ALEXIS PHYLACTOPOULOS*

Mediterranean Discord: Conflicting Greek-Turkish Claims on the Aegean Seabed

A new quarrel is spawning in the crisis-ridden Eastern basin of the Mediterranean Sea. This is a dispute which concerns the mutually exclusive claims of Greece and Turkey over the hydrocarbon deposits of a 10,000-square kilometre expanse of seabed in the North Aegean Sea. Greece, resting on the stipulations of the 1958 Geneva Convention on the Continental Shelf, has laid a claim, since 1970, over this potentially oil-rich submarine area by granting licenses to foreign corporations for exploration of the seabed and exploitation of any discoveries. Turkey, on the other hand, in anticipation of the general reconstruction of the law of the sea in the forthcoming 3rd United Nations Law of the Sea Conference, issued in November 1973 concessions to the Turkish State Petroleum Company for exploration and exploitation on some parts of the Aegean seabed which coincide with the Greek concessions. The firms which were contracted by Greece have seen their multimillion dollar investments jeopardized just as the Turkish State Company has remained incapacitated by the uncertainty surrounding the overlapping claims of the two countries.

This conflict of jurisdictions typifies one of the thorniest problems in the law of the sea. The fair settlement of a seabed boundary, particularly of one which presents the complexities of the Aegean maritime space, is an extremely difficult task even for the most cordial neighbours. Unhappily, Greece and Turkey do not enjoy this kind of relationship.

On the contrary, the state of Greek-Turkish neighbourly relations, reflecting a pattern set more than one hundred and fifty years ago, does not suggest an aptitude toward friendly settlement of conflicting policies. Three Greco-Turkish wars since the end of the 400-year Ottoman occupation of the Greek mainland nurtured a climate of mutual suspicion, which, in turn, reflected on the welfare of the Greek and Turkish ethnic-religious minorities in each other's territory.

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Today, although formally allies within NATO, Greece and Turkey are torn apart by their lasting disagreement over the constitutional regime of Cyprus. This difference alone has, twice in the past decade, brought them to the brink of armed conflict, ultimately averted by bold diplomatic action on the part of the United States.

The traditional hostility between Greece and Turkey will aggravate their present conflict on the Aegean seabed. Given the recent global panic over the scarcity of exploitable natural resources and the soaring prices of the available stocks, the allocation of the riches of the Aegean seabed may easily develop into a turbulent affair likely to threaten once again peace and security in that part of the world.

Evidence of Oil in the Aegean Seabed

The sequence of events which led to the present feud began in 1970 when a consortium[1] of prospecting companies headed by the Oceanic Exploration Company[2] of Denver, Colorado was granted a license by the Greek Government to search for oil in the North Aegean Sea. Oceanic's contract was on a 1.5 million-acre area of continental shelf extending from the Greek-Turkish land borders in the east, to the peninsula of Mt. Athos in the west, and to the island of Samothrace in the south. An exploratory drill made in October 1971 off the east coast of the island of Thassos discovered a field of non-exploitable "heavy" oil, while the company's second effort off the west coast of Thassos, in December 1972, located a deposit of natural gas in substantial quantities.

In January 1974, Oceanic's fourth offshore drill struck good quality oil of 27.8 A.P.I. gravity at a distance of four miles west of the island of Thassos and ten miles south of the coastal town of Kavala. On 14 February 1974 the Greek Minister of Industry announced that the expected daily yield of the well was in the range of 10,000 barrels of crude and 40 million cubic feet of natural gas. Oceanic's fifth drill in the same maritime area was equally successful. On 16 April 1974 the company announced that the expected daily production from its latest find was over 8,000 barrels of crude of the same quality as that of its previous drill. The aggregate oil capacity of Oceanic's discoveries translates into 900,000 tons per year, which currently covers approximately 9 percent of Greece's annual oil needs. The rate of production was not spectacular, but in Greece it heightened hopes for further finds, which might alleviate the Greek economy's current annual burden of 900 million dollars for oil imports.

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[1]This consortium includes subsidiaries of Fluor Drilling and of the White Shield Oil Corporation of the United States, and of BASF of West Germany.

[2]Henceforth referred to as Oceanic.

