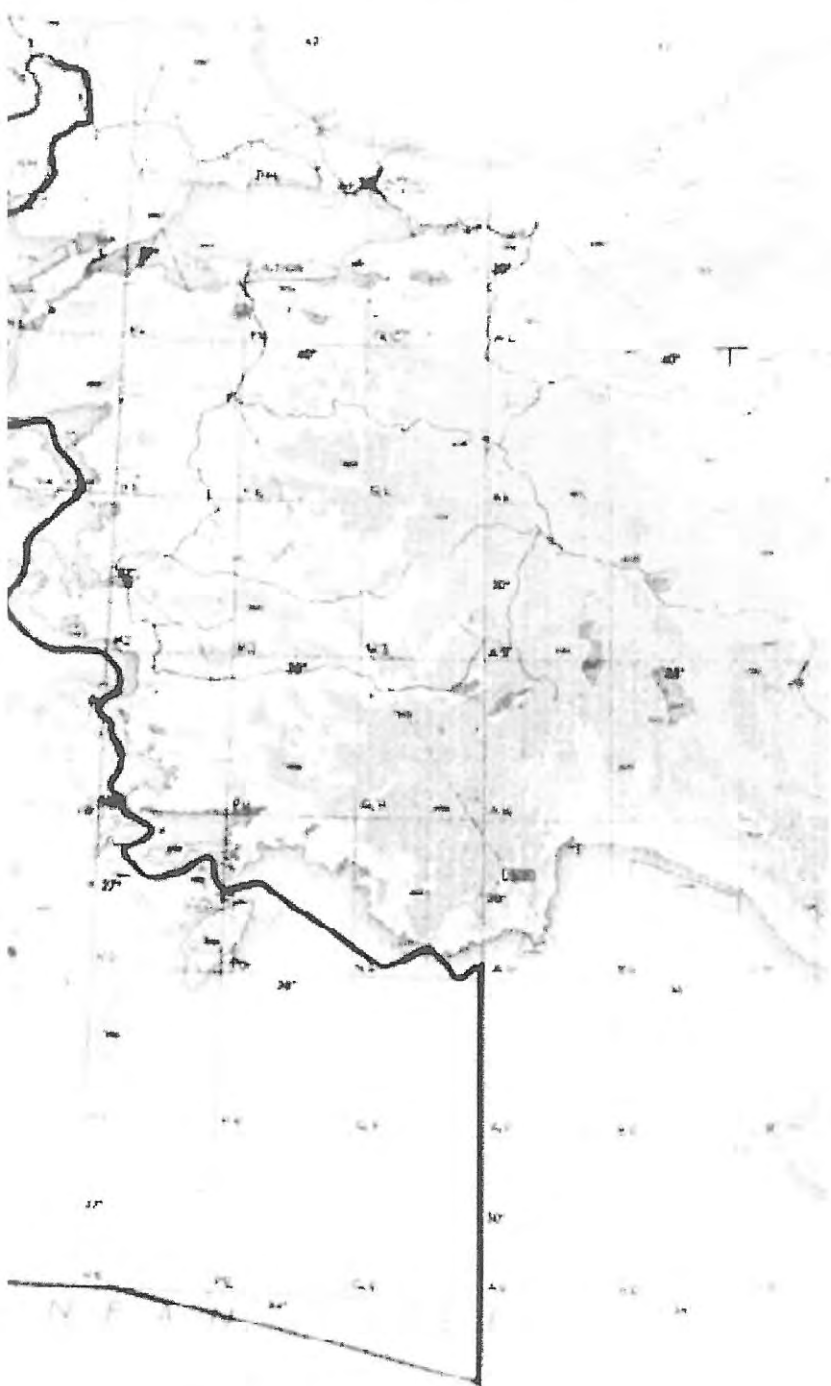
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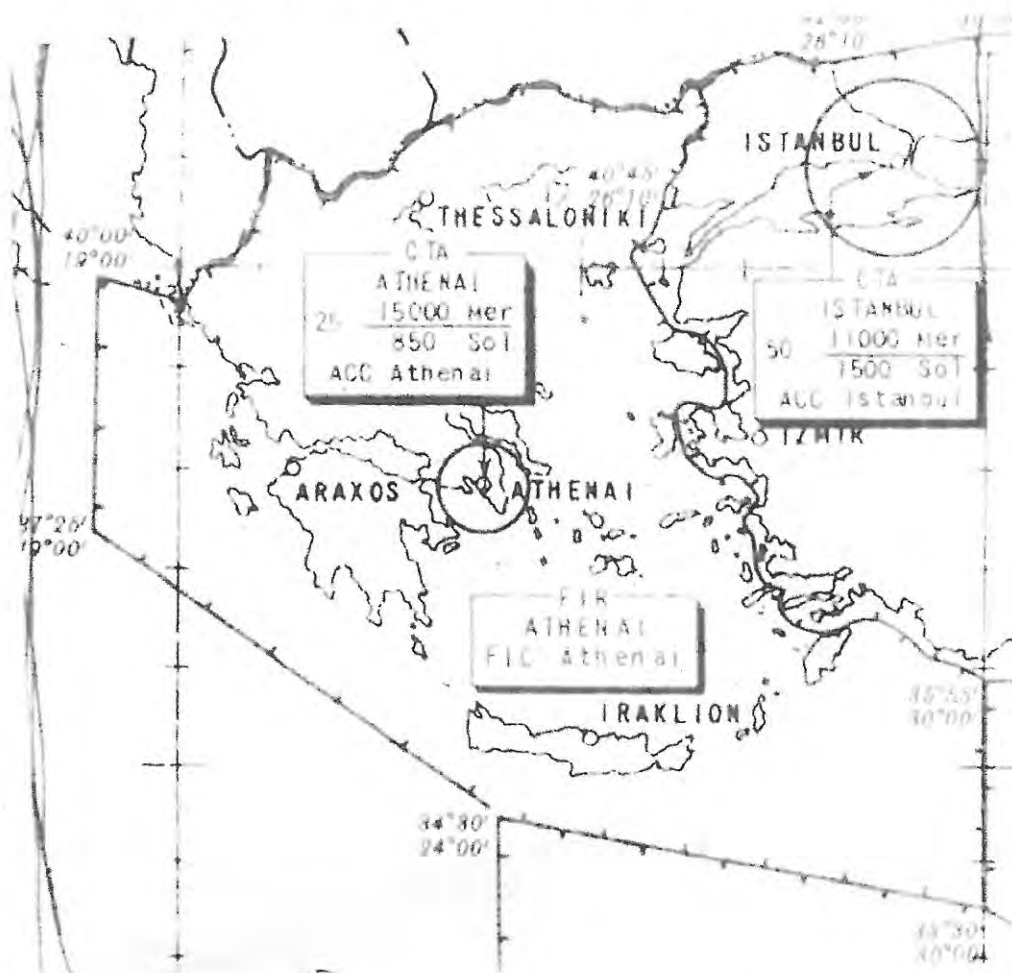


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