



THE FLETCHER SCHOOL
TUFTS UNIVERSITY

GLOBAL MASTER OF ARTS PROGRAM

**Turkey's Exclusive Economic Zone in the Mediterranean Sea:
The Case of Kastellorizo**

Master's Thesis
Presented to the Faculty
of
The Fletcher School of Law and Diplomacy
By

Serhat S. Çubukçuoğlu

Thesis Advisor: Professor Robert L. Pfaltzgraff, Jr.

July 14, 2014

ACRONYMS

CS	Continental Shelf
EEZ	Exclusive Economic Zone
EU	European Union
ICJ	International Court of Justice
ITLOS	International Tribunal on Law of the Sea
KRG	Kurdish Regional Government
LNG	Liquefied Natural Gas
LOST	Law of the Sea Treaty
NATO	North Atlantic Treaty Organization
TCM	Trillion Cubic Meters
TEC	Turkish Energy Company
TPAO	Turkish Petroleum Corporation
US	United States
UN	United Nations
UNCLOS	United Nations Convention on Law of the Sea
USGS	United States Geological Survey

EXECUTIVE SUMMARY

Research Question: *What is Kastellorizo's significance for settlement of the EEZ dispute in the Eastern Mediterranean Sea? Can international law contribute to the resolution of this dispute?*

This paper looks at the motivation behind competing claims over maritime delimitation between Greece and Turkey concerning the island of Kastellorizo as a potential crisis spot in the eastern Mediterranean Sea. The objective is to assess the legal basis of these claims, their implications for security, trade and economic development in the region. Russia's annexation of Crimea and monopolization of energy supply routes to Europe has led energy consumers of the industrialized world finally to become serious about hydrocarbon alternatives. Viability of energy pipeline projects depends on the extent of EEZ delimitations in the region upon which the final status of Kastellorizo has a profound impact. The research finds that the power struggle over alternative energy supply routes between the Central Asia, Middle East, and Europe draw the attention of global and regional players to prospects for gas exploitation in the eastern Mediterranean. Kastellorizo has a pivotal position in this multi-dimensional conflict over exertion of political influence and control of energy routes. There is a limited time window of opportunity to