

Turkey and Greece: Time to Settle the Aegean Dispute

I. OVERVIEW

Normalisation between Greece and Turkey has come far since tensions in the Aegean Sea threatened war three times between the NATO allies. Trade, investments and mutual cooperation and tourism have taken off, sidelining issues like the Cyprus problem, which first stirred up the Aegean dispute in the early 1970s. Frequent bilateral talks and Turkey's unofficial 2011 suspension of military over-flights of Greek islands suggest that the time may be ripe for a solution to that dispute. Turkey's strong new government elected in June is interested in further asserting itself as a responsible regional power, solving problems in its neighbourhood and clearing obstacles to its European Union (EU) accession. With Athens in the midst of a financial crisis and needing any economic lift and increased security it can find, this unnecessary and still potentially dangerous conflict should be resolved. A good strategy would be a synchronised set of steps to prepare public opinion on both sides, leading to a bilateral agreement and including, if needed, eventual recourse to international adjudication.

Even if the relative calm of the last years has pushed the Aegean dispute off the international community's radar, risks of a flare-up remain. Greeks worry about the safety of hundreds of islands much closer to Turkey than to their mainland. Turks fear being cut off from most of the Aegean and farther seas should Greece unilaterally extend the breadth of its territorial sea and establish new maritime jurisdiction zones. The Cyprus reunification negotiations and Turkey's EU accession process are reaching stalemate. But if Ankara and Athens settle their Aegean dispute, that step could help both to persuade Greek Cypriots of Turkey's goodwill and to polish Turkey's EU credentials.

Much of the disagreement over the Aegean flared up after Athens engineered a 1974 coup in Nicosia intended to unite Cyprus with Greece, and Turkey invaded, resulting in its occupation of the north of the island. The dispute has now grown beyond maritime zones (territorial seas and continental shelf) to cover airspace, over-flights, militarisation of Aegean islands and flight information regions. The Aegean Sea's geography is complex, with more than 2,400 islands, mostly Greek, but also high seas shipping routes that are Turkey's economic and security lifeline.

Greece argues that international law, as detailed in the widely-ratified 1982 United Nations Convention on the Law of the Sea (UNCLOS), gives it an inalienable right to extend its territorial seas to twelve nautical miles from the present six. It describes the delimitation of the continental shelf as the main problem and says it must be settled by the International Court of Justice (ICJ), not bilateral negotiations. For years, Turkey was reluctant to go to the ICJ on Aegean issues and insisted on bilateral talks, although since 1997 it does not rule out judicial means based on mutual consent. Turkey fears that a Greek territorial seas extension could cut off its access to high seas shipping routes and to the Aegean continental shelf. Its parliament has threatened war if Greece unilaterally extends its territorial seas, and Ankara makes symbolic displays of strength that until recently included military flights over inhabited Greek islands. All, including Black Sea states that navigate through the Aegean for access to the Mediterranean and beyond, want to ensure safe, open access and passage.

Today, both sides take a more constructive approach. Their foreign ministries have met more than 50 times for "exploratory talks" since 2002, with a view to taking the continental shelf dispute and possibly other unresolved matters to the ICJ. In private, they agree that circumstances have changed enough to settle the dispute, which is far more about domestic politics and psychology than real security concerns. But lack of political will to let go of maximalist positions and confront popular opinion with compromises has kept negotiations in the starting blocks.

This is short-sighted. Greece and Turkey would both benefit from solving the long and costly dispute. The economic advantages of ending mock military sparring are especially clear for Greece. But Turkey would also benefit economically, and, as importantly, a settlement could reinvigorate its EU relationship and increase the credibility of its "zero problems" foreign policy with neighbours. A process to achieve this could include the following joint steps:

- First stage: Turkey formally ends over-flights of inhabited Greek islands. Greece pledges to demilitarise Aegean islands in accordance with commitments it has made in a series of earlier treaties, once a comprehensive Aegean agreement with Turkey is reached and ratified. Turkey pledges to disband its Fourth Army simultaneously or relocate it away from the Aegean.

- Second stage: both announce readiness to negotiate special Aegean arrangements in line with general UNCLOS principles on equity and special circumstances. Greece publicly recognises Turkey, as a littoral state, has rights that must be taken into account in delimiting Aegean maritime zones and notes such matters have been arbitrated or adjudicated by other states with coastlines on a shared sea. Turkey publicly commits to ratify UNCLOS and recognises Greece's international law right in principle to extend its territorial seas to twelve nautical miles. The sides jointly declare that negotiations will include maintaining high seas corridors to major Turkish ports and the Turkish straits to the Black Sea that can be used for international navigation.
- Third stage: Greece and Turkey negotiate on delimitation of their territorial seas based in principle on a twelve nautical mile limit. They agree on median lines where these limits overlap and on a reduction of Greek territorial seas where necessary to ensure reasonable high seas corridors for international shipping through the Aegean. They agree in advance that they will authorise the ICJ to adjudicate, pursuant to the principles listed in stages two and three, any dispute about where territorial sea boundaries should be drawn.
- Fourth stage: Turkey and Greece address any remaining issues, particularly on the continental shelf, and thereafter refer any remaining differences to the ICJ.

II. TENSIONS AT SEA

The Aegean Sea has been an arena of rivalry between Turks and Greeks for centuries, especially since the Greek war of independence from the Ottoman Empire (1821-1832). Turkish attitudes have been burdened by memory of territorial losses. For Greeks, the Aegean is a fundamental part of their identity, the centre of the ancient Athenian and Byzantine empires. But after the signing of the 1923 Lausanne Peace Treaty that established the modern Turkish and Greek borders, the Aegean was not a source of dispute for 50 years. This was partly because more extensive maritime zones only gained recognition as international legal concepts between the 1950s and 1980s.¹ More importantly, bilateral trust collapsed in the 1970s, when an Athens-backed coup and subsequent Turkish invasion fol-

lowed major clashes in Cyprus between the Greek Cypriot majority and the Turkish Cypriot community.²

A. FIRST DISPUTES OVER THE CONTINENTAL SHELF (1974-1976)

In June 1974, Turkey sent the *Çandarlı*, an oceanographic vessel, accompanied by several warships to explore parts of the Aegean where Greek and Turkish claims to the continental shelf overlapped. Athens's reaction was low-key, chiefly a diplomatic note and the deployment of a small naval force.³ Prime Ministers Süleyman Demirel and Costas Karamanlis issued a joint communiqué in May 1975, agreeing to take the continental shelf issue to the ICJ and solve other problems through negotiations.

In August 1976, Turkey sent the *Hora* (also known as *Sismik D*), accompanied by a warship, to collect seismic data west of Greece's Lesbos island. This time, Greek armed forces went on full alert, backed by domestic political uproar and a barrage of angry media comment. The two sides backed down after mediation led by the UK. Greece then took the issue to the ICJ, which dismissed the case in 1978.⁴ Greece also appealed to the UN Security Council, which called in Resolution 395 on both countries to reduce tensions and start a dialogue. In compliance, they agreed in the Bern Protocol (11 November 1976) to negotiate on the continental shelf issue and meanwhile to refrain from any drilling. Meeting in 1977-1978, Prime Ministers Bülent Ecevit and Costas Karamanlis set the ground for negotiations at the foreign ministry undersecretary level that lasted from July 1978 to September 1981, when the more hardline PASOK government in Greece of Andreas Papandreou cancelled the process.

¹ The six "maritime zones" defined in UNCLOS include internal waters, territorial seas, contiguous zones, exclusive economic zones, continental shelf and high seas. In the context of the Aegean dispute, disagreements have arisen over territorial seas and the continental shelf, with exclusive economic zones potentially constituting a further area of contention.

² For Crisis Group reporting on Cyprus, see Europe Reports N°171, *The Cyprus Stalemate: What Next*, 8 March 2006; N°190, *Cyprus: Reversing the Drift to Partition*, 10 January 2008; N°194, *Reunifying Cyprus: The Best Chance Yet*, 23 June 2008; N°201 *Cyprus: Reunification or Partition?*, 30 September 2010; N°210, *Cyprus: Bridging the Property Divide*, 9 December 2010; and Europe Briefing N°61, *Cyprus: Six Steps toward a Settlement*, 22 February 2011. Turkey made military preparations for an invasion of Cyprus in 1964, when inter-communal violence peaked, but was restrained by U.S. President Lyndon Johnson. Those tensions did not spread to the Aegean, mostly because Turkey did not see Greece as directly involved.

³ Alexis Heraclides, *The Greek-Turkish Conflict in the Aegean* (Hampshire, 2010). Tensions had started climbing before 1974. Greece issued oil exploration licenses between 1968 and 1972 and found oil off Thassos island. Turkey gave prospecting licenses to its state petroleum company in 27 areas of the Aegean in 1973, to which Greece protested in February 1974. *Ibid.*

⁴ For the court's reasoning, see Section III.B(2) below.

B. TENSIONS OVER OIL PROSPECTING (1987-1988)

Both governments were caught off guard by the 1987 oil prospecting crisis. In February, Greece announced it would pass a new law giving the government authority to decide where drilling would take place, and a Greek company said it would drill on the continental shelf a few miles off Thasos island in the eastern Aegean.⁵ In March, Turkey sent the oceanographic vessel *Piri Reis* to search for hydrocarbons just outside Greek territorial seas, but in a portion of the Aegean that Greece considered part of its continental shelf. Greece responded by sending in ships, mobilising troops on the border of its fellow NATO member, Turkey, and coordinating with Warsaw Pact member Bulgaria.⁶

Prime Minister Turgut Özal – seeking to catch up with a storm that had blown up while he was abroad and recovering from heart surgery – said Turkey would pull back its vessels if Greece did not drill beyond its territorial seas. Greece agreed. The de-escalation of the unexpected crisis led to a meeting in Davos in 1988 between Özal and Papandreou that began a two-year reconciliation period. What was known as the “Davos process” stumbled, however, as Papandreou, having failed to prepare domestic opinion, faced opposition at home, including resignations from his party and government.⁷ Its spirit nonetheless continued, as Foreign Ministers Mesut Yılmaz and Karolos Papoulias signed a memorandum of understanding in May 1988 and an agreement on preventing accidents in international seas and airspace in September.⁸ But by the end of 1989, the process had withered.

C. TERRITORIAL SEAS AND DISPUTES OVER GREEK SOVEREIGNTY (1995-1996)

Relations hit a new low in 1995. In May, Greece’s parliament ratified UNCLOS and gave the government authority to extend territorial seas to twelve nautical miles

(22km).⁹ Turkey’s parliament reacted on 8 June with a declaration that it would consider a decision by Greece to extend its Aegean waters beyond the current six nautical mile limit as an act of war (*casus belli*).¹⁰ Aside from economic and military concerns, Turkey felt threatened that such an extension would mean it could access the high seas only by passing through Greek territorial seas.

In December 1995, a Turkish bulk carrier ran aground on one of the two islets about four nautical miles off the coast of Turkey called Kardak in Turkish and Imia in Greek. The captain refused Greek help, saying he was in Turkish waters. The question was which state had jurisdiction to carry out the salvage operation. Sensationalist media on both sides blew the matter out of proportion and pushed the two countries into a crisis. Greeks from a nearby island rushed to the islet, which they used as grazing ground for goats, to raise a Greek flag. Turkish journalists followed to replace it with a Turkish one; the Greek navy changed it back, and Turkish commandos switched it again. U.S. diplomatic pressure produced a stand-down. NATO Secretary General Javier Solana proposed military confidence-building measures in February 1997, some of which were later implemented, such as a hot line between military commanders and exchanging dates of major military exercises in the Aegean in order to avoid scheduling conflicts. The sides accepted the status quo ante and issued a non-aggression declaration in Madrid in July 1997.¹¹

⁵ A Turkish official says Greek exploration went beyond six nautical miles in contravention of the 1976 Bern Protocol. Crisis Group email correspondence, July 2011.

