The case for a Greek Exclusive Economic Zone in the Aegean Sea

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This article covers the conflict between Greece and Turkey over the Aegean continental shelf and the territorial sea limits claimed by each country. It also attempts to show that the concept of the Exclusive Economic Zone (EEZ), as developed at the Third United Nations Conference on the Law of the Sea (UNCLOS III), is an appropriate instrument for resolving these disputes.

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The ‘Aegean dispute’, as it is known in the international political and legal arena, is a term used to cover three separate but related issues between Greece and Turkey:
1. The conflict over the Aegean continental shelf.
2. The issue of the territorial sea limits claimed by each country.
3. The question of military and civil air traffic control zones in the Aegean Sea.

This study will cover the first two issues, and will also attempt to show that the new concept of the Exclusive Economic Zone (EEZ), as developed at the Third United Nations Conference on the Law of the Sea (UNCLOS III), is an appropriate instrument for the resolution of these particular disputes.

The ‘Aegean dispute’

Continental shelf

Turkey has consistently, and for a long time, insisted that some Greek islands are not entitled to a continental shelf and that Greece therefore has no area of continental shelf whatsoever in the eastern half of the Aegean Sea. Turkey also has a fallback position which argues that, in case the islands are entitled to their own continental shelf, this does not apply to the Greek islands close to the Turkish coast because they lie on the continental shelf of Turkey, which is simply the ‘natural prolongation’ of the Anatolian coast. In other words the Greek islands are mere ‘protuberances’ of the Turkish continental shelf.

This Turkish position is legally unsupported because it asserts that the dispute is not one of delimitation at all, but one of outright denial of any entitlement. Article 121, paragraph 2, of the 1982 Law of the Sea Convention (which is not yet in force) does not leave a margin for misunderstanding or misinterpretation. It clearly states:

Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.
Also, the International Court of Justice (ICJ) has offered an additional argument against Turkey's 'natural prolongation' thesis. In the case concerning the delimitation of the continental shelf between Libya and Malta, the ICJ stated:

Since the development of the law enables a State to claim that the continental shelf appertaining to it extends up to as far as 200 miles from its coast, whatever the geological characteristics of the corresponding sea-bed and subsoil, there is no reason to ascribe any role to geological or geophysical factors within that distance either in verifying the legal title of the States concerned or in proceeding to a delimitation as between their claims.¹

It is therefore correctly asserted by E. Gounaris that it is unacceptable and without any legal basis in international law that some continental states monopolize the natural prolongation at the expense of the islands of other states with the view to extending their rights on the continental shelf beyond these islands or between these islands and the coasts of the above continental states.²

When the crisis in the Aegean occurred in March 1987, the Representative of Greece to the United Nations, in a letter addressed to the Secretary-General of the United Nations, inter alia stated:

It is therefore totally inaccurate and arbitrary to assert that the Greek Government rests on the preposterous assertion that the Aegean Continental Shelf belongs in its entirety to Greece. The truth is that, as it has been already mentioned, the Greek position has been and remains as follows: According to international law and the existing precedents of the International Court of Justice the rights of the littoral state on the continental shelf exist ipso facto and ab initio, and there is no need for any legal measures to be taken in order to confirm their validity. As far as its dispute with Turkey is concerned, it is the firm conviction of Greece, that it is of a purely legal nature. This was reaffirmed by the International Court of Justice in its Judgement of 1978 regarding the Aegean Continental Shelf (par. 31). In other words, the Greco-Turkish dispute does not involve a question of partitioning the continental shelf. It is simply one of a technical nature with regard to its delimitation, that is to say to establish the point up to which the ipso facto and ab initio existing rights extend. Therefore Greece maintains that the object of this dispute is the delimitation of the Aegean continental shelf and not its partitioning.⁴

Territorial sea

Addressing sovereign rights on setting limits of territorial sea, Article 3 of the Law of the Sea Convention states:

Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this convention.