Unilateral Turkish Claims on the Aegean Seabed

Greek jubilations were short lived. On 22 February 1974, the Greek press[3] leaked a piece of information which was disturbing official circles in the Greek Ministry of Foreign Affairs since early November 1973. It concerned the grant by the Turkish Government of exploration and exploitation rights to the Turkish State Petroleum Company on twenty-seven maritime areas of the Aegean, some of them on the continental shelves of the Greek islands of Samothrace, Limnos, Aghios Eustratios, Lesvos, Chios, Psara, and Antipsara (see map on page 441).

One important legal aspect of the act, published in the Turkish Government Gazette of 1 November 1973, was that Turkey did not take into account the Greek islands situated near her coasts in drawing, unilaterally, the seabed boundary between Turkey and Greece. The Turkish promulgation delimited the Aegean by a median line, which is equidistant from the Turkish and Greek mainland coasts. The Greek islands were thus not allowed to exercise any effect on the median line, but, instead were awarded seabed areas coterminal with their six-mile territorial seas.[4]

Diplomatic Exchanges

Greece reacted sharply to the Turkish action by making a démarche to the Turkish Government, apparently in order to preclude any future charge of acquiescence in the Turkish claim. It is generally understood that a prompt and firm protest is the first measure that a State should take when faced with what it considers to be a violation of its rights, since acquiescence in a breach of international law may prejudice its position in future litigation regarding that violation.[5]

The Greek Minister of Foreign Affairs further emphasized the Greek representations by stating in a press conference that the Turkish decision ". . . delimits the Aegean in a way which does not take into consideration the sovereign rights of Greece on the continental shelf of . . . islands; (rights) which emanate from the provisions of the 1958 Geneva Convention on the Continental Shelf, ratified by Greece in 1972."[6]

A response to the Greek protest was issued by "sources" in the Turkish Ministry of Foreign Affairs. These sources pointed out that although Greece maintained that Turkey violated Greek rights on the continental shelf,

[3]To Vima, 24 February 1974, at 1.

[4]Both Greece and Turkey claim territorial waters of six miles.

[5]It should be noted that it was precisely this lack of protest by the United Kingdom to the Norwegian legislations of 1869 and 1935, establishing a system of straight baselines, which the Norwegian side invoked successfully in the *Anglo-Norwegian Fisheries* case (1951) in defense of the validity of the Norwegian territorial sea delimitation.

[6]To Vima, 24 February 1974, at 1.

embodied in the 1958 Geneva Convention on the Continental Shelf, Turkey had not ratified that Convention. Furthermore, the Aegean Sea with its 354 Greek islands and islets, some lying very close to the Turkish coast, presented a unique situation for which the 1958 Continental Shelf Convention was inadequate. A bilateral agreement, the Turkish sources continued, was deemed more suitable for the delimitation of the Aegean seabed, and Turkey was willing to negotiate such an agreement with Greece.[7]

The Predicament of Exploration Companies

Leaving aside for the moment the measures taken by the two Governments to validate their claims, let us consider the situation facing some of the foreign companies contracted by Greece. Although the geographical position of the Turkish concessions does not appear to overlap the license granted by the Greek Government to Oceanic, the Turkish concessions affect other contracts which have either been signed or are under consideration by Greece.

According to data of the General Direction of Mines of the Greek Ministry of Industry, there were, as of 1 January 1974, seven active agreements with five oil surveying firms covering various parts of Greek waters. The agreement with Oceanic,[8] and another with L.V.O.,[9] appertain to maritime areas in the North and Central Aegean. Four more agreements were concluded, but as of 1 January 1974 were not ratified by the Greek Government. One of these, with Seres Shipping Inc., provided for exploration and exploitation rights on the continental shelf around the Greek islands of Limnos, Kos, and Rhodes, which lie near the Turkish coast. Twenty-one further leases were[10] under consideration by the Greek Ministry of Industry. Six of these were ceded to United States corporations and concerned seabed exploration projects around the islands of Limnos, Aghios Eustratios, Chios, and Lesvos, all situated close to the Turkish coast and within the maritime area in which Turkey claims sovereign rights. It thus appears that, of thirty-two operative or contemplated concessions, seven, at least, relate to seabed areas which are now contested by the Turkish Government. Since some of these companies are reported to have invested already over 20 million dollars in their Aegean works, the financial risks they are undertaking in continuing their exploration projects in areas of questionable jurisdiction are indeed substantial.