⁶ “If Turkish war ships intervened, we would answer. It was certain that war would break out”. Interview with Yannis Kapsis, then deputy foreign minister, *Athens News*, 23 February 2007.

⁷ Crisis Group interview, Alexis Heraclides, Greek academic and expert on Greek-Turkish relations, Istanbul, 13 April 2011.

⁸ Both countries recognised their obligation to respect the other’s sovereignty, territorial integrity and rights to use the high seas and international airspace of the Aegean. “Greece, Turkey agree to implement Papoulias-Yılmaz agreement”, 5 June 1988, www.greekembassy.org.

⁹ Article 3 of UNCLOS defines a territorial sea as a belt of coastal waters extending at most twelve nautical miles from the state’s low-water line, known as the baseline. It is the sovereign territory of the state, extending to the airspace above and seabed below.

¹⁰ The unanimously adopted declaration cited the 1923 Lausanne Treaty as well as Turkey’s vital interests in territorial seas of six nautical miles in the Aegean and authorised the government to take all measures, including military ones, if Greece unilaterally extended its territorial seas beyond six nautical miles. “Minutes from the General Assembly of Turkish Parliament, 19th Term, 4th Legislative Year, 121th Assembly” (in Turkish), 8 June 1995. In 2005, the then parliament chair, Bülent Arınç, said the document was only a declaration (as opposed to a parliamentary act or resolution) and had not been voted upon. A prominent journalist argued that according to Article 92 of the Turkish constitution, the parliament needs a proposal from the government before authorising war and, lacking this, a declaration giving authority to the government for military action has no legal basis. Murat Yetkin, “*Casus belli* yapıcı bir çıkış” [“A constructive argument on *casus belli*”], *Radikal*, 9 April 2005.

¹¹ Both sides undertook to “refrain from unilateral acts” and “to settle disputes by peaceful means based on mutual consent and without the use of force or threat of force”, which meant no unilateral extension of territorial waters and thus no *casus belli* on the Turkish side. Greek Prime Minister Costas Simitis said, “the joint communiqué constitutes in essence a non-aggression pact”. “Simitis-Demirel meeting leads to joint communiqué on

D. TURKISH PROBING (2010)

In June 2010, the Turkish navy research ship *Çeşme* sailed between the islands of Thrace and Samothrace, outside Greek waters but where Greece claims the continental shelf.¹² Officially its mission was to update marine maps. In July, the *Piri Reis* started working between the Greek islands of Rhodes and the outlying eastern island of Kastelorizo, coming close to disputed continental shelf areas. Its mission was apparently to examine earthquake activity with Canadian scientists. Ankara dismissed Athens's diplomatic protests. Greek media heavily criticised Turkey, but the incidents did not escalate into a serious crisis. Nevertheless, tensions have not disappeared. Greece still complains that Turkish ships enter its territorial seas in breach of internationally accepted practices.¹³

III. AEGEAN ISSUES

Many layers of legal dispute have been discovered and in some cases invented since Turkey and Greece began to spar over the Aegean in the 1970s. These include the breadth of territorial seas, the continental shelf, airspace, flight information regions, military over-flights of sovereign territory,

Greek-Turkish relations", Athens News Agency, 9 July 1997. Simitis was criticised at home for agreeing. Turkey's initiative to formalise the Madrid declaration – including implementing the full package of NATO confidence-building measures and convening an experts group to recommend solutions and a meeting of foreign ministers – was turned down by hawkish Greek Foreign Minister Theodoros Pangalos, who was suspicious of its intentions. "Information Note Concerning the Proposals Made by Turkey To Greece On 12 February 1998 about a Process of Peaceful Settlement of Problems over the Aegean Between the Two Countries", 12 February 1998, www.mfa.gov.tr.

¹² A Turkish official said the ship sails twice every year in the high seas of the Aegean, as do Greek hydrographic vessels, adding that "both sides' activities have nothing to do with the exploration and exploitation of natural resources in the continental shelf", in conformity with the 1976 Bern Protocol. "The Greek media blew this [*Çeşme* incident] out of proportion". Crisis Group email correspondence, July 2011.

¹³ Greek officials said Turkish coast guard vessels, warships, fishing boats, frigates, submarines and corvettes increasingly cross Greece's six nautical mile territorial seas, only to turn around and go back. They argued this "lingering" is a violation of innocent passage. "The Turkish foreign ministry does not answer when we complain ... [These incidents] convey a negative message and burden the atmosphere". Crisis Group interview, April 2011. The Hellenic National Defence General Staff website says there were 118 incidents between January and April 2011. A Turkish official said these ships are using the UNCLOS right of innocent passage to transit Greek waters to reach the Mediterranean. Crisis Group telephone interview, June 2011.

militarisation of islands contrary to treaties and, eventually, exclusive economic zones.¹⁴ However, the most urgent problem to resolve, and the one whose settlement would do most to resolve the other issues, is the breadth of territorial seas and, following this, delimitation of territorial seas and the continental shelf. Since 1974, Greek-Turkish tensions over these two issues have culminated in a major Aegean Sea crisis roughly every decade.

A. TERRITORIAL SEAS

While both the Greek and Turkish mainlands have extensive Aegean Sea coastlines, almost all the 2,400 Aegean islands are Greek, of which at least 100 are inhabited. Many Aegean frictions revolve around the twelve major islands and 150 islets of the Dodecanese, strung out over 600km along most of Turkey's Aegean and part of its eastern Mediterranean coast.¹⁵ The closest island is 1.3km from the Turkish shore.

1. The impact of a Greek extension

Greece extended its territorial seas from three nautical miles to six nautical miles (about 11km) in 1936; Turkey followed suit in 1964. Even though Greece claims that it has the right to extend to twelve nautical miles under UNCLOS, both countries currently keep their territorial seas at six nautical miles. Even with a six nautical mile regime, Greece controls 43.5 per cent of the Aegean, leaving 7.5 per cent for Turkey and 49 per cent for the high seas. If both were to extend their territorial seas to twelve nautical miles, Turkey would have slightly more (8.5 per cent), but Greece's share would go up to 71.5 per cent thanks to its islands; the high seas would shrink to around 20 per cent, and there would no longer be corridors through international waters for shipping.¹⁶ This looks like a potential threat to Turkey,¹⁷

¹⁴ A Turkish official pointed out that the Turkish position to keep territorial seas at six nautical miles in the Aegean is not only about maintaining the freedom of navigation, but also due to concerns that an extension to twelve nautical miles would "jeopardise Turkey's economic, political and military interests". Crisis Group email correspondence, July 2011.

¹⁵ The Dodecanese, running from Patmos, Arkoi and Agathonisi in the north to Kastelorizo in the south, were seized from the Ottoman Empire by the Allies after World War I and assigned to Italy. After brief British control following World War II, the Allies handed them to Greece in the 1947 Paris peace treaties. By then, the once mixed population was mostly Greek, although a Turkish community still lives in Rhodes.

¹⁶ See map, Appendix A. With six nautical miles, Turkey has access to the straits from the Mediterranean through international waters, and Izmir port is accessible without passing through Greek waters. With twelve nautical miles, most of the high seas separating Greek islands would cease to exist, and Turkey

whose foreign minister argues: “A Turkey that is shut out from the Aegean and encircled in the south by Greek Cypriots is severely restricted in its access to the outside world”.¹⁸ Almost 90 per cent of Turkey’s \$300 billion annual foreign trade is transported by ship, most of it passing through the Aegean.

Greek officials pledge that Athens will always favour a liberal maritime regime in all seas, since it has the world’s largest merchant fleet.¹⁹ They add that by signing UNCLOS, Greece has agreed to allow all ships, including military vessels, to pass through its territorial seas in innocent or transit passage, although the convention gives certain sovereign rights to the coastal state.²⁰ Greece is concerned

would have to pass through Greek waters to reach its main ports in Izmir and Istanbul. Narrow zones of high seas would remain between Lemnos, Chios and Lesbos. (See map, Appendix B).¹⁷ “I am not surprised Turkey considers [a unilateral Greek territorial seas expansion as] an act of war”. Crisis Group interview, European military official, Ankara, April 2011. “No one wants freedom of navigation in the Aegean to be hampered, but they say it behind closed doors. On the other hand, innocent passage [through territorial seas] would not be the same as passing through high seas because it gives some sovereign rights to Greece; for instance they can fine our ships saying they polluted the waters or claim they disturb public order [to suspend passage]. It could become a problem if relations are hostile”. Crisis Group interview, Ümit Pamir, retired Turkish ambassador, Istanbul, 26 May 2011.

¹⁸ Turkish Foreign Minister Ahmet Davutoğlu, *Stratejik Derinlik* [Strategic Depth] (Istanbul, 2010), p. 170.

¹⁹ Crisis Group interview, Greek officials, Ankara and Athens, April-May 2011. Greece has a 15 per cent share in total merchant ship tonnage; Turkey’s share is a little over 1 per cent.

²⁰ UNCLOS, Article 19, allows innocent passage except for specific circumstances that would make such passage “prejudicial to peace”. However, Article 21 gives the coastal state the right to adopt regulations, and Article 26 allows charges to be levied for services rendered on ships passing through territorial seas. Also, innocent passage does not allow over-flights or submerged passage for submarines. Transit passage in Articles 37 and 38 applies to straits used for international navigation between two parts of high seas and, unlike innocent passage, allows submerged passage and over-flight. Articles 41 and 42 give states authority to designate lanes and adopt regulations on transit passage. “At both signing and ratification of UNCLOS, Greece declared that it had the right to designate lanes for transit passage in areas with numerous spread-out islands that form a great number of alternative straits. It remains to be seen in practice”. Crisis Group email correspondence, Angelos Syrigos, Greek academic and expert on international law and the Aegean Sea, 1 June 2011. “The UN Convention confers no such unilateral right [to designate routes] on straits states”, Bernard Oxman, “The Application of the Straits Regime Under the UN Convention on the Law of the Sea in Complex Geographic Situations such as the Aegean Sea”, Conference on the Passage of Ships through Straits, Athens, 23 October 1999.

that Turkey’s refusal to countenance it exercising its right to claim the maximum territorial sea sanctioned by international law undermines its sovereignty over its strategically vulnerable eastern Aegean islands.²¹ Furthermore, Greece considers the Turkish parliament’s *casus belli* declaration a violation of the UN Charter’s ban on the threat or use of force (Article 2/4). It wants that threat withdrawn, either by a parliamentary resolution or conclusion of a new bilateral friendship agreement.

Turkey is one of only a handful of countries that have not become a party to UNCLOS.²² It says it will do so when the Aegean dispute is settled, and it has already applied the twelve nautical mile principle in the Black Sea and Mediterranean.²³ It will have to become a party if it joins the EU, as the treaty is part of the EU *acquis communautaire*. For now, however, Turkey refuses to back down in the Aegean until Greece compromises on its right to claim twelve nautical mile territorial seas for all its islands.²⁴ Greece says this in effect asks it to renounce UNCLOS, a step that cannot be put on the same level as withdrawing a Turkish parliamentary declaration.²⁵

2. Islands and the law of the sea

The main problem in dealing with delimitation in the Aegean Sea is whether islands should be treated the same way as the mainland. Greece points to Article 121 of UNCLOS, which enables islands to generate territorial seas and continental shelf areas. Turkey, however, points to other articles aimed at maintaining equity in delimiting territorial seas and argues that twelve nautical miles is neither compulsory nor to be applied automatically to islands.²⁶ Indeed, a sig-

²¹ “Greece always thought Turkey has a military advantage and could occupy [the islands]”. Crisis Group interview, Greek academic, Athens, 12 May 2011.