Although Greece has opted for a six-mile wide territorial sea, Turkey applies a double standard. It maintains a six-mile territorial sea in the Aegean and a twelve-mile territorial sea in the Black Sea and along its Mediterranean coast. Greece has repeatedly declared that it reserves its legitimate right under international law to establish a twelve-mile territorial sea at a time deemed appropriate, while successive Turkish governments have stated (in contravention of Article 2, paragraph 4 of the UN Charter outlawing the threat or use of force) that, were Greece to do so, this would be regarded as a casus belli.

It should be noted here that Turkey, on 2 March 1956, declared: 'The Turkish authorities are of the opinion that the twelve mile limit has

¹ICJ, ICJ Case Concerning the Continental Shelf (Libya Arab Jamahiriya v Malta), ICJ Reports, 13, 1985, paragraph 39.
³The first precedent was formulated by the ICJ in the North Sea Continental Shelf cases, where it stated that the continental shelf of a coastal State exists: 'ipso facto and ab initio by virtue of its sovereignty of the land'. ICJ Reports, 1969, p 22.
already obtained the general practice necessary for its acceptance as a rule of international law.\(^5\)

In terms of the breadth of territorial sea in the Aegean, Greece presently possesses 43.5% and Turkey 7.5%; the remaining 49% is high seas. The high seas will represent 27.8% of the Aegean, if both countries extend their territorial sea to the twelve-mile limit, with Greece controlling 63.9% and Turkey 8.3%.\(^6\) It should be noted here that Greece, with one of the world’s largest merchant fleets, has no incentive to institute measures that might lead to a restriction of freedom of the high seas.

**The Third UN Conference on the Law of the Sea (UNCLOS III)**

Another obvious weakness of Turkey’s position, is its adamant opposition to the results of UNCLOS III. Turkey was only one of four countries to vote against the Law of the Sea (LOS) Convention in 1982, and, as such, has not signed the Convention or its Final Act. It is highly probable that Turkey is not planning to accede to the Convention in the future.

Greece, on the other hand, was very active in the Conference proceedings, voting in favour of the Convention and its Final Act, with the intention of ratifying it in the near future. The articles of the Convention to which Turkey was opposed from the beginning were Articles 15, 74, 83, and 121. It is significant to note that the question of maritime boundaries (Articles 74 and 83) was resolved on 27 August 1981, with a compromise proposal presented by the President of the Conference, Mr Tommy Koh. His proposal was approved by the main contesting groups, the equity group which was supported by Turkey and the ‘equidistance’ group supported by Greece.

The ‘equidistance’ principle states that the delimitation of maritime zones between states with opposite or adjacent coasts should be the median line, every point of which is equidistant from the nearest points on the baselines from which the breadth of the maritime zones of each of the two states is measured.

The ‘equity’ principle states that the delimitation of the maritime zones in enclosed and semi-enclosed seas should take into account special circumstances such as coastline configuration, common living or mineral deposits, and other relevant circumstances prevailing in the area, with a view to reaching an equitable solution.

On 30 March 1982, during the eleventh and final session of the Conference in New York, according to the representative of Turkey ‘... the drafting of Article 15 (Delimitation of the territorial sea between States with opposite or adjacent coasts) did not take into account situations that a country might face in semi-enclosed seas and, for that reason, my country maintains its right to a reservation on the article.’\(^7\) He also said:

With regard to Articles 74 and 83 of the draft Convention, relating to the delimitation of the exclusive economic zone and of the continental shelf between States with opposite or adjacent coasts, Turkey was not bound by any convention or agreement and no international custom in the matter could be invoked as binding international rules in respect of Turkey. My country’s view is that those issues in such seas could only be settled by agreements reached directly between the parties concerned on the basis of equity, and it therefore maintains its right to formulate reservations also on Articles 74 and 83. It was evident that islands situated in such semi-enclosed seas presented problems for

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\(^7\)S.P. Jagota, Maritime Boundary, 1985, p 253.
the same reasons. Article 121 (Regime of islands) was unacceptable in its present form and my country maintains its right to reserve its position on that too.8

Turkey's position had become so negative by the end of the Conference that it felt compelled to introduce an amendment in order to compensate for what seemed to be a hopeless situation. Therefore, on 13 April 1982, Turkey proposed the 'Delete Article 309' amendment.9 Article 309 of the Convention reads as follows:

No reservations or exceptions may be made to this Convention unless expressly permitted by other Articles of this Convention.