Conflicting Views on the Relevance of Existing Instruments

Having exposed briefly the precarious position of the foreign companies

[7] *Ibid.*, 27 February 1974.
[8] Ratified by Legislative Decree 462, Greek Government Gazette 67/A, 21 March 1970.
[9] Ratified by Legislative Decree 172, Greek Government Gazette 247/A, 28 September 1973.
[10] As of 1 January 1974.

contracted to explore the Aegean seabed, we may turn to the dispute itself. Its most striking feature is that Greece and Turkey hold opposite views on the usefulness of the 1958 Continental Shelf Convention in the resolution of the problem confronting them. Article 6 of the Convention can be considered pertinent as it establishes a two-fold formula for the delimitation of a seabed boundary between opposite or adjacent States. The article stipulates that, in the absence of agreement, the boundary is the median, or equidistant line, unless another boundary is justified by special circumstances. Islands are often regarded as "special circumstances" necessitating a deviation from the principle of equidistance.[11]

Greece, having ratified (though only as late as 1972) the 1958 Continental Shelf Convention, claims adherence to its stipulations. They provide her, as will be shown below, the important assurance that her islands generate the same seabed rights as her mainland body.

Turkey's semi-official pronouncement in response to the Greek démarche, on the other hand, rejects the applicability of the 1958 Continental Shelf Convention in this dispute. As an examination of its activities in the United Nations Seabed Committee will show, the Turkish Government has tried to form coalitions with other States so as to achieve a majority in the Caracas Conference on the Law of the Sea on provisions qualifying the seabed rights of islands. The Turkish lobby will surely find willing partners in the pool of new nations. Their governments may not be directly interested in the issue of islands, but they are, nevertheless, keen on securing support for other radical changes in the law of the sea. An economic zone of exclusive national jurisdiction, and a strong international machinery for the area to remain outside national jurisdiction, are items where support would be welcome by these States.

There is, therefore, a marked difference in the way Greece and Turkey are advancing their respective positions. The Greek side speaks with the customary language of Anglo-Saxon legalism and vows adherence to existing conventional instruments and legal precedents. The Turkish side employs the language of political solidarity over a common platform encompassing a spectrum of overlapping national interests. The difference brings to the forefront the rift between two approaches to international lawmaking: one which views the evolution of international law as an exercise involving only occasional marginal adjustments to existing rules of law, and another which seeks revolutionary innovations in international legislation.

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[11]For evidence that islands are considered "special circumstances" see the Continental Shelf Convention's *travaux préparatoires* in I Y.B. INT'L L. COMM'N (1953), p. 128, and II Y.B. INT'L L. COMM'N (1953), p. 216; also State practice reviewed by Northcutt Ely, *Seabed Boundaries Between Coastal States: The Effect to be Given Islets as "Special Circumstances,"* INTERNATIONAL LAWYER, Vol. 6, No. 2, April 1972, pp. 219-36.

The Greek Case

While the Geneva Conventions are in force, Greece will rest her case on the following three arguments: firstly, that the 1958 Continental Shelf Convention, giving expression to an existing rule of international customary law, recognized that islands generate on the seabed the same rights as a State's land domain; secondly, that the International Court of Justice in its judgment in the *North Sea Continental Shelf* case (1969) found that the shelf's adjacency to the coast, in the Continental Shelf Convention's phraseology, implies appurtenance, that is prolongation of a State's coast under the sea and not necessarily proximity to that coast; and thirdly, that Greece has acquired an historic title by virtue of immemorial usage of the Aegean Sea for the livelihood of her population.

First, the recognition of seabed rights to islands by the 1958 Convention on the Continental Shelf. Article 1 of the Convention states that:

> For the purpose of these Articles, the term "continental shelf" is used as referring (a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits to the exploitation of the natural resources of the said areas; (b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands.

Article 2(1) of the same Convention provides as follows:

> The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.

What becomes clear from these articles is that the Convention recognizes that islands generate for the State to which they belong the same rights on the seabed as do other areas which constitute a State's land domain. According to Article 1, a State's seabed jurisdiction covers the adjacent seabed areas, at least to a depth of 200 metres, and beyond that depth to where the depth of superjacent waters allows exploitation.