²² The U.S. is among the non-parties.

²³ Turkey does not object to increasing territorial seas to twelve nautical miles per se and abides by the majority of UNCLOS articles in practice, such as its environmental clauses. “We will become party to UNCLOS the day after the Aegean dispute is resolved”. Crisis Group interview, Turkish official, Ankara, April 2011.

²⁴ Ahmet Davutoğlu, interview with Turkish NTV television, 31 August 2010.

²⁵ Greece rejects such a give-and-take process: “You cannot ‘unratify’ a treaty”, Crisis Group interview, PASOK official, Athens, May 2011. A U.S. law of the sea expert says, however, “UNCLOS expressly permits denunciation. In any event, the argument that restraint in exercising rights amounts to renunciation is nonsense”. Crisis Group email correspondence, July 2011.

²⁶ A Turkish official said Turkey does not challenge the islands’ right to territorial seas but claims their limit in the Aegean should be kept at six nautical miles. Crisis Group email correspondence, July 2011. Article 15 says if two states with opposite or adjacent coasts fail to agree, neither is entitled to extend its ter-

natory state may choose to have less territorial sea on all or part of its coastline, and a few have done so.²⁷ Turkey also asserts that Greek islands, in particular those close to the Turkish mainland, should not be given a continental shelf.²⁸

Turkey also argues that the Aegean's complex geography and history make it a "unique, semi-enclosed sea".²⁹ In 1996, Turkey added the new issue of "grey zones" to the Aegean dispute, for the first time openly questioning the sovereignty of at least some islands or islets.³⁰ It says a protocol annexed to an accord it signed with Italy in December 1932, which is clear about the median line and shows the islands and often even uninhabited rocks ceded to Italy (which later passed to Greece),³¹ was never legally completed or registered with the League of Nations secretariat. It argues that the possession of small islands, islets and rocks in the Aegean whose status has not been clearly defined by international documents has yet to be legally determined.³²

ritorial sea beyond the median line, which is equidistant from the nearest points on the baselines from where the breadth of the territorial seas of the two states is measured. However, this provision does not apply where "historic title or other special circumstances" make it necessary to delimit the territorial seas in a different way. Article 300 requires states to exercise the rights recognised in the convention "in a manner which would not constitute an abuse of right".

²⁷ Bosnia and Herzegovina and Jordan cannot extend their territorial seas beyond three nautical miles because the extension would impinge upon territorial seas of other states. Singapore has similar problems but has claimed twelve nautical miles since 1994, with the reservation that in the event of an overlap with claims of neighbouring countries, it will negotiate delimitation with them. Japan has voluntarily limited its territorial sea to three nautical miles in five international straits, while extending it to twelve nautical miles elsewhere. Crisis Group email correspondence, Angelos Syrigos, Greek academic and expert on international law and the Aegean Sea, 1 June 2011. This approach has also applied to areas between Japan and Korea, Germany and Denmark, and Denmark, Sweden and Finland. Bernard Oxman, "The Application of the Straits Regime", *op. cit.*

²⁸ Crisis Group email correspondence, Turkish official, July 2011.

²⁹ Crisis Group email correspondence, Turkish official, July 2011.

³⁰ "It is an incontestable fact that there are many islets and geographical features in the Aegean Sea whose sovereignty is not indisputably given to Greece [by internationally valid instruments]". "The Outstanding Aegean Issues", Turkish foreign ministry, www.mfa.gov.tr.

³¹ For instance, the December 1932 accord cites Imia/Kardak and places it within Italian (later Greek) territorial seas (although a January 1932 agreement recognised by Turkey does not refer to the rocks). Greece took over the islands and adjacent islets from Italy with the 1947 Paris Treaty.

³² "Before this [Imia/Kardak] crisis, no one knew anything about rocks [in the Aegean]. Now, [both sides] are calling them 'rocky islands' because a rock technically cannot sustain human habitation and thus claim its own maritime zones. But there is no

It is highly unlikely that Turkey will find any international sympathy for a revision of the status of these islands.³³ Such statements only reinforce Greek fears that it harbours expansionist designs.³⁴ "When you combine Turkey's maximalist position refusing the islands' right to [a part of the] continental shelf with [its demand that] the islands should cease to be fortified and also with the over-flights, it adds up [to meaning] those islands are of limited sovereignty. This is Greece's main preoccupation", a former Greek minister told Crisis Group.³⁵

In early treaties, the Turkish Republic accepted limited rights in the Aegean in return for gains elsewhere. The two relevant documents are the 1923 Lausanne Peace Treaty and the 1947 Paris Treaty:

- Article 12 of the 1923 Lausanne Peace Treaty gives the central and northern Aegean islands of Lemnos, Samothrace, Mytilene, Chios, Samos and Nikaria to Greece and also specifies that except where a provision to the contrary is contained in the treaty, "the islands situated at less than three miles from the Asiatic coast remain under Turkish sovereignty". In Article 16, Turkey renounces all rights over territories situated outside the frontiers and islands laid down in the treaty. Article 15 gives the eastern Dodecanese islands and "dependent islets" to Italy.
- The Dodecanese islands cited in Lausanne's Article 15 were transferred from Italy to Greece by the 1947 Paris Treaty under "adjacent islets".

such terminology; it's either a rock or an island!" Crisis Group interview, Greek lawyer and expert on law of the sea, Athens, May 2011. Turkey claims there are around 130 such rocks whose sovereignty is undetermined.

³³ "What Turkey says goes against common sense. Grey zones are an invention". Crisis Group interview, European official, Ankara, April 2011. "Turkey has no legal justification for [grey zones]. Lausanne's Article 12 is very clear on the three nautical mile rule. Turkish politicians know this, but they can't go back now". Crisis Group interview, lawyer and expert on law of the sea, Athens, May 2011. "It is a valid argument that territorial waters in the Aegean are not negotiated to the exact point on the sea in Lausanne. So the [Turkish] hawks came up with grey zones. They see it as a bargaining chip". Crisis Group interview, Alexis Heraclides, Greek academic and expert on Greek-Turkish relations, Istanbul, 13 April 2011.

³⁴ For Greeks, the 1996 crisis was the first time "those threatening, expansionist Turks" made direct claims on Greek sovereign territory, since the dispute was over actual "soil as opposed to water or air". Crisis Group interview, Alexis Heraclides, Greek academic and expert on Greek-Turkish relations, Istanbul, 13 April 2011.

³⁵ Crisis Group interview, Thanos Veremis, Greek academic and former president of the Greek Council on Education, Athens, 11 May 2011.

B. THE CONTINENTAL SHELF

Delimitation of the continental shelf – the stretch of seabed beyond the territorial sea of a coastal state and what lies under it³⁶ – became a prospective bone of contention between Turkey and Greece in 1973, as both focused on potential oil resources in the Aegean with the onset of the first oil crisis. This coincided with rising tensions over Cyprus in the summer of 1974.

Greece claims that its continental shelf is made up of much of the seabed and subsoil below the Aegean, including territory under its islands and their territorial seas. Turkey accepts that the islands have some territorial seas but contests their right to a continental shelf. It wants its own continental shelf to extend much farther into the Aegean, up to a median line to be drawn between the two mainland territories, based on the principle of equity, as defined in the 1958 Geneva Convention on the Continental Shelf (see below). Greece wants an equidistant approach, based on the same convention, according to which the outer limits of one's territory, including islands, are used to calculate the separation between two countries' continental shelves.

For a long time, the continental shelf has been the only Aegean issue that Greece is willing to take to the ICJ with a joint petition. It argues that all the other issues are one-sided claims by Turkey.³⁷ Whether in bilateral negotiations or ICJ adjudication, Turkey wants the delimitation of the entire Aegean Sea to be considered, while Greece would restrict delimitation to the Greek islands and nearby Turkish coast.³⁸

1. Exclusive economic zones

A related issue is that of exclusive economic zones (EEZ), a concept first articulated in UNCLOS that usually covers the same general area as a continental shelf and adds the exclusive right to manage and exploit fisheries and other resources therein.³⁹ Neither side has claimed an EEZ in

³⁶ Defined in the 1958 Continental Shelf Convention and reaffirmed in 1982 in UNCLOS, extending up to 200 nautical miles (around 370km).

³⁷ "The main fault on the Greek side is that the Greek public is not educated that there is not just one issue, namely the continental shelf, in the Aegean. One means three [territorial seas, continental shelf and airspace]". Crisis Group interview, retired Greek ambassador, Athens, May 2011.

³⁸ Yücel Acer, "Maritime Delimitation in the Aegean Sea", in *The Aegean Maritime Disputes and International Law* (2003), available through Journal of Turkish Weekly, www.turkishweekly.net.

³⁹ UNCLOS expanded the 1958 Geneva Convention's continental shelf provisions to cover both living and non-living resources. Article 56 gives coastal states an EEZ of up to 200 nautical miles from the coastal baseline, in which they have sovereign rights for exploring and exploiting, conserving and managing

the Aegean, and it is currently not even being discussed.⁴⁰ However, a statement by Turkish Foreign Minister Ahmet Davutoğlu that distinguished the outlying eastern island of Kastelorizo from other Dodecanese islands – something that would have major implications for the extent of any future Greek EEZ – showed the potential explosiveness of the issue.⁴¹ Turkish officials point out that any establishment of an EEZ in the Aegean would close many traditional fishing grounds in the high seas to Turkish fishermen.⁴² A U.S. expert on law of the sea points out that Turkey may have cause for concern:

Coastal state jurisdiction in the EEZ, mainly directed to natural resource activities, also includes some other competences, notably arrest powers and limited regulatory powers over navigation for environmental purposes. The EEZ as seen by some people in Brussels could well evolve into something that looks much more like a territorial sea, which elevates the matter to a major psychological issue regarding encirclement.⁴³

At the same time, there is no sign yet of much oil and gas under the Aegean, and the two sides would have to resolve their differences to get energy companies seriously interested in investing.⁴⁴

2. Legal underpinnings

Turkey's demand for the continental shelf to be measured from the two countries' mainland baselines, countering Greece's claim that the continental shelf should be meas-

living resources. States also have economic rights over non-living resources (such as hydrocarbons), covered in provisions relating to the continental shelf. Article 59 provides the basis for the resolution of conflicts regarding the attribution of rights and jurisdiction in the EEZ.

⁴⁰ "We have enough problems with Turkey without bringing in EEZ". Crisis Group interview, Greek official, April 2011.

⁴¹ Davutoğlu said Kastelorizo "belongs in the Mediterranean", not the Aegean. *Kathimerini*, 6 March 2011. "[K]astelorizo is located geographically in the Mediterranean. Delimitation of maritime zones in the eastern Mediterranean should be addressed separately [from] the Aegean as there are more than two coastal states in the region. Nonetheless, Turkey does not rule [out] any peaceful settlement means to address this question". Crisis Group email correspondence, Turkish official, July 2011. "Greece can never come to an agreement [with Turkey] if Kastelorizo is left out". Crisis Group interview, Greek official, April 2011.

⁴² Crisis Group email correspondence, July 2011.

⁴³ Crisis Group email correspondence, July 2011.

⁴⁴ "The real wealth of the Aegean is not oil, which does not exist anyway. It is the environment and tourism. An accident with oil tankers would be the real disaster for Turkey and Greece". Crisis Group interview, Angelos Syrigos, Greek academic and expert on international law and the Aegean Sea, Istanbul, 15 May 2011.

ured from its islands' baselines, stems from the "median line" concept set out in the 1958 Geneva Convention, Article 6(1).⁴⁵ This says that when the same continental shelf is adjacent to territories of two or more states with opposite coasts, the boundary will be determined by an agreement between them. In the absence of agreement, and unless another boundary line is justified by special circumstances, a median line will be used, every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each state is measured.