Opposing the Turkish amendment and another one made by Venezuela, the representative of Colombia stated on 16 April 1982: 'Reservations to Articles 15, 74, 83, and 121, paragraph 3, could not be permitted . . . The provisions contained in Articles 15, 74, 83, and 121, paragraph 3, and in part XV, were not matters of bilateral concern; they were the key elements of a system built up over eight years of negotiation. Allowing reservations to those articles, deleting Article 309 or Article 121, paragraph 3, or amending Article 310 would be incompatible with the Convention'.10

On 26 April 1982, Turkey insisted that its amendment for the deletion of Article 309 should be put to a vote. In the recorded vote that followed, the Turkish amendment was rejected by 100 to 18, with 26 abstentions.11 Greece made no reservations and understood that the Convention represented a 'package deal' to be accepted or rejected as a whole.

A brief history of the dispute

Although a detailed chronological presentation of the Aegean dispute will not be attempted, this article will focus upon its salient aspects from 1973 to the summer of 1987.12

From the Treaty of Lausanne in 1923 until 1973, the Aegean was completely controlled and dominated, in a military, economic and cultural sense, by Greece. During that time, Turkey did not seem to have any complaints about this or designs for expansion in the Aegean and, more significantly, had never questioned the existing legal status.

That posture changed dramatically in 1973 when oil deposits were discovered off the Greek island of Thassos by Oceanic Exploration of Denver, Colorado. At that time, basically for reasons of political domestic consumption, the dictators who ruled Greece from 1967 to 1974 declared that the findings were of a commercially significant size, without anticipating the international implications of their claims. Turkey immediately saw an opportunity and reacted accordingly on 1 November 1973 by awarding mineral exploration rights in the Eastern Aegean to the Turkish Petroleum Company. The area that Turkey designated clearly overlapped both the continental shelf that was claimed by Greece, and areas for which licences had been granted by Greece to foreign companies.

After the collapse of the Greek military junta, the Government of Constantine Karamanlis proposed, on 27 January 1975, that Greece and Turkey jointly take the dispute over the Aegean continental shelf to the ICJ. Twelve years later the Government of Andreas Papandreou made a similar proposal. The proposal by Karamanlis was initially accepted and then rejected by various governments of Turkey.

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9Ibid, p 255.
10Ibid, pp 257 and 258.
11Ibid, p 260.
On 10 August 1976, confronted by the possibility of war, Greece appealed simultaneously to the United Nations Security Council and the ICJ. This was an ‘unusual appeal’ of questionable merit, as Greece concurrently took a step toward politicizing the dispute by going to the Security Council, while at the same time depoliticizing it, by appealing to the Court. ( Eleven years later, when the Papandreou Government was confronted by a similar incident leading to the brink of war, it did not appeal to either of the two international organizations.)

On 25 August 1976, the Security Council called upon the two Governments to settle the problem primarily by direct negotiations, with the hope of achieving a mutually acceptable solution. The Greek request to the ICJ had two objectives: first, that Turkey should refrain from conducting exploration or research in the disputed areas, and second, that interim measures of protection be indicated. On 11 September 1976, the ICJ rejected the Greek request for interim measures, and in December 1978 ruled that it lacked jurisdiction in the Aegean Sea continental shelf case.