The Greek Government will argue that, since the depth of the waters in the Aegean makes exploitation possible, seabed rights generated eastwardly by the Greek mainland merge with seabed rights generated westwardly by the outlying Greek islands of Samothrace, Limnos, Aghios Eustratios, Lesvos, Chios, Psara, and Antipsara.[12]

The second Greek argument involves the interpretation given by the International Court of Justice to the term "adjacent" in Article 1 of the 1958 Continental Shelf Convention. It will be used to anticipate Turkey's assertion that a given point on the Aegean seabed falls under her jurisdiction because it is

[12]No issue has been raised yet concerning the Greek islands of Samos, Ikaria, Patmos, Leros, Calimnos, Kos, Nissiros, Tilos, Simi, Chalki, Rhodes, Kastellorizon, and the multitude of islets surrounding them, all lying to the south of the contested area and extremely close to the Turkish coast.

adjacent to the Turkish coast since it lies closer to it than to the Greek mainland coast. Greece will point out that adjacency and proximity, according to the judgment in the *North Sea* case, are totally different concepts.[13] Adjacency denotes prolongation of a State's land mass under water but not necessarily proximity to that State. Since the contested seabed area is enclosed by, and is the prolongation of, the Greek mainland and islands, all being territories under full Greek sovereignty, it follows that Greece has an "inherent right"[14] over it. This is so regardless of the distance of any point on this submarine area from the Turkish coast. In other words, the contested seabed region is adjacent only to Greece because it cannot be the underwater prolongation of any other State than of the one which surrounds it by its mainland body and insular appendages. The principle of the indivisibility of sovereign integrity will then be employed to buttress the Greek contention that the seabed in question, surrounded as it is by Greek territories, is an indivisible part of such territories and hence subject to Greek sovereignty.

This leads us to the third Greek argument of historic title. This, unlike the first two, cannot withstand close legal scrutiny. The Aegean has indeed been an exclusive "Greek lake" for over three thousand years. It has been used for fishing, sponge fishing, commerce and navigation. Today it also supports the Greek tourist industry, which accounts for a substantial portion of Greek G.N.P. Traditional economic activities have involved the use of Aegean waters for transportation and exploitation of its living resources. Until recently, however, they have not included activities associated with the exploitation of the natural resources of the seabed. Although Greece can rightfully claim an historic title based on immemorial usage of Aegean waters, it is doubtful that she can substantiate such a claim with respect to the exploitation of oil deposits in the seabed.

Turkish Efforts to Revise the Legal Regime of Islands

Contrary to the juridical preparations of Greek policy-makers, Turkish activities in the United Nations Seabed Committee show an awareness of the opportunities presented to Turkey by the major re-examination reshuffling about to occur in the law of the sea. Rather than formulating a legal defense within the framework of the 1958 Geneva Convention on the Continental Shelf, Turkish officials concentrate on attracting support for a legal regime of islands, favourable to their interests, to be incorporated in any convention which may emerge from the Caracas Conference on the Law of the Sea.

The record of the Seabed Committee indicates the formation of a lobby

[13] *I.C.J. Reports* (1969), pp. 30-31.
[14] *Ibid.*, p. 22.

composed of Turkey, Cameroon, Kenya, Madagascar, and Tunisia. The participation of Cameroon, Madagascar, and Tunisia is attributed to an identity of interests stemming from the presence of foreign islands off their coasts. The island of Fernando Poo belongs to Equatorial Guinea, but lies on the continental shelf of Cameroon. The islands of Europa and Bassas da India, members of the French dependency of Réunion, and the French Comoro Islands are situated off the coast of Madagascar. The Italian islands of Lampedussa and Pantelleria lie off the coast of Tunisia, the former on the African continental shelf.

First evidence of coordinated action by members of this group was offered when Turkey and Tunisia introduced an amendment[15] seeking a deletion in a draft article submitted to Sub-Committee II by Colombia, Mexico, and Venezuela. This draft article was as follows:

> The term "continental shelf" means:
> (a) The seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to the outer limits of the continental rise bordering on the ocean basin or abyssal floor;
> (b) The seabed and subsoid of analogous submarine regions adjacent to the coasts of islands.[16]

The amendment of Turkey and Tunisia sought the deletion of subparagraph (b), above.

