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 its territorial seas to twelve nautical miles from the present six. 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 re-invigorate 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. More importantly, bilateral trust collapsed in the 1970s, when an Athens-backed coup and subsequent Turkish invasion followed major clashes in Cyprus between the Greek Cypriot majority and the Turkish Cypriot community.

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. 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 I), 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. 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 intercommunal 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.


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

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. 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.

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. 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. But by the end of 1989, the process had withered.


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). 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*). 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.

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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 Heralclides, 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.
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, 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

14A 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.
15The 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.
16See 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”. 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. 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. Greece is concerned 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. 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. 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. 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. 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.

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. Indeed, a sig-

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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.
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-
Germany and Denmark, and Denmark, Sweden and Finland. The approach has also applied to areas between Japan and Korea, and Turkey and Greece. This approach has been criticized for its lack of legal basis and for its potential to undermine international law and the Aegean Sea. 1 June 2011. This approach has been criticized for its lack of legal basis and for its potential to undermine international law and the Aegean Sea.

Crisis Group email correspondence, Angelos Syrigos, Greek academic and expert on Turkish relations, Istanbul, 13 April 2011. 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. 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), 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.

It is highly unlikely that Turkey will find any international sympathy for a revision of the status of these islands. Such statements only reinforce Greek fears that it harbours expansionist designs. “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.

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”.

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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 it – 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. 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.

I. 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. Neither side has claimed an EEZ in the Aegean, and it is currently not even being discussed. 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. 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.

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.

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.

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 measured from the two countries’ mainland baselines, would have major implications for the extent of any future Greek EEZ. It is the environment and tourism. An accident with oil tankers would be the real disaster for Turkey and Greece. Crisis Group email correspondence, July 2011.

Crisis Group interview, Greek official, April 2011.

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.

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).\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{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.\textsuperscript{51} However, Article 2 of

\textsuperscript{45} Turkey has not ratified the 1958 Geneva Convention.
\textsuperscript{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 arbitral case concerning delimitation of 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.
\textsuperscript{47} 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.
\textsuperscript{48} Today’s Zaman, 10 January 2011.
\textsuperscript{49} Crisis Group interview, Washington DC, February 2011.
\textsuperscript{50} 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.\textsuperscript{52}

Turkey did not challenge the legal basis of the Greek ten nautical mile airspace limit until 1975,\textsuperscript{53} but Athens says Turkey now violates this claimed airspace every day to make its non-recognition point.\textsuperscript{54} Usually, this involves flying in the area between the claimed ten nautical mile limit and the recognised six nautical mile limit.\textsuperscript{55} Until recently, however, Turkish jets also conducted low altitude flights directly above Greek islands.\textsuperscript{56} Every time a Turkish military jet takes off over the Aegean, a Greek jet intercepts it, resulting in frequent mock dogfights.\textsuperscript{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.\textsuperscript{58}

Additionally, Greece complains that Turkey ignores the Athens FIR flight regulations when it stages military flights over the Aegean.\textsuperscript{59} Greece says Turkey stopped filing military flight plans with the Athens FIR during tensions over Cyprus in 1974.\textsuperscript{60} Turkey argues that Article 3(a) of the 1944 Convention on International Civil Aviation requires only civilian aircraft to submit flight plans.\textsuperscript{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.\textsuperscript{62}

\textsuperscript{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.

\textsuperscript{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.

\textsuperscript{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.\textsuperscript{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.

\textsuperscript{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 to have in the airspace above”. Crisis Group email correspondence, Greek official, July 2011.

\textsuperscript{52} Article 1 of the 1944 Convention on International Civil Aviation similarly provides that “[t]he contracting States recognise that every State has complete and exclusive sovereignty over the airspace above its territory”.

\textsuperscript{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.

\textsuperscript{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.

\textsuperscript{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 coordination of air traffic, concerning both civil and military 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.

\textsuperscript{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 Farmakonis 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.

\textsuperscript{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.
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). At that time, Turkey wanted Greece to exercise FIR control over the Aegean, probably as a cost-saving measure.

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. 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

Lausanne’s military restrictions, 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. 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. 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. It considers militarised islands near the sea routes from the Marmara Sea to the Mediterranean a “very serious security impasse”. 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. On the other hand, Turkey expresses little appreciation for Greek concerns about the Fourth Army and the disparity in amphibious forces.

64 Crisis Group interview, Greek official, Athens, May 2011.
65 Crisis Group interview, Greek official, Athens, 12 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 official, Athens, 12 May 2011.
67 Davutoğlu, Stratejik Derinlik [Strategic Depth], op. cit., p. 171. “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, Armagan Kuloğlu, retired general, Ankara, 19 April 2011. “The Izmir army is just on paper”. Crisis Group interview, Umit 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?”

68 Crisis Group interview, 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.
69 "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, 2011.
70 Crisis Group interview, Umit Pamir, retired Turkish ambassador, Istanbul, 26 May 2011. 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.
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, but tensions continue within NATO, which Turkey does not allow to conduct military exercises involving militarised Greek islands. Militarisation of the Aegean is a costly distraction, given that both countries are in NATO. 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. 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.

IV. ACHIEVING AN AEGEAN SETTLEMENT

While Greece and Turkey have transformed their relationship for the better over the past decade, the confrontation 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. But a shared vision and common ground are still lacking.

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. In return for EU guar-
antaees that the Greek Cypriot-run Republic of Cyprus would become a member – whether or not that island was first re-unified – 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 Istanbul, 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 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.

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.88 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. 88 “There is a fixation in Greece that nothing changes in Turkey, especially the army. Even with the recent reconstruction 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 interview: “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. As in Greece, a degree of nationalist discourse exists in Turkey, but the Aegean has never been as big an issue for Turks. 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. 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.

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. A settlement over the divided island would help ease Aegean disputes but is unlikely soon, with deadlock looming in the latest round of UN-led negotiations between the leaders of the Greek Cypriot and Turkish Cypriot communities. Since no one side is predominantly to blame, 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.

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. While Aegean disagreements cause problems in EU operations such as FRONTEX, the EU border security agency, 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 do so consistent with UN and EU principles. Lack of progress has some effect on

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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 that 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.

96 See Crisis Group Europe Briefing Nº61, 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

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 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 Polit-
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.

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 an 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.

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.  

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. 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.

### 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. A carefully prepared joint application could lead to a balanced and implementable decision, even though both sides fear the balance could tip against them. 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. 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. 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 halfed 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. 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.

By leveraging its EU membership against 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_n.m.svg

Author: W:en: user: Future Perfect at Sunrise.
Turkey and Greece: Time to Settle the Aegean Dispute

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Map of the Aegean, with approximate extent of current 12nm territorial waters.


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