At this juncture, it is perhaps appropriate to mention two important points relevant to our discussion that Professor D.P. O'Connell argued during the hearings of the case before the Court. The first point was that: ‘When Turkey tries to distinguish between the territorial sea and the continental shelf – conceding the former but not the latter to the Greek islands – she drives a wedge into what in the Court’s view is an integrated expanse of political authority’. His second point of continuing applicability was that: ‘. . . because disputes must be settled by negotiation, Turkey opposes any general system of compulsory jurisdiction in matters of the Law of the Sea. This statement reveals the dogmatic and sweeping character of the Turkish Government’s notions about the nature of the judicial process, the relationship between negotiations and judicial settlement, and the relationship between the Security Council and the Court.’

Following the decisions by the two international bodies, the Foreign Ministers of Greece and Turkey met in New York on 1 October 1976. There, they decided that the two delegations would meet in Berne between 2 November and 11 November 1976. On 11 November 1976, the two countries signed an agreement which has become known as the ‘Berne Protocol’. This agreement states:

1. The two parties agree that the negotiation shall be frank, thoroughgoing and pursued in good faith, with a view to reaching an agreement based on their mutual consent with regard to the delimitation of the continental shelf between themselves.
2. The two parties agree that these negotiations should be strictly confidential in nature.
3. The two parties reserve their respective positions regarding the delimitation of the continental shelf.
4. The two parties undertake not in any circumstances to use the provisions of this document or the proposals to be made by either side during these negotiations outside the context of the negotiations.
5. The two parties agree that there should be no statements or leaks to the press regarding the content of the negotiations, unless they decide otherwise by mutual agreement.
6. The two parties undertake to refrain from any initiative or act concerning the Aegean continental shelf that might have adverse effects on the negotiations.
7. The two parties undertake, as regards their bilateral relations, to refrain from any initiative or act which might discredit the other party.

Aegean Sea Continental Shelf, (Greece v Turkey), ICJ Reports 3, 1976, p 99.
Ibid, p 323.
A. Wilson, op cit, Ref 12, p 30.
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8. The two parties have agreed to study State practice and international rules in this matter, with a view to identifying certain principles and practical criteria which could be useful for the delimitation of the continental shelf between the two countries.

9. For this purpose, a Mixed Commission shall be established, composed of national representatives.

10. The two parties agree to advance gradually in the negotiating process to be adopted, after mutual consultation.

The Greek Government has considered the Berne Protocol 'inopera-tive' since 1981 due to lack of negotiations between Greece and Turkey.

The most recent Aegean crisis erupted on 26 March 1987, when the Turkish government announced that the seismic research vessel, Sismik, accompanied by Turkish warships, was to be sent to explore for oil on the seabed of the disputed continental shelf in the Aegean Sea. The Turks brought out the Sismik to challenge Greek sovereign rights in the Aegean, responding to the decision of the Greek Government, a few days earlier, to gain majority control of a foreign consortium planning oil exploration 10 miles east of the island of Thassos.

Apparently, the Greek Government's attempt to gain control of the consortium (known as the North Aegean Petroleum Co, in which the Toronto based Denison Mines Ltd is the major shareholder) was made to prevent the announced exploration plans of the consortium, thereby averting a crisis with Turkey. However, when Turkey announced its exploration plans, the impending crisis could not be averted.

Andreas Papandreou, the Prime Minister of Greece and a brilliant tactician, warned Turkey that the Sismik would not be permitted to conduct its research operations over the Greek continental shelf in the Aegean. It became apparent that Papandreou was ready to meet Turkey's challenge head on. After a cabinet meeting on 27 March 1987, the Greek Prime Minister said:

It must be made clear that in the event of a war over the entrance of the Sismik into the Aegean, there would be a catalytic change in the Balkan region, and I believe even in the defense system of the West. We claim absolutely nothing from Turkey, but neither do we intend to make concessions of our national space and sovereign rights to Turkey, or to make issues which are non-negotiable the subject of dialogue with Turkey.\footnote{Athens News Agency, No 14/87, 28 March 1987, p 3.}

Papandreou's strong and decisive position did not go unnoticed in Ankara, and on Saturday 28 March 1987, the Turkish Government announced that the Sismik's movements would be restricted to Turkish territorial waters. The Greek legal position during the height of the crisis and afterwards was best expressed by Papandreou himself when addressing the Greek people on television:

Since Turkey stresses continually that it seeks a dialogue, I would like to emphasize that the only legal issue which exists is the continental shelf issue. In other words, its delimitation and not its distribution. There is a big difference between distribution, which is carried out on the basis of a political-military correlation of forces, and delimitation, which is clearly a legal action. We have called on Turkey to accept our proposal to take the matter to the International Court of Justice. This requires a joint pledge, signed by both sides. And in this sense, a dialogue on a joint pledge is logical and we have never had nor do we now have any objection to such a dialogue taking place.\footnote{Ibid, p 4.}

After the latest crisis had subsided, Prime Minister Papandreou and Turkish Prime Minister Turgut Ozal exchanged a series of letters, which have not become public, in order to facilitate negotiations for the
drafting of a joint compromissum concerning submission of the dispute to the I.C.J.

Also, on 8 April 1987, the Plenary Session of the European Parliament in Strasbourg unanimously approved the following Resolution:

A. Whereas the disagreement between Greece and Turkey concerning the continental shelf of the Aegean represents a permanent source of conflict between these countries.

B. Whereas the recent crisis in the Aegean Sea led to an extremely dangerous situation.

C. Whereas any clash would not merely affect relations between the two countries, but would endanger peace and upset the international balance which exists in the region.

[Parliament]

1. Expresses its satisfaction at the fact that the conflict was avoided at the last minute.

2. Calls on the countries concerned to settle their differences peacefully on the basis of the rules of international law.

3. Calls on the parties concerned to reach an immediate agreement that they will refer the legal problem of the delimitation of the continental shelf of the Aegean Sea to the International Court of Justice at the Hague.

4. Calls on the Council to express interest in this particular issue in the context of political cooperation and to keep Parliament regularly informed.

5. Instructs its President to forward this Resolution to the European Commission, the Council, the Foreign Ministers meeting on Political Cooperation, the governments of the Member States and the government of Turkey.

The concept of the EEZ

In 1967, Malta's Ambassador to the United Nations, Arvid Pardo, suggested the formation of an international conference to devise a new law of the seas, calling the oceans 'the common heritage of mankind'. Fifteen years later, on 10 December 1982, nearly 120 countries signed the new United Nations Convention on the Law of the Sea (UNCLOS), culminating one of the lengthiest and most significant international conferences.

Part V of that Convention, and more precisely Articles 55 to 75, provide for an 'Exclusive Economic Zone' (EEZ) extending 200 nautical miles seaward from the coast. If all coastal states thus exercised their jurisdiction over their own EEZs, some 38 million square nautical miles would become their 'economic patrimony'.

To clarify this whole area, it should be mentioned here that the oceans represent 71% of the total surface of the earth and that 32% of that area falls under the jurisdiction of coastal states. Consequently 90% of global fishing, 87% of oil deposits, and 10% of polymetallic nodules would lie inside these economic zones.

The provisions of the EEZ are all new law. As Professor B. Oxman indicates, 'Measured by any yardstick - political, military, economic, scientific, environmental, or recreational - the overwhelming proportion of activities and interests in the sea is affected by this new regime'.

Article 56 of the Convention provides the following rights of the coastal state in the economic zone:

A. Exclusive sovereign rights for the purpose of exploring, conserving and managing living and non-living natural resources of both the waters and the seabed and subsoil.

B. Exclusive sovereign rights to control other activities such as the production of energy from the water, currents, and winds.
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C. The right to control dumping of wastes.
D. The right to be informed of, participate in and to withhold consent in proposed marine scientific research projects.
E. The right to board, inspect, and arrest a merchant ship suspected of discharging pollutants in the economic zone.

Article 58 of the Convention provides the following rights of other states in the economic zone:
A. The high seas freedoms of navigation, overflight, and the laying of submarine cables and pipelines.
B. Other lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft, and submarine cables and pipelines.