Surprisingly enough, the Turkish-Tunisian nucleus did not react to a similar Greek draft article on the regime of islands, which stated:

> An island forms an integral part of the territory of the State to which it belongs. The territorial sovereignty over the island extends to its territorial waters, to the air space over the island and its territorial sea to its bed and subsoil and to its continental shelf for the purpose of exploring it and exploiting its natural resources.[17]

Instead of opposing the Greek proposal, the Turkish lobby introduced its own. A joint submission by Turkey, Cameroon, Kenya, Madagascar, and Tunisia stated:

> 1. Maritime spaces of islands shall be determined according to equitable principles, taking into account all relevant factors and circumstances including, *inter alia*:
> (a) The size of islands;
> (b) The population or the absence thereof;
> (c) Their contiguity to the principal territory;
> (d) Whether or not they are situated on the continental shelf of another territory;
> (e) Their geological and geomorphological structure and configuration.

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[15]U.N. Document A/AC.138/SC.II/L. 33 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. III, p. 71).

[16]U.N. Document A/AC.138/SC.II/L.21 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. III, pp. 19-21).

[17]U.N. Document A/AC.138/SC.II/L.29 and Corr. 1 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. III, p. 70).

2. Island States and the regime of archipelagic States as set out under the present Convention shall not be affected by this article.[18]

For Turkey's purposes, "relevant factors" (a), (b), (c) and (d) may serve to disqualify all—or nearly all—of the Greek islands lying close to the coast of Asia Minor from playing a role in the delimitation of seabed boundaries. Paragraph 2, on the other hand, is attached so as not to alienate archipelagic States whose support will be valuable to the Turkish group in the Law of the Sea Conference.

The campaign to qualify the seabed rights of islands was pursued in an identical draft article co-sponsored by ten African States, apart from Cameroon, Kenya, Madagascar, and Tunisia.[19] African support crystallized in the "Declaration of the Issues of the Law of the Sea," issued by the Organization of African Unity at its 21st Session in Addis Ababa in May 1973.[20] A passage of the Declaration endorsed with only a slight variation the previous proposal of the African States.

Turkey received further support from a Romanian working paper, submitted to the Seabed Committee. It contained the following far-reaching provision:

Islets and small islands, uninhabited and without economic life, which are situated on the continental shelf of the coast, do not possess any of the shelf or other marine space of the same nature.[21]

Finally, Turkey filed with Sub-Committee II a request for a general geomorphological and bathymetric study of islands. The survey, to be conducted by the International Hydrographic Organization, is to be made available to the Seabed Committee and to the Caracas Conference.[22] It is meant to compliment the other draft articles by offering conclusive scientific data on the nature of the seabed around islands which belong to one State while positioned near the coast of another. Proof of their location on the underwater prolongation of another State's land mass will, according to the Turkish proposals, limit the seabed rights of these islands.

Prospects

In thinking about a new legal framework on the seabed rights of islands emerging from the Caracas Conference, one should consider its effect on the dispute which has concerned us here. Its immediate impact would be to reverse

[18]U.N. Document A/AC.138/SC.II/L.43 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. III, p. 98).

[19]U.N. Document A/AC.138/SC.II/L.40 and Corr. 1-3 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. III, p. 87).

[20]U.N. Document A/AC.138/89 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. II, p. 4).

[21]U.N. Document A/AC.138/SC.II/L.53 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. III, p. 106).