The later UNCLOS (Article 83 on delimiting the continental shelf) does not speak of a median line, saying instead that states with opposite or adjacent coasts should simply reach an "equitable solution" on the basis of international law. Both conventions are ambiguous on the methods of delineating maritime boundaries, which is why the ICJ and arbitral tribunals have become instrumental in resolving disputes.

An island's right to a continental shelf is a thorny issue in international law; its location or socio-economic features can affect maritime delimitation, and decisions of international courts and tribunals have often restricted islands' maritime limits. The much-cited ICJ judgement on the 1969 North Sea case, in particular, treated the continental shelf as a natural prolongation of the mainland and concluded that no single method of delimitation, including the equidistance principle, was obligatory.⁴⁶

In the 1976 *Hora* incident (see above), Greece asked the ICJ to rule on whether the Greek islands had their own continental shelves. The court in September 1976 rejected a request for interim measures to block Turkey's activities in disputed areas, saying it was unable to find a risk of ir-

reparable injury to Greece's rights.⁴⁷ In December 1978 it ruled that it had no jurisdiction, so would entertain the case only if the parties jointly submitted it, which Security Council Resolution 395 has recommended.⁴⁸

C. AIRSPACE AND OVER-FLIGHTS

Aegean airspace problems include past Turkish over-flights of inhabited islands, Turkey's refusal to submit flight plans for military aircraft flying inside the Athens Flight Information Region (FIR) and the disputed extent of Greek national airspace.

Aerial harassment degrades regional air safety. Incidents can be provocative and diplomatically embarrassing, especially in connection with high-level meetings, as was the case during Turkish Prime Minister Recep Tayyip Erdoğan's visit to Greece in November 2002 and Greek Prime Minister George Papandreou's visit to Turkey in January 2011.⁴⁹ The issue has proved resistant to confidence-building steps, and a U.S. official familiar with it pointed out that air force commanders are the only military chiefs of the two sides who have not yet had bilateral contacts.⁵⁰

Greece extended its airspace from three nautical miles to ten nautical miles with a 1931 presidential decree, an apparently unique act based on the distance at which an aircraft engine could then be heard.⁵¹ However, Article 2 of

⁴⁵ Turkey has not ratified the 1958 Geneva Convention.

⁴⁶ The 1969 ICJ judgement on the North Sea continental shelf case brought by Netherlands and Denmark against the Federal Republic of Germany recognised that the right of islands' to continental shelves may be limited; a 1977 award in an arbitration on continental shelf delimitation between the UK and France gave "half effect" to the Scilly Isles (the boundary line was halfway between an equidistance line between the mainland coasts and an equidistance line between the Scilly Isles and France); a 1984 ICJ ruling on judgment in the Gulf of Maine case between Canada and the U.S. gave only half effect to a coastal Canadian island; a 1985 ICJ judgment in the Malta/Libya case concerning delimitation of the continental shelf between the opposite coasts of Malta and Libya disregarded a Maltese island; a 1985 arbitral award in the Guinea-Guinea Bissau arbitration provided that certain islands played only a limited role in calculating coastal length for the purpose of maritime delimitation; and a 1996 award in the Eritrea-Yemen arbitration disregarded mid-sea islands and used a median line. "There is no way the islands can have full-effect continental shelves. This has been the jurisprudence of the ICJ". Crisis Group interview, Greek lawyer and expert on law of the sea, Athens, May 2011.

⁴⁷ *Aegean Sea Continental Shelf Case (Interim Protection)*, ICJ, 11 September 1976.

⁴⁸ The ICJ held that it did not have jurisdiction because Greece had relied upon Article 17 of the General Act of 1928 for the Pacific Settlement of International Disputes and had a reservation to the Act concerning "disputes relating to the territorial status of Greece". The court also dismissed Greece's second proposed basis for jurisdiction, a joint press communiqué in 1975 asserting that the two states had agreed to resolve their dispute regarding the continental shelf at the ICJ, saying it did not constitute an immediate and unqualified commitment to submit the dispute. Turkey filed a letter contesting the court's jurisdiction but did not submit any pleadings or participate in the hearings on interim measures or jurisdiction. *Aegean Sea Continental Shelf Case (Jurisdiction of the Court)*, ICJ, Judgment of 19 December 1978.

⁴⁹ "What is Turkey trying to prove?", Papandreou complained to his audience, which included Prime Minister Erdoğan and Foreign Minister Davutoğlu, referring to eight Turkish planes that flew over a Greek island on 5 January, just days before his visit. "Papandreou rebuke highlights unresolved issues with Greece", *Today's Zaman*, 10 January 2011.

⁵⁰ Crisis Group interview, Washington DC, February 2011.

⁵¹ Crisis Group interviews, Greek academics and foreign policy experts, Athens, May 2011. "The decree of 1931 established, on the basis of and according to international law, a territorial sea of ten nautical miles, just limiting the exercise of full sover-

UNCLOS and Article 2 of the 1958 Convention on Territorial Sea and Contiguous Zone agree that national airspace cannot extend beyond the territorial sea.⁵²

Turkey did not challenge the legal basis of the Greek ten nautical mile airspace limit until 1975,⁵³ but Athens says Turkey now violates this claimed airspace every day to make its non-recognition point.⁵⁴ Usually, this involves flying in the area between the claimed ten nautical mile limit and the recognised six nautical mile limit.⁵⁵ Until recently, however, Turkish jets also conducted low altitude flights directly above Greek islands.⁵⁶ Every time a Turkish military jet takes off over the Aegean, a Greek jet intercepts it, resulting in frequent mock dogfights.⁵⁷ In the past fifteen years, one Turkish pilot has been killed by direct Greek fire, two Greek pilots have been killed in collisions, and two

Greek pilots and one Turkish pilot have died in related training accidents.⁵⁸

Additionally, Greece complains that Turkey ignores the Athens FIR flight regulations when it stages military flights over the Aegean.⁵⁹ Greece says Turkey stopped filing military flight plans with the Athens FIR during tensions over Cyprus in 1974;⁶⁰ Turkey argues that Article 3(a) of the 1944 Convention on International Civilian Aviation requires only civilian aircraft to submit flight plans.⁶¹ Greece argues that the convention demands the same of military aircraft, based on Article 3(d), which refers to civil and military coordination for the safety of international air traffic.⁶² In fact,

eighty in the airspace above". Crisis Group email correspondence, Greek official, July 2011.

⁵² Article 1 of the 1944 Convention on International Civil Aviation similarly provides that "[the] contracting States recognise that every State has complete and exclusive sovereignty over the airspace above its territory".

⁵³ Greece argues that Turkey's silence between 1931 and 1975 implied acquiescence. Italy held the islands close to Turkey until 1947, and Ankara argues that Athens only included its ten nautical mile regulation in its Aeronautical Information Publication in 1974. Crisis Group interview, Ümit Pamir, retired Turkish ambassador, Istanbul, 26 May 2011.

⁵⁴ As of May 2011, the Hellenic National Defence General Staff listed 473 airspace violations by Turkey and 151 "armed violating formations" – large groups of armed planes sometimes including bombers and fighters, according to Greek officials. However, it mentioned only one over-flight incident in 2011, in January – a considerable drop from twenty in 2010 and 51 in 2009. www.geetha.mil.gr. As of 2 June 2011, the Turkish Armed Forces listed 73 incidents in 2011 in which Greece violated Turkish airspace or harassed Turkish planes in what Turkey considers international airspace. www.tsk.tr.

⁵⁵ Greek officials complained that until recently over 50 per cent of violations went closer than six nautical miles, although this dropped to 30 per cent in recent months. Crisis Group email correspondence, June 2011. A retired Turkish general said the intention of these flights is not to violate the recognised six nautical mile limit, although that may happen "by accident". Crisis Group interview, Ankara, April 2011.

⁵⁶ "They have gone as low as 200-300 metres off the ground, flying over houses". Crisis Group interview, Greek official, Athens, May 2011. Two inhabited islands often subjected to over-flights are Agathonisi and Farmakonisi in the central Aegean (five to six miles from the Turkish coast). Such over-flights have not happened since Papandreou's January 2011 visit to Turkey, however. Crisis Group interview, Greek officials, Athens, May 2011.

⁵⁷ "Greece is obliged to use its aircraft in order to make necessary interceptions or recognitions on a case by case basis". Crisis Group interview, Greek official, Athens, May 2011.

⁵⁸ Turkish pilot Nail Erdoğan died on 8 October 1996 due to fire from a Greek plane. Greek pilot Kostas Iliakis died on 23 May 2006 after colliding with a jet from which the Turkish pilot safely ejected. A Turkish pilot died during training on 5 March 2007, and two Greek pilots died when their F16s crashed on 26 August 2010. "There are huge figures for how much the dogfights cost". Crisis Group interview, European military official, Athens, May 2011.

⁵⁹ A related problem involves Search and Rescue Areas (SAR), which Greece bases on the Athens FIR. This overlaps in parts of the Aegean with Turkey's SAR, since Turkey adopted a law in January 1989 extending its SAR to half of the Aegean. A Turkish official lightly commented that the Aegean is the safest sea in which to have an accident, because both countries would send their rescue teams. Crisis Group interview, Ankara, April 2011.

⁶⁰ Turkish officials say 1974 was a "crisis of confidence", although they reject claims that Turkey ever filed military flight plans. Crisis Group interviews, Ankara, April 2011. In August 1974, Turkey issued Notice to Airmen (NOTAM) 714, declaring that the eastern Aegean was too dangerous an area to be controlled by the Athens FIR and extending control of the Istanbul FIR to roughly half the Aegean, to which Greece responded with NOTAMs 1066 and 1157, in effect closing the Aegean to all flights until the respective NOTAMs were withdrawn in 1980.

⁶¹ A Turkish official said the problem is unique to relations with Greece and that no other neighbour requires flight plans for Turkish military flights in FIRs. Similarly, Turkey does not require such requests for flights within its FIRs. Crisis Group email correspondence, June 2011. A European official from a NATO member country agreed: "As NATO members, it's protocol or good practice to let the other country know what you're doing there, although it is not required by international law. So contrary to what Greece says, Turkey does not infringe the Athens FIR in violation of international law – it does so against NATO protocol". Crisis Group interview, Ankara, April 2011. A European diplomatic researcher pointed out that neither the U.S. nor UK submit advance plans such as those Greece requests from Turkey. Crisis Group telephone interview, June 2011.

⁶² "The coordination of air traffic, concerning both civil and military aircraft in international airspace, is absolutely necessary for the safety of air navigation and consists in the exchange of all the flight information within an FIR. In this respect the submission of a flight plan is the basic rule of ICAO and accomplishes the 'due regard' that state aircraft are obliged

FIRs entail solely technical responsibilities, such as providing facilities and air traffic services, and cooperation with them cannot affect the status of airspace over high seas. The Athens and Istanbul FIRs were decided at International Civil Aviation Organisation (ICAO) meetings in Istanbul (1950) and Paris (1952).⁶³ At that time, Turkey wanted Greece to exercise FIR control over the Aegean, probably as a cost-saving measure.⁶⁴

D. AEGEAN MILITARISATION

Turkey started giving diplomatic notes to Greece in 1964 protesting that it was arming several Aegean islands whose demilitarised status had been stipulated by international agreements, including the 1923 Lausanne Convention on the Straits, the 1923 Lausanne Peace Treaty and the 1947 Paris Treaty.⁶⁵ Greece acknowledges having done so with two islands in the northern Aegean, arguing that the 1936 Montreux Convention supersedes all demilitarisation clauses of the Lausanne Convention. On other islands in the northern and central Aegean, Greece says, it complies with

to have for the safety of civilian air traffic according to article 3 (d) of the Chicago Convention". Hellenic National Defence General Staff, www.geetha.mil.gr. Greek officials say they request plans for all flights entering the Athens FIR, and prior notification is a "general practice" worldwide. Crisis Group email correspondence, June 2011. To ensure air safety, Turkey has instead proposed to use Identification Friend or Foe (IFF) systems to preclude intercepts, but Greece refused because it would carve out a special exception to the Athens FIR. "Greece and Turkey: Aegean Issues – Background and Recent Developments", U.S. Congressional Research Service Report for Congress, 21 August 1997.