The EEZ provision has received widespread support and has become so much a part of international practice that, in the unlikely event that the 1982 LOS Convention will not enter into force, the zone will remain a part of international law by general practice or custom.24

Also, Articles 55 and 86 of the Convention make it clear that the EEZ is neither a part of the territorial sea nor of the high seas; it is a zone sui generis, with a status of its own.25

As of February 1989, 78 countries have claimed 200-mile EEZs and another 21 countries have established a 200-mile Exclusive Fishing Zone (EFZ).26 The countries benefiting the most from the EEZ concept are, in order of the size of their zones: the USA, Australia, Indonesia, New Zealand, Canada and the Soviet Union.

If this concept is applied by all states bordering the Mediterranean, the entire sea would be covered by EEZs of countries of the region. The countries of the Mediterranean that would benefit most from an EEZ are Greece, Cyprus, Italy and Malta.27

A Greek EEZ

Although Greece has a strong legal position concerning the delimitation of the continental shelf, the delimitation of an EEZ is as viable a method of resolving its dispute with Turkey in the Aegean Sea.

A Greek EEZ in the Aegean Sea is justified by the following points:

1. There is an indisputable Greek presence in the Aegean Sea. As Siotis has remarked:

Since the dawn of Western civilization, Greece has inspired poets, writers and philosophers. The islands of the Aegean have been the cradle of Greece. It was in the sunlit shores of the Aegean that Europe began its life. The greatest physician in antiquity, Hippocrates, came from the island of Cos. Pythagoras and Anacreon came from Samos. Chios claims Homer; Lesbos, Sappho; Rhodes, Apollonius. From Homer to Byron and from Sappho to Elytis, the Aegean has been the place where the human spirit continued uninterruptedly to shape Greece's identity, giving the world Reason and Democracy. The ancient waters of the Aegean are the sea of the great history of civilization.28

2. With an EEZ, Greece will safeguard the economic unity of its continental and island space. Greece has a total of 3100 islands of which 2463 are in the Aegean.29 In comparison, Turkey has only three islands in the Aegean. The total length of the Greek coastline is 15 020 km. The Aegean coastline is 10 942 km, or 72.8% of the total.30 The population of the Greek islands is 1.5 million, in a total population of Greece of 10 million.31

27 E. Gounaris, op cit, Rel 2, p 93.
29 Journalists' Union of the Athens daily newspapers, Threat in the Aegean. (no date), p 15.
31 Ibid, p 15.
3. The Aegean is of greater economic importance to Greece than to Turkey for the following reasons:

- There is a larger percentage of Greeks whose livelihood comes from fisheries.
- In contrast to the Turkish merchant fleet, the Aegean islands represent the main area of development and labour supply for the Greek merchant marine.
- The total Greek coastline is three times longer than the Turkish coastline.
- Of the total cargo unloaded in Greek ports, 80% is unloaded in Aegean ports. From the total cargo loaded in Greek ports, 78% is loaded in Aegean ports.32
- Of the total number of visitors to Greece every year, 40% are attracted by the Aegean islands.

4. Another reason that most coastal states have unilaterally adopted the 200-mile EEZ is to counteract the overexploitation of their coastal fish stocks. Greece, with a coastline of 15,000 km, imports approximately 45,000 tons of fish every year. The productivity of the Greek fishing industry has declined during the last decade and, as a result, the value of imports has increased from 360 million drachmas in 1970 to 10.2 billion drachmas in 1985.33

A large part of the Greek fishing fleet has traditionally operated in waters outside the Greek coasts and especially in the Mediterranean Sea and the Atlantic Ocean; but now that many states are deploying an EEZ of their own, Greek fishermen have lost access to traditional fishing grounds. A Greek EEZ, therefore, would also be beneficial to the fishing sector of the country, which, despite its small contribution (approximately 2%) to the Gross Agricultural Product, has a substantial role in the nourishment of the Greek population, supplying protein of high nutritional value at a relatively low cost.