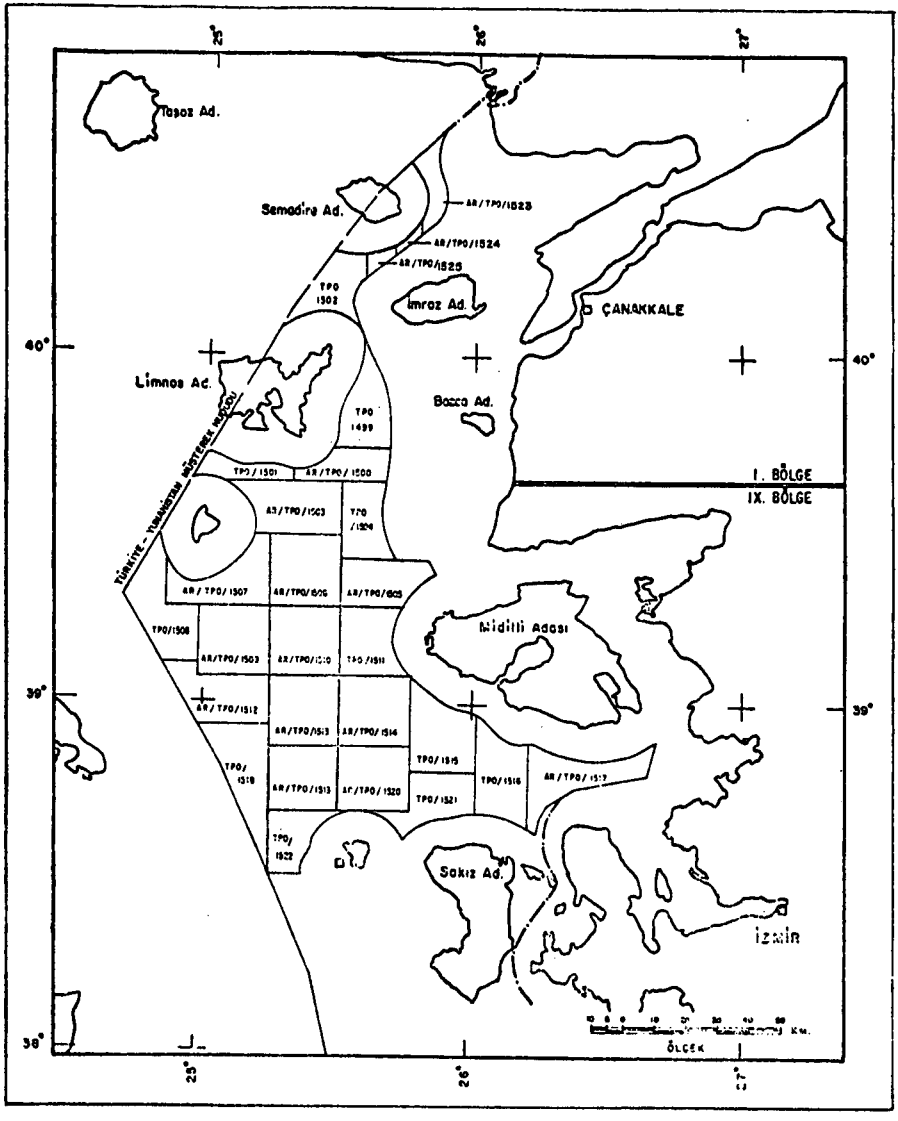
[22]U.N. Document A/AC.138/SC.II/L.50 (GAOR, 28th Sess., Supp. No. 21 (A/9021), Vol. III, p. 105).

the relative strength of the legal argumentation of the two sides, since it would allow Turkey to invoke a body of positive law, which at present she is unable to do. A new regulation, however, would not resolve the dispute. The two Governments by their promulgations and committal statements have closed the avenues of retreat from their respective positions. Seabed concessions, formally gazetted, are not easily revoked in the face of angry protests by a neighbouring State, especially if the Government concerned does not wish to appear weak and ineffective to its domestic public. In this respect, both the Greek and the Turkish Governments would consider even a partial volte-face an unacceptable option.

It is possible that, in the imminent future, Greece and Turkey will be responsive to diplomatic admonitions from the United States towards moderation of their respective positions. Furthermore, the political instability of the Greek army-backed Government may well prevent Greek actions which will escalate the present phase of the dispute into a military confrontation between the two NATO allies. A statement by the Greek Government on 10 April 1974 categorically denied Turkish press reports of war preparations and a mobilization of the Greek armed forces.[23] The Greek Government subsequently refrained from reacting to a mass rally, which was organized by the Turkish National Union of Students in Istanbul on 13 April 1974 and staged as a "last warning to Greece."[24] Similarly, there was no Greek response to the statement, issued by the Turkish Minister of Energy and Natural Resources on 16 April 1974, indicating that the Turkish State Petroleum Company intends to begin exploratory drills on the Aegean seabed in the summer of 1974.[25]

In the long-run, however, the Greek-Turkish difference over the distribution of natural resources will only add friction to the protracted conflict of the two countries over the degree of autonomy for the Turkish minority in Cyprus. The combined effect of the two issues on Greek-Turkish relations may easily provoke a catastrophic outburst of large-scale violence in the Eastern Mediterranean.

[23]The Times, 11 April 1974, at 8; To Vima, 11 April 1974, at 1.
[24]The International Herald Tribune, 15 April 1974, at 5; To Vima, 17 April 1974, at 2.
[25]The Guardian, 17 April 1974, at 4; To Vima, 17 April 1974.



Map drawn from the Turkish Government Gazette of 1 November 1973. It shows the delimitation of the Aegean seabed as promulgated by Turkey, as well as the twenty-seven maritime areas ceded to the Turkish State Petroleum Company.