⁶³ "It was purely for geographical reasons that Greece was given control of the FIR over the Aegean. But it also reflects the international community's perception that this geographical area should be controlled from Athens". Crisis Group interview, retired Greek ambassador, Athens, May 2011.

⁶⁴ Crisis Group interview, Ümit Pamir, retired Turkish ambassador, Istanbul, 26 May 2011.

⁶⁵ Article 4 of the Lausanne Convention on the Straits fully demilitarised northern Aegean islands, including the Greek islands Samothrace and Lemnos, Turkish islands Gökçeada (Imbros) and Bozcaada (Tenedos), and the Turkish straits. The 1936 Montreux Convention allowed Turkey to remilitarise the straits but did not mention the islands. Article 13 of the Lausanne Peace Treaty put military restrictions on Lesbos, Chios, Samos and Nikaria in the northern and central Aegean, concerning naval bases and fortifications, and limited Greek military forces to the normal contingent called up for military service as well as to a force of gendarmerie and police proportional to that on the whole of Greek territory. Article 14 of the 1947 Paris Treaty states that the Dodecanese islands will remain demilitarised, but Turkey has been protesting fortifications in some of these, such as Rhodes and Kos, since 1964.

Lausanne's military restrictions,⁶⁶ while Turkey says Greece started secretly militarising the islands there in the 1960s and has been doing so openly since the 1974 Cyprus crisis. Lastly, with regard to the Dodecanese, whose demilitarisation was dictated in the 1947 Paris Treaty, Greece acknowledges that it began militarisation in 1974 but says this was an exercise of legitimate self-defence.⁶⁷

Militarisation became more blatant after 1974, as Cyprus frictions led to a loss of confidence and raised security concerns on both sides. Greeks say the Turkish threat continues to justify militarisation of the islands.⁶⁸ Turkey in turn established its Fourth Army (also called the Aegean Army), which Athens sees as a potential aggressor, on the coast at Izmir in 1975, to cope with the contingency that an attack might be launched from nearby Greek islands.⁶⁹ It considers militarised islands near the sea routes from the Marmara Sea to the Mediterranean a "very serious security impasse".⁷⁰ Although Greece believes the international community is sympathetic to its security concerns, Turkish officials say they would have already taken the case to The Hague had Greece not put a national defence issue reservation on its general acceptance of ICJ jurisdiction.⁷¹ On the other hand, Turkey expresses little appreciation for Greek concerns about the Fourth Army and the disparity in amphibious forces.⁷²

⁶⁶ Crisis Group interview, Greek official, April 2011.

⁶⁷ Ibid. Some Greeks dispute the military logic, because, they say, Greece will never be in a position to attack Turkey from the islands. Crisis Group interview, Thanos Dokos, director-general, Hellenic Foundation for European and Foreign Policy (ELIAMEP), Athens, 10 May 2011. Others say militarisation of the islands is key to deterring a Turkish attack. "After 1974, the first thing you feel as a Greek is that the islands are under threat". Crisis Group interview, Greek academic, Athens, 12 May 2011.

⁶⁸ Crisis Group interview, Greek official, Athens, May 2011. "Do we have a problem with Albania, Italy or FYROM that would require militarisation? No. Clearly, 90 per cent of the Greek defence budget is directly related to the 'threat' coming from Turkey". Crisis Group interview, Greek academic, Athens, 12 May 2011.

⁶⁹ Turkey says its Fourth Army "has a defensive character". See www.mfa.gov.tr/background-note-on-aegean-dispute.en.mfa.

⁷⁰ Davutoğlu, *Stratejik Derinlik* [Strategic Depth], op. cit., p. 171.

⁷¹ Crisis Group interview, Turkish official, Ankara, April 2011. When accepting compulsory jurisdiction of the ICJ according to Article 36/2 of the Statute of the Court on 20 December 1993, Greece excluded any dispute relating to defensive military action.

⁷² "Turkey's Aegean army is not as big as its other armies. It has one army headquarters, two brigades and associated units". Crisis Group interview, Armağan Kuloğlu, retired general, Ankara, 19 April 2011. "The Izmir army is just on paper". Crisis Group interview, Ümit Pamir, retired Turkish ambassador, Istanbul, 26 May 2011. "It is true that Turkey has a large naval presence with nineteen frigates. But why is this a problem for Greece?"

Military exercises carried out in the Aegean can poison the atmosphere. Positively, the two countries have been informing each other of such exercises since 1999,⁷³ but tensions continue within NATO, which Turkey does not allow to conduct military exercises involving militarised Greek islands.⁷⁴ Militarisation of the Aegean is a costly distraction, given that both countries are in NATO.⁷⁵ Greece spent around €6 billion (2.8 per cent of GDP), on defence in 2010, about half a billion euros less than it is committed to cut spending by in 2011, pursuant to the latest euro rescue agreement with its EU partners. Officially, Turkey spends 2.3 per cent of GDP on defence.⁷⁶ Greece in particular has an urgent interest in reducing defence spending,

but mutual restraint in this field can only happen if other issues causing insecurities are resolved first.⁷⁷

IV. ACHIEVING AN AEGEAN SETTLEMENT

While Greece and Turkey have transformed their relationship for the better over the past decade, the confrontational Aegean Sea legacy of the 1970s, 1980s and 1990s still needs clearing away. Both sides have moved beyond their hard-line positions on the Aegean dispute. Back then, Turkey insisted that a number of related issues should only be solved bilaterally, while Greece considered delimitation of the continental shelf the only legitimate issue and insisted on taking it to the ICJ. Now Turkey mentions going to the court, and Greece discusses multiple issues in bilateral talks, including territorial seas and airspace.⁷⁸ But a shared vision and common ground are still lacking.⁷⁹

Crisis Group telephone interview, Turkish official, June 2011. While Greece has just seven landing craft, Turkey has 41 landing craft and seven landing ships, the biggest of which can carry 980 troops and seventeen tanks. "Military Balance", International Institute of Strategic Studies, 2011.

⁷³ There was no protest from Greece, for instance, when Turkey carried out a search and rescue drill between Lesbos and Chios in May 2011. Greek officials say Greece never protests SAR drills in international waters and only protests a Turkish SAR that overlaps Greek SAR and Greek sovereignty in the Aegean. Crisis Group email correspondence, Greek official, July 2011.

⁷⁴ Today, officials say there is less tension between the two countries in NATO, but Greek resentment from the Cold War era that NATO often sides with the larger and militarily stronger Turkey still lingers. Crisis Group interviews, U.S. officials, Washington and Ankara, February-April 2011. "Greece-Turkey has always been a sore spot in NATO. They have an antagonistic relationship; it is the only such case in NATO". Crisis Group interview, U.S. official, Ankara, April 2011.

⁷⁵ "The cost of the Aegean dispute for Greece is difficult to assess economically. Nobody knows what the underground wealth is. There is certainly an opportunity cost there". Crisis Group interview, Greek official, Athens, May 2011. "The cost is tremendous. But nobody is held accountable; it is simply happening". Crisis Group interview, Greek academic, Athens, 12 May 2011. "The financial dimension is less important than the political, human and psychological costs and the cost of missed opportunities for cooperation". Crisis Group interview, Thanos Dokos, director-general, Hellenic Foundation for European and Foreign Policy (ELIAMEP), Athens, 10 May 2011.

⁷⁶ In the mid-1990s it was around 5.5 per cent of GDP in Greece and about 4 per cent in Turkey. "Greece and Turkey: Aegean Issues", op. cit. Even with a reduced defence budget in 2010, Greece still has the highest allocation in real terms of NATO's European member states. Turkey's military spending in 2010, at around \$15 billion, corresponded to one third of Greece's on a per capita basis. Greek experts point out the current figures do not include payments for former programs that were channelled through the finance ministry, since weapons already bought appear as "former debt" in other ministries' budgets. Crisis Group interviews, Athens, May 2011. "The whole logic of this was Turkey. With the economy crumbling, is it worth spending this kind of money towards a non-existent enemy?" Crisis Group interview, Harry Tzimitras, Greek academic, Istanbul, 6 May 2011.

A. PUSHING ATHENS-ANKARA TALKS OVER THE HUMP

Until 2002, high-level bilateral contacts were intermittent. For more than two decades after Turkey applied in 1987 for EU membership, Aegean and Cyprus problems persuaded Greece to block its candidacy, access to EU funds and participation in many joint initiatives. Relations sank to their nadir in 1999, following the revelation of Greece's role in sheltering Turkish Kurd insurgent leader Abdullah Öcalan – the head of the Kurdistan Workers' Party (PKK), an organisation regarded as terrorist by Turkey, the EU and the U.S.

But that was also the year that changed the bilateral relationship. Shared suffering in the 1999 earthquakes allowed a mutual warming of public opinion. Greece needed better relations to reduce its military budget to help it join the European Monetary Union and it wanted to move the Aegean conflict to an EU forum.⁸⁰ In return for EU guar-

⁷⁷ The Greek defence ministry insists that as long as the situation in the Aegean and airspace violations continues every day, Greece cannot cut its defence budget. Crisis Group interview, Greek officials, April-May 2011.

⁷⁸ Crisis Group interview, Greek officials, Athens, May 2011. Greek officials also said it is not necessary to take everything to court if the sides can "bilaterally find solutions".

⁷⁹ Crisis Group interviews, Turkish and Greek officials, Ankara and Athens, April-May 2011.

⁸⁰ "The idea behind Greece's U-turn on Turkey and the EU was to make Turkish-Greek problems the EU's problem". Crisis Group interview, Greek academic, Athens, 12 May 2011. "The Greek point of view on Turkey's EU membership is an opportunistic

antees that the Greek Cypriot-run Republic of Cyprus would become a member – whether or not that island was first reunified – Athens in December 1999 allowed Turkey to become a formal candidate for EU membership.⁸¹

Exploratory talks on Aegean issues had a promising start in March 2002 but broke down when Greek Prime Minister Costas Simitis got cold feet in the lead-up to national elections in 2004.⁸² Talks stalled under Prime Minister Costas Karamanlis's New Democracy Party that year but were re-energised after George Papandreou's PASOK came to power in October 2009. Papandreou and his Turkish counterpart, Recep Tayyip Erdoğan, decided to intensify contacts in 2010.⁸³ Greece was removed that year as a threat in Turkey's National Security Policy Document.⁸⁴

Many Turks respect Prime Minister Papandreou for his role in the 1999 earthquake diplomacy and his forging of friendship with the late Turkish Foreign Minister İsmail Cem. Erdoğan is popular in Greece.⁸⁵ The countries now cooperate in a wide range of areas.⁸⁶ Greek tourists flock to Is-

tanbul, and Greece's eastern Aegean islands have become an attractive destination for Turks; a popular Turkish television series was even filmed on both the Turkish Aegean coast and a Greek island.

The foreign ministries have held over 50 rounds of exploratory talks since 2002, aimed at achieving convergences that would allow them to draft an agreement for referring one or more issues to the ICJ. While these are confidential, experts familiar with them say they do not treat technical issues (such as maritime zones) at this point.⁸⁷ Greece expects to be able eventually to take the continental shelf issue to the ICJ.⁸⁸ Turkey wants to reach as much convergence as possible bilaterally and would then be willing to bring the unresolved matters to the court.