It is essential to note that, with respect to the fisheries, the competent authority is the Commission of the European Economic Community (EEC). The EEC established 200-mile fisheries zones for all the Community's member states in 1976 and, on 25 January 1983, the EEC Council of Ministers reached an agreement on a comprehensive and relatively permanent system of fishery management over EEC waters. Unfortunately, for reasons unknown, this 200-mile fishing zone of the EEC does not include the Mediterranean.

Greece should press its partners in Brussels to extend the 200-mile fishing zone to the Mediterranean, to enable the Community to exercise its competence for fisheries and management conservation in that sea. This EEC involvement would be helpful to the fishing sector of Greece, which suffers from an aging labour force, low catch rates, badly equipped vessels, poor market organization, inadequate conservation and control measures, and an inadequate development of aquaculture.34

It would also create a situation in the Aegean Sea where only EEC members would be allowed to fish, compelling third countries to apply to the Community for permission to fish in its areas.

5. More than 90 nations already possess either an EEZ or an EFZ of 200 nautical miles. The 1982 LOS Convention provides for an EEZ regime in which there are no restrictions prohibiting islands from having an EEZ.35

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32 Ibid, p 15.
33 Avghi, (Greek newspaper), 10 May 1987, p 27.
As mentioned earlier, the EEZ is already embedded in international customary law and is even treated as such by the ICJ which has stated that 'the concept of the exclusive economic zone, may be regarded as part of modern international law'.

6. On 10 March 1983, the President of the USA signed a proclamation establishing an EEZ extending 200 nautical miles from the US coastline. The area of this particular EEZ encompasses 3.5 million square nautical miles of ocean, an area 1.67 times larger than the land area of the USA and its territories. This EEZ contains vital natural resources, both living and non-living, in the seabed, subsoil and overlying water. Most important of all, however, this US presidential proclamation gave an EEZ to all the islands of the USA, in accordance with the 1982 LOS Convention. The USA would therefore be in a difficult position to argue against a Greek EEZ similar to the one it itself has established.

7. When the US President proclaimed an EEZ, the Soviet Union initially objected to such a move, but eventually, on 28 February 1984, the Presidium of the Supreme Soviet of the USSR adopted a Decree on the Economic Zone of the USSR, also taking into consideration the relevant provisions of the 1982 LOS Convention.

The first article of the Soviet Decree states: In maritime areas beyond and adjacent to the territorial waters (territorial sea) of the USSR, including areas surrounding islands belonging to the USSR, there shall be established an economic zone of the USSR, the outer limit of which shall be situated at a distance of 200 nautical miles measured from the same baselines as the territorial waters (territorial sea) of the USSR.

The delimitation of the economic zone between the USSR and states with coasts opposite or adjacent to the coast of the USSR shall be effected, taking into account the legislation of the USSR, by agreement on the basis of international law, in order to achieve an equitable solution.

The Soviet Union, paralleling the US move, likewise gave its islands an EEZ. Following these actions, it will be difficult for the superpowers not to support similar claims by Greece in regard to the Aegean islands.

8. At the end of 1986, Turkey unilaterally proclaimed a 200-mile EEZ in the Black Sea. This move was in accordance with the provisions of the 1982 LOS Convention, which ironically Turkey had never signed and has always opposed. Concurrently, Turkey reached an agreement with the Soviet Union regarding overlapping EEZ claims, resolving the issue by using the method of the median line.

Thus, Turkey, by accepting the concept of the EEZ as developed through UNCLOS III, has weakened its position vis-à-vis Greece. The Black Sea, is an 'enclosed or semi-enclosed sea', similar to the Aegean Sea, thereby putting Turkey in a difficult position should Greece use the same method to proclaim an EEZ in the Aegean.

Turkey has also decided to hold discussions with Bulgaria and Romania concerning the delimitation of their respective EEZs in the Black Sea. However, no plans have been made for discussions with Greece on the same issue. This may be indicative of Turkey's weak legal position in the matter.

What Turkey fails to understand is that a country cannot pick and choose the parts of the Convention it likes. Ambassador Koh of Singapore, the last President of UNCLOS III, very wisely took note of
such an eventuality by observing that:

Although the Convention consists of series of compromises, they form an integral whole. This is why the Convention does not provide for reservations. It is therefore not possible for states to pick what they like and disregard what they do not like. In international law, as in domestic law, rights and duties go hand in hand. It is therefore legally impermissible to claim rights under the Convention without being willing to assume the correlative duties.40

Conclusion

As of the date of writing, the Government of Turkey has not accepted the proposal by the Prime Minister of Greece to refer the Aegean dispute to the ICJ. It is perhaps imprudent to attempt to predict the decision the Court would render, but keeping in mind the earlier decisions of the ICJ, one could envision the Court applying the 'equidistance-special circumstances' rule as a whole, rather than the equidistance principle alone. The Court has recently revealed a tendency to draw any line the judges perceive to be fair, providing the solution is not radically inequitable to either side.

In any case, the ICJ not only appears to be hesitant to follow precedent in cases of delimitation but also has not created any rules to which nations may look for guidance. This is a major shortcoming in the Court's jurisprudence, because: 'The development of a single method of delimitation would encourage negotiation of disputed areas, as states could more accurately estimate the strength of their position without resort to judicial authority. In contrast, the present situation discourages both negotiation and judicial resolution, as states are less likely to submit to the jurisdiction of the ICJ where the binding result is perceived as arbitrary and unpredictable.'41

In such a case, a Turkish enclave on the Greek islands is not envisioned, but rather, a hand-shaped Turkish continental shelf area with fingers of the hand extending between the Greek islands but not behind them, as depicted in Figure 1.

This idea of the 'fingers' principle was developed by Andrew Wilson, who determined the configuration described above by giving the eastern Greek islands a zone of six miles.42 However, with this method, the area that Turkey would receive is smaller than the area shown in Figure 1 because the Court would probably follow the pattern of the Anglo-French arbitration, in which the Court of Arbitration awarded a zone of 12 miles around the Channel Islands, even though the UK had maintained a three-mile territorial sea since 1878.43

Although we cannot conclude that a 12-mile zone around islands is the rule of thumb for further delimitations, it is clear that the continental shelf or EEZ of an island cannot be less than its internationally recognized 'maximum' territorial sea.44

If a zone of 12 miles is given to the eastern Greek islands, Turkey's continental shelf would be limited. Turkey would receive only 2-4% of the total area of the Aegean continental shelf under the Geneva Convention and the 1982 LOS Convention. But since the Court has lately given emphasis to principles of equity, the maximum area that Turkey could receive would be 10-15% of the total continental shelf area of the Aegean, assuming, of course, that the Greek islands are entitled to at least a 12-mile zone.

By taking into consideration all the facts, in addition to the previous
The case for a Greek Exclusive Economic Zone in the Aegean Sea

Figure 1. Conjectural division of the Aegean Continental shelf on the 'fingers' principle.


analysis concerning the concept of the EEZ and the specific reality of the Aegean, it is safe to conclude that if the Greek-Turkish dispute reached the ICJ, its decision might be basically unfair to Greece because:

It seems that one state has only to argue that islands should be given no effect, and on the other that they should be given full effect, for half effect to be given to them. This is indeed the wisdom of Solomon, and rough and ready justice, but should the non-coastal state make an issue of the matter, it seems that it will succeed in halving the area of shelf claimed by the coastal state.45

Greece should take the initiative and proclaim an EEZ in the Aegean Sea adhering strictly to the provisions of the 1982 LOS Convention. Although Turkey has unsuccessfully argued that islands are not entitled to a continental shelf, it would be even more difficult for it to argue that islands are not entitled to an EEZ. Unlike the continental shelf, the EEZ does not exist ipso facto but has to be proclaimed, and a request to delimit the EEZ entails the delimitation of both elements.46 Therefore, if the 'Aegean dispute' finally reaches the ICJ, a request should be made by Greece that the Court’s judgment should be directed to the delimitation of both the continental shelf and the EEZ.