Greece considers that the Turkish military is a main impediment to conflict resolution.⁸⁹ Turkey's government has at times suggested it cannot control the military, but many third-country officials are not convinced.⁹⁰ Some argue that

one. If the Aegean was solved tomorrow, I wonder if Greece would still favour Turkey's EU membership". Crisis Group interview, European official, Ankara, April 2011.

⁸¹ For more, see Crisis Group Europe Report N°184, *Turkey and Europe: The Way Ahead*, 17 August 2007.

⁸² Crisis Group interviews, Athens, May 2011.

⁸³ Erdoğan also proposed a new "code of conduct" for the safety of military flights in the Aegean and a High Level Strategic Cooperation Council. They signed 22 bilateral agreements, mostly on trade and investment. Bilateral trade rose over three-fold in the decade to reach \$3 billion in 2010; direct Greek investments in Turkey amount to €5 billion, including purchases of Turkish banks by Greek financial institutions in the past few years.

⁸⁴ However, a reference remained to the extension of territorial seas as a threat. Crisis Group interview, Armağan Kuloğlu, retired Turkish general, Ankara, April 2011.

⁸⁵ Crisis Group interviews: "I think he will have the Aegean and Cyprus [problems] solved by the end of the year. He will do these for the EU and also because it is a headache for any foreign minister", Greek lawyer and academic familiar with the talks, Athens, May 2011; "I think we will see a gesture on Cyprus and the Aegean [from Erdoğan's AKP government] after the June elections in Turkey", PASOK official, Athens, May 2011; "Erdoğan is probably the most popular Turkish politician in Greece in a long time. [Greeks] feel they can trust him. He would win the elections here", Thanos Veremis, Greek academic and former president of Greek Council on Education, Athens, 11 May 2011; "Erdoğan's visit to Athens [in 2010] was a very positive move; it gave the feeling that we can solve this issue", Nick Malkoutzis, deputy editor, *E-Kathimerini* (English), Athens, 10 May 2011.

⁸⁶ A second meeting on a climate change joint initiative, for example, is planned in fall 2011. Turkey has said it intends to return the Halki Greek Orthodox seminary in Istanbul (closed since 1971) and lift the requirement the Greek Orthodox Ecumenical Patriarchate choose a Turkish citizen as Patriarch. It

has allowed Greece to build an embassy on land granted to it in Ankara in the 1930s. Greece has been cautious about not bringing up the exclusive economic zone issue despite domestic pressures.

⁸⁷ Crisis Group interviews, Istanbul and Athens, April-May 2011.

⁸⁸ "We don't expect all problems regarding maritime zones to be resolved in the talks. But we expect to clear the ground, have the common ground for an agreement We don't expect triumphs or victories. We know there are no automatic solutions, even if Turkey signs UNCLOS. We accept this. But at least [its signing] would provide a legal basis to take the issue to The Hague". Crisis Group interview, Greek official, Athens, May 2011.

⁸⁹ "There is a fixation in Greece that nothing changes in Turkey, especially about the army. Even with the recent deconstruction of the army, they still don't accept things have changed". Crisis Group interview, Harry Tzimitras, Greek academic, Istanbul, 6 May 2011.

⁹⁰ A leaked 2004 U.S. cable quoted Prime Minister Erdoğan saying he could not stop the military flights in the Aegean because "he did not control the military". U.S. embassy The Hague 003166, as published by Wikileaks. A Turkish foreign ministry official was quoted in a 2010 U.S. cable admitting that direct over-flights are counterproductive for efforts to improve ties with Greece, and the foreign ministry had pressed the military to minimise them. U.S. embassy Ankara 1673, as published by Wikileaks. Crisis Group interviews: "if Erdoğan wanted to pursue a more ambitious and courageous policy on bilateral relations with Greece and bring the military with him, he could have done that. But he is not prepared to invest anything in this issue at this point", former U.S. diplomat, Washington DC, February 2011; "the government is not afraid [of the military]. So why can they not exert control over over-flights?", U.S. official, Ankara, April 2011; "the policy of confronting Greeks with jets is a government policy guided by the foreign ministry and not the military", European official, Ankara, April 2011; "Erdoğan is regularly appraised about how often Turkish planes fly [in the Aegean]. His government chooses not to influence it", European military official, Ankara, April 2011.

the military could even facilitate a solution.⁹¹ As in Greece, a degree of nationalist discourse exists in Turkey, but the Aegean has never been as big an issue for Turks.⁹² Greeks think that for Turkey the Aegean is not a priority and that Ankara can keep talks going without a settlement at a low domestic cost.⁹³ Indeed, Turkey's fading interest in the EU, due to its essentially stalemated membership prospects, makes Greece increasingly uneasy that it is losing diplomatic leverage over its neighbour.⁹⁴

1. Delinking from Cyprus

In private, both have largely abandoned the old idea that a solution in Cyprus is the precondition for an Aegean settlement, even if Cyprus is still a factor.⁹⁵ A settlement over the divided island would help ease Aegean disputes but is unlikely soon, with deadlock looming in the latest round of

⁹¹ "The Turkish military would be pleased to have a settlement in Cyprus and wants resolution of issues as far as the Aegean is concerned. It would free up resources". Crisis Group interview, retired U.S. diplomat, Washington DC, February 2011.

⁹² "A Turkish government wouldn't lose an election because of a compromise in the Aegean". Crisis Group interview, U.S. official, Ankara, April 2011. "In the Greek press, Greek-Turkish relations are under the political desk, not the foreign editors desk, so they often appear on the first page of newspapers, whereas in Turkey, Greece is often in the back pages". Crisis Group interview, Nick Malkoutzis, deputy editor, *E-Kathimerini* (English), Athens, 10 May 2011.

⁹³ "We feel there is reluctance from Turkey in resolving the Aegean issue. They are not in a hurry". Crisis Group interview, PASOK official, Athens, May 2011.

⁹⁴ "The Greek political elite is very disappointed that the Germans and French are blocking Turkey. The Greek reaction now is 'Oh no! We have to deal with Turkey outside Europe. How do we do that?'" Crisis Group interview, Greek academic, Athens, 12 May 2011. "Greece is afraid that Turkey won't want to solve the Aegean if it falls off the EU wagon". Crisis Group interview, European official, Athens, 11 May 2011.

⁹⁵ Although official Greek policy is that there can be no full normalisation of relations with Turkey until the Cyprus problem is solved, the issue has become much less salient. Crisis Group interviews: "issues in the Aegean are so important that they are not to be used as facilitators of other problems, such as Cyprus. Of course solving these will help the climate in Cyprus", Greek official, Athens, May 2011; "I don't see a connection between Cyprus and the Aegean issue", Turkish official, Ankara, April 2011. Nevertheless, some still argue the issues are linked. Crisis Group interviews: "full normalisation [between Greece and Turkey] will not be easy without [a solution in] Cyprus. The Greek Cypriot lobby is still very influential in Athens. Greek Cypriots are better able to influence Greek politics than the other way around", Thanos Dokos, director-general, the Hellenic Foundation for European and Foreign Policy (ELIAMEP), Athens, 10 May 2011; "we don't see a full resolution of Aegean disputes until Cyprus is resolved, but it is possible to trade across issues", U.S. official, Washington DC, February 2011.

UN-led negotiations between the leaders of the Greek Cypriot and Turkish Cypriot communities. Since no one side is predominantly to blame,⁹⁶ and since Cyprus is peaceful, Greece and Turkey should further delink the problem from Aegean issues. Yet another reason is new tension between Ankara and Nicosia over the exclusive economic zone (EEZ) issue in the eastern Mediterranean, which could complicate matters when Greece and Turkey come to discuss delimitation of their own EEZs in the Mediterranean.⁹⁷ A Turkey-Greece agreement in the Aegean, however, would give an indirect political boost to the Cyprus talks, as well as help reduce tensions with regard to EEZs.

2. Europe's role

Aegean and Cyprus problems helped block Turkey from reaching EU candidate status until 1999, and the European Council seems set to apply strict rules that Turkey must resolve all border and related disputes with EU member states prior to joining.⁹⁸ While Aegean disagreements cause problems in EU operations such as FRONTEX, the EU border security agency,⁹⁹ and in EU-NATO cooperation, member states express little interest in the Aegean dispute, which they see as a bilateral issue to be resolved by the two parties, as long as they do so consistent with UN and EU principles.¹⁰⁰ Lack of progress has some effect on

⁹⁶ See Crisis Group Europe Briefing N°61, *Cyprus: Six Steps towards a Settlement*, 22 January 2011.

⁹⁷ After Israel and Cyprus agreed on 17 December 2010 to delimit their EEZs in the eastern Mediterranean for hydrocarbon exploration, the Turkish foreign ministry summoned Israel's ambassador to complain and implied there would be a physical challenge to Cypriot efforts to extract natural gas from the EEZ in south Cyprus. Turkey, unlike the EU and the U.S., does not recognise the Nicosia government's right to negotiate such agreements before reunification of the island. "It will be difficult to solve continental shelf issues in the eastern Mediterranean without Cyprus". Crisis Group interview, Greek official, April 2011.

⁹⁸ In the Presidency Conclusions (para. 4) of the 10-11 December 1999 Helsinki European Council, where it was formally recognised as a candidate country, Turkey agreed to peacefully resolve any outstanding border disputes and other related issues in accordance with the UN Charter, or if this fails, to apply to the ICJ. Greece was accepted as an EU member state despite outstanding border controversies with Turkey. "The EU took in Greece without its problems with Turkey [having been] resolved. The EU had given us a political guarantee that this would not affect our EU process in any way". Crisis Group interview, Turkish official, Ankara, April 2011.

⁹⁹ EU member states that have military assets in the Aegean as part of FRONTEX sometimes run into difficulties partly because of naval officers' uncertainty about which maps to use. "We keep getting official complaints from Turkey, then we say we're sorry". Crisis Group interview, European official, Ankara, April 2011.

¹⁰⁰ Crisis Group interview, European official, Athens, May 2011.

Turkey's EU candidacy, however, as the parliament's *casus belli* declaration, military over-flights and non-ratification of UNCLOS are often criticised in the annual reports the European Commission makes on that candidacy, as well as in Association Council meetings.¹⁰¹

B. TRANSLATING HOPE INTO REALITY

Turkey and Greece need to find a way to close the gap between their private readiness to settle the issues and public refusal to recognise how little really separates them. Confidence-building measures are already in place, including a moratorium on military exercises during summer months, despite some glitches.¹⁰² Channels of communication are open, negotiators have a good relationship, and both sides are optimistic about the talks.¹⁰³ There have been no Turkish over-flights of Greek islands since January 2011. Mutual defence cuts were discussed during Prime Minister Erdoğan's visit to Greece in 2010, even if nothing crystallised.

Greece would benefit from a deal but is preoccupied by its economic crisis. However, there is a strong new government in Turkey that, after winning 50 per cent of the vote in June 2011 general elections, can take bolder moves on foreign policy issues, including the Aegean dispute. Full normalisation with Greece would polish its EU credentials and send a strong signal to Greek Cypriots about its commitment to settling disputes. More broadly, some believe that Turkey's legalistic sparring over the Aegean

distracts it from the need to focus on more important matters, like a real policy to improve its maritime logistics.¹⁰⁴

Given the strong relationships of all involved, Turkey and Greece should synchronise a series of steps to achieve a settlement, their leaders appearing together before their publics to announce each stage of balanced, mutually beneficial measures. A possible roadmap could involve four stages as follows:

Stage 1: Build trust

Turkey should announce a formal end to over-flights of Greek islands, quietly suspend other military activity in Greece's claimed airspace over the Aegean and avoid any statements that could be deemed provocative.¹⁰⁵ It should also publicly emphasise that it accepts Greek sovereignty over Aegean islands and has no intention of going to war over territorial seas – something Turkish officials say in private.¹⁰⁶ It should convince Greece that its Fourth Army is a nominal force that will be disbanded or relocated once Greek islands are demilitarised, and it should demonstrate through mutual visits that its fleet of landing craft constitutes no threat.

At the same time, Greece should pledge to demilitarise its islands, in line with its treaty commitments, as soon as an Aegean agreement is ratified. Even before then, it must start to remove psychological blocks to such a settlement in Greek public opinion, even though this will be difficult in the tense climate of the current economic crisis.¹⁰⁷ Politi-

¹⁰¹ "Sending planes everyday [to challenge another country's airspace] – that never happens in the EU. From an EU point of view, this is a very ugly border conflict". Crisis Group interview, European official, Ankara, April 2011. The Association Council, one of the main institutions set up under Turkey's 1963 Association Agreement with the EU's predecessor, the European Economic Community, meets regularly and brings representatives from the EU and member states together with Turkish government representatives.

¹⁰² Greek officials stated that the confidence-building measures only include "scheduled military exercises", while unannounced breaches and over-flights still continue in the summer. Crisis Group interview, Athens, May 2011. "Turkey is prepared to reinforce the existing confidence-building measures and work on new ones. [We] proposed a code of conduct to Greece for military air activities of both sides in the Aegean to reduce the risk of accidents". Crisis Group email correspondence, Turkish official, July 2011.

¹⁰³ Crisis Group interviews, Greek and Turkish officials, Ankara and Athens, April-May 2011. "Personal relations between the people working on this issue are very good, much better than in the past". Crisis Group interview, European official, Athens, May 2011.

¹⁰⁴ "Ankara is mentally landlocked; the politicians don't understand shipping. A container takes a few hours to clear customs in Rotterdam, but anywhere between two days to three weeks to clear in Turkey. Turkey should build a deep-water container transshipment port for the region, but that needs state investment and planning". Crisis Group interview, Turkish shipping executive, Istanbul, April 2011.

¹⁰⁵ Greeks were offended by Deputy Prime Minister Bülent Arınç, who said on 30 May, referring to Greece's economic woes, that Greeks were about to beg on street corners. "Arınç: Yunanistan mendil açıp dilenecek durumda", *Hürriyet*, 1 April 2011.

¹⁰⁶ "If Greece extends its territorial seas to twelve nautical miles, we're not going to invade it. We will simply not recognise it. They are over-dramatising the *casus belli* issue". Crisis Group interview, Turkish official, Ankara, April 2011.

¹⁰⁷ Crisis Group interviews: "I don't think [Prime Minister] Papandreou can take the political cost of a compromise settlement today", former foreign policy adviser to the Greek government, Athens, May 2011; "there is the impression that we are going to sign everything away because we can't afford planes There is some criticism in the Greek media that Papandreou has been too soft", Nick Malkoutzis, deputy editor, *E-Kathimerini* (English), 10 May 2011; "it is very difficult to reach an agreement with Turkey. That [Greek] government will face serious problems and may even fall the next day", Angelos Syrigos, Greek

cians and commentators need to start persuading fellow Greeks that their perceptions about total ownership of the Aegean are out of line with international law and even the views of their own experts.¹⁰⁸

Stage 2: Accept principles and flexibility

Both countries should announce that they are negotiating an Aegean settlement in line with UNCLOS's general principles on equity and special circumstances. Greece should publicly acknowledge that Turkey, as a littoral state, has certain rights that need to be defined with respect to its Aegean territorial seas, similar to those that other states with coastlines on a shared sea have agreed. It should also publicly acknowledge that, consistent with international law, it accepts that its airspace cannot be more extensive than its territorial sea and explain that its claim of ten nautical mile airspace is an anomaly that will be adjusted.¹⁰⁹ Turkey should publicly commit to ratifying UNCLOS. This means accepting, in effect, that Greece, like Turkey, has the right to extend its territorial seas to twelve nautical miles but that in practice the two countries will need to negotiate a mutually acceptable compromise arrangement. They should also jointly declare at this stage that a settlement will maintain high seas corridors in the Aegean.

Stage 3: Resolve the territorial sea dispute and establish high seas corridors

Greece and Turkey should negotiate and agree reasonable high seas corridors for international shipping through the Aegean to and from major Turkish ports and the Turkish straits to the Black Sea, with a reduction of the Greek terri-

academic and expert on international law and the Aegean Sea, Istanbul, 15 May 2011; "as soon as anything about the negotiations becomes public, it is torn apart", European official, Athens, May 2011. Defence Minister Venizelos underlined the need to "defend national sovereignty" at a time when "Greece is subjected to obvious limitations of its fiscal sovereignty", adding that "when one feels they are financially and fiscally weak, they must send a message abroad that their ability, their will to defend their country's national sovereignty ... is not bent". Excerpts, speech in parliament, 24 January 2011, Greek defence ministry.¹⁰⁸ "Greeks don't accept that the Aegean is open seas. It is deeply rooted in their minds". Crisis Group interview, lawyer and expert on law of the sea, Athens, May 2011. "I blame the politicians for failing to explain to the Greek public that the Aegean is not a Greek sea!" Crisis Group interview, Greek expert, Athens, 10 May 2011.

¹⁰⁹ "Greece is totally in the wrong as far as airspace is concerned. It goes blatantly against international law It's a bargaining chip for Greece ... [but] how will you present Greek sovereignty shrinking to the Greek public?" Crisis Group interview, Alexis Heraclides, Greek academic and expert on Greek-Turkish relations, Istanbul, 13 April 2011.

torial seas where necessary. Some Greek specialists are open to new ideas like this,¹¹⁰ and other countries have found similar bilateral solutions,¹¹¹ even if Turkish officials have not yet publicly discussed them.¹¹² Turkey and Greece have previously considered, for example, seven to eight nautical mile territorial seas for some islands.¹¹³

On a practical level, third parties do not seem to be seriously affected whether ships pass through high seas or territorial seas in the Aegean.¹¹⁴ But many international partners have a vital interest in freedom of movement to and from the Mediterranean, prominently including the U.S., EU member

¹¹⁰ Some Greeks say a unilateral extension of territorial seas to twelve nautical miles was never seriously considered by any policymaker. "It was never a possibility, but the politicians held onto it because no one wanted to admit they couldn't do that Still, Turkey's threat of declaring war doesn't sound nice". Crisis Group interview, Thanos Veremis, Greek academic and former president of the Greek Council on Education, 11 May 2011. "I think the best solution is to have ten nautical miles everywhere. If Turkey wants a corridor, they can keep the current high seas corridor between the Cyclades and Dodecanese intact". Crisis Group interview, Angelos Syrigos, Greek academic and expert on international law and the Aegean Sea, Istanbul, 15 May 2011.

¹¹¹ After the UK extended its territorial seas to twelve nautical miles in 1987, closing off the high seas corridor through the Dover Strait, it signed an agreement with France and issued a joint declaration recognising the right of unimpeded transit passage for all merchant and state vessels, as well as warships in normal mode of navigation and over-flights. Malcolm Nathan Shaw, *International Law* (Cambridge, 2003), p. 514. Another example of establishing high seas corridors is the Finland-Estonia agreement limiting their territorial seas so they do not reach closer than three nautical miles from the centre line of the Gulf of Finland. This agreement provides Russia with unimpeded access to the Baltic Sea. See www.un.org/Depts/los.

¹¹² Crisis Group telephone interview, Turkish official, June 2011.

¹¹³ In negotiations in 2002-2003, Turkey reportedly accepted this in some parts of the Aegean for some islands, and Prime Minister Simitis reacted positively, saying it was better than six nautical miles. Crisis Group interview, Alexis Heraclides, Greek academic and expert on Greek-Turkish relations, Istanbul, 13 April 2011.

¹¹⁴ "We don't file routes, and no one is currently monitoring us, although ships can be monitored if the vessel is under suspicion of smuggling weapons or illegal immigrants Merchant shipping is not affected by the Aegean dispute – we just laughed during the Imia/Kardak crisis! But if they start shooting at each other, then it could be a problem". Crisis Group interview and email correspondence, Turkish shipping executive, Istanbul, May-June 2011. "A ship sailing from Istanbul to the Mediterranean always takes the shortest route, regardless of territorial seas". Crisis Group interview, European official, Athens, May 2011.

states and Black Sea coastal states using the Aegean to reach the Mediterranean.¹¹⁵

As part of the same deal, Turkey would formally recognise Greece's territorial seas – out to twelve nautical miles, if Athens so desires, from the mainland and Aegean island coastlines, apart from the high seas corridors and from a mutually agreed median line where any such limit of a Greek island clashes with a twelve-nautical mile limit from the Turkish coastline or a treaty-defined Turkish island.¹¹⁶ Both sides should agree in advance that they will jointly refer any dispute regarding the drawing of territorial sea limits to the ICJ for adjudication in accordance with the above principles.¹¹⁷

Stage 4: Take remaining disputes, especially over the continental shelf, to the ICJ

After agreeing on their territorial seas, and related passage and airspace issues, if they still differ over the extent of their continental shelves, Greece and Turkey should commit to jointly take the issue to the ICJ.¹¹⁸ A carefully prepared

joint application could lead to a balanced and implementable decision, even though both sides fear the balance could tip against them.¹¹⁹ Some Greek islands might end up with halved or even lesser territorial seas or continental shelf, which is why some Greek analysts consider a bilateral deal a better option and the court only the ultimate refuge.¹²⁰ For most Greeks, however, the court route is still preferred, not least because a joint submission would reduce the risk that one side would be blamed domestically for compromise.

In 1975, Prime Ministers Süleyman Demirel and Costas Karamanlis agreed in principle to take the continental shelf issue to the ICJ but never settled the terms. When Greece applied unilaterally in 1976, the ICJ decided that it had no jurisdiction. In time, Turkey has come to realise that international courts do not necessarily always favour the Greek arguments, as it once feared.¹²¹ Today the problem is to decide what issues to take to the court, but if bilateral talks have been given a real chance, only a few remaining differences should require international adjudication.

V. CONCLUSION

There is nothing eternal about the Aegean Sea dispute. Territorial seas, continental shelf and sovereignty questions did not cause friction for 50 years after the 1923 Lausanne Peace Treaty and subsequent pacts assigned Aegean islands and borders between Turkey and Greece (and the Dodecanese islands, then temporarily controlled by Italy). In fact, many areas of contention are the result of a particular set of circumstances of the 1970s, 1980s and 1990s – the oil shock, tensions over Cyprus, revived bilateral mistrust and a habit of military gestures that became engrained.

The psychology of those times persists. Greeks feel vulnerable to Turkey's greater power, resent its constant military probing and are frustrated by its non-recognition of new international norms. Turkey feels hemmed in by legally respectable Greek claims to much of the Aegean, fears losing access to international waters and Aegean resources if Greek islands are given maximum maritime zones and is frustrated by the Greek tendency to seek gains in the Aegean by leveraging its EU membership against Turkey.

were to become a party to UNCLOS and also chose ITLOS under Article 287, the parties' dispute would be resolved there. In the absence of an agreement on procedure, the dispute would be submitted to arbitration.

¹¹⁹“Going to The Hague means there won't be a ‘winner take all’ decision; it will be a win-win situation, because that is how the ICJ works”. Crisis Group interview, PASOK official, Athens, May 2011.

¹²⁰Crisis Group interview, Athens, May 2011.

¹²¹ Crisis Group interview, Turkish official, Ankara, April 2011.

¹¹⁵“Freedom of navigation in the Aegean is crucial”. “The number one goal of the U.S. in the Aegean is no conflicts”. Crisis Group interviews, U.S. officials, Washington DC and Ankara, February-April 2011. “Russia and other countries that use the Aegean Sea for transport are against Greece increasing its territorial seas to twelve nautical miles and closing off the Aegean”. Crisis Group interview, Alexis Heraclides, Greek academic and expert on Greek-Turkish relations, Istanbul, 13 April 2011. “No state, if it has an alternative, will allow another state to control its access to the rest of the world. Turkey is not alone in this. The Soviet Union made clear during the law of the sea negotiations that that was its position regarding the Aegean”. Crisis Group email correspondence, U.S. law of the sea expert, July 2011.

¹¹⁶In these close-by waters, the median line would probably look similar to that established in Turkey's 1932 convention with Italy, though Turkey does not treat that document as binding. See www.mfa.gov.tr/background-note-on-aegean-disputes.en.mfa.

¹¹⁷Turkey has not signed UNCLOS, but Greece and Turkey can still choose from a range of means for settlement of their Aegean differences. UNCLOS is still instructive and provides various dispute resolution options, including the ICJ and arbitration. The Permanent Court of Arbitration (PCA), an international organisation at The Hague available even to non-UNCLOS parties, has administered five of the six arbitrations under Annex VII of UNCLOS, including that on maritime delimitation between Eritrea (not an UNCLOS party) and Yemen, which was not conducted pursuant to the dispute resolution provisions of UNCLOS. Both Turkey and Greece are member states of the PCA. However, since a first agreement between the sides in 1975 to refer the Aegean dispute to the ICJ, arbitration does not seem to have been seriously considered as an option.

¹¹⁸Under Article 287, Greece chose to submit all disputes concerning the interpretation or application of UNCLOS to the International Tribunal for the Law of the Sea (ITLOS). If Turkey

But twelve years of substantial progress toward bilateral normalisation make many of these concerns look more psychological than real. The Cyprus problem is not resolved, but the situation on the divided island has rarely been more peaceful. Growing Turkish-Greek interdependence makes actual conflict seem unimaginable. Deep in its euro crisis, Greece needs to find ways to bring down its disproportionate military budget, and Turkey needs to do all it can to help ensure its neighbour's stability. At the same time, Greece, perhaps more than most countries, has a vital interest in making sure that Turkey does not give up on its EU membership ambition. The time is ripe to resolve the expensive, outdated, unnecessary and increasingly artificial Aegean dispute.

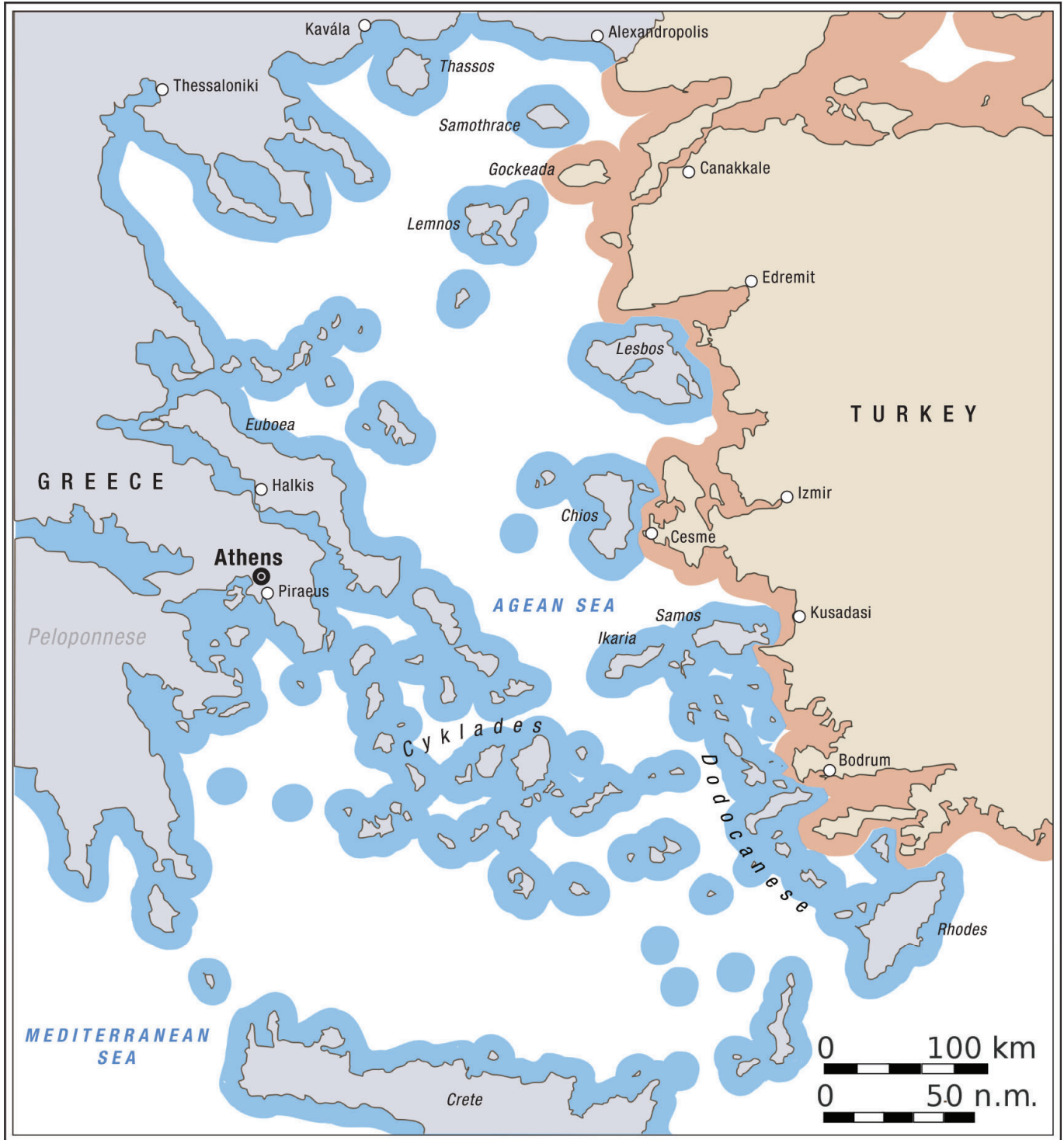
Agreement on territorial seas holds the key to building a comprehensive Aegean settlement. It would cause Turkey to lose any rationale for threatening war against Greece and underpin agreements on airspace, the continental shelf and, ultimately, exclusive economic zones. It would also help Turkey proceed towards its privately declared aim of joining almost every country in the world in accepting the maritime provisions of UNCLOS, as one day it must do if it is serious about joining the EU.

A solution ultimately requires political will and courage as much as legal finesse. Both sides will need to make public gestures and commitments. They should first try to resolve their differences bilaterally, but if they cannot reach a comprehensive settlement, they should then do what many other countries have done that have not been able to resolve all matters affecting a shared sea, namely turn jointly to the International Court of Justice for assistance.

Istanbul/Athens/Brussels, 19 July 2011

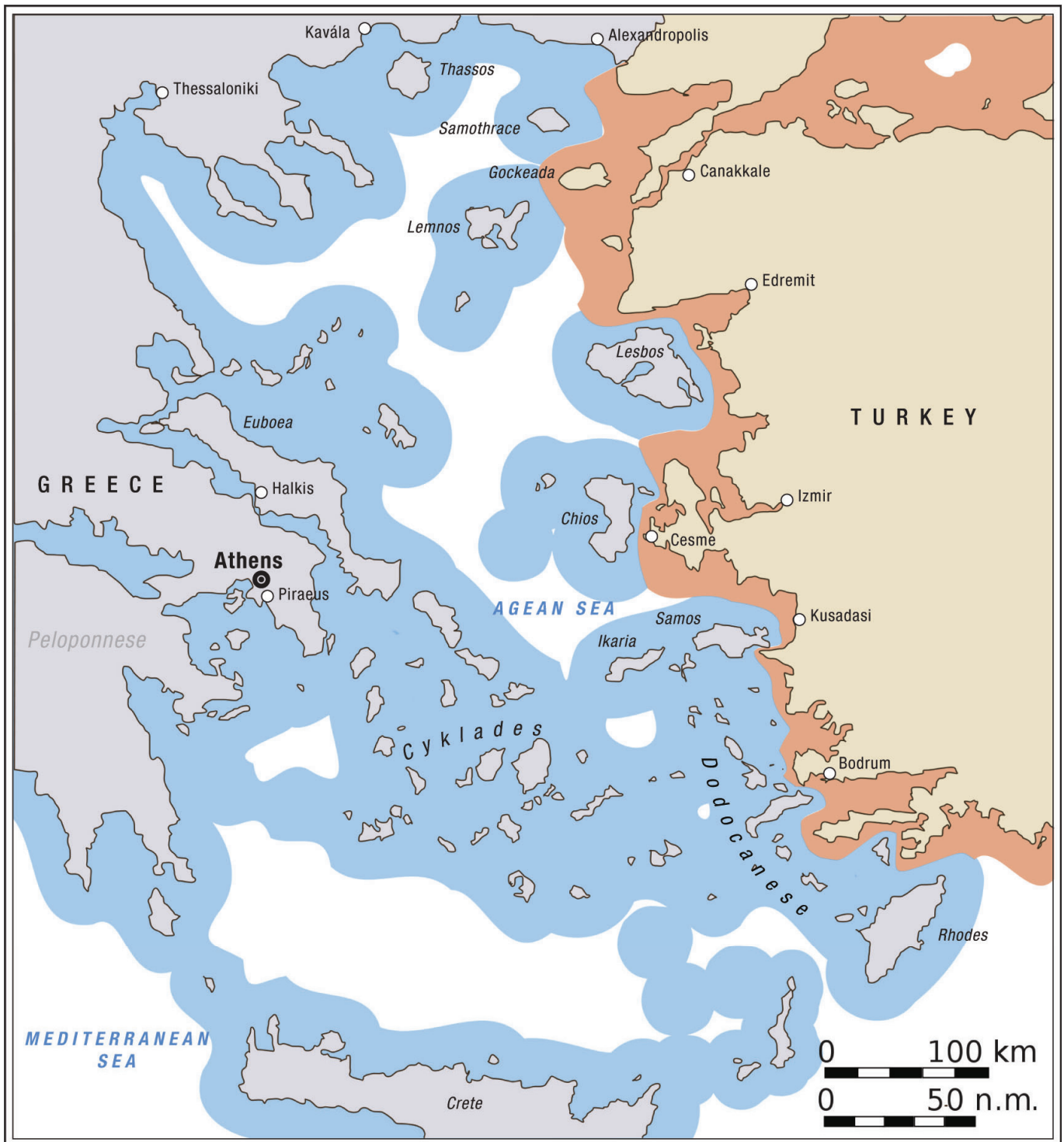
APPENDIX A

MAPS OF THE AEGEAN SEA COMPARING SIX AND TWELVE NAUTICAL MILE TERRITORIAL SEAS



Map of the Aegean, with approximate extent of current 6nm territorial waters.
http://en.wikipedia.org/wiki/File:Aegean_6_nm.svg

- Turkish territorial sea
- Distribution of Greek territorial seas in the Aegean at 6 Nautical miles



Map of the Aegean, with approximate extent of current 12nm territorial waters.
http://en.wikipedia.org/wiki/File:Aegean_12_nm.svg

- Turkish territorial sea
- Distribution of Greek territorial seas in the Aegean at 12 Nautical miles

Author: W:en: user: Future Perfect at Sunrise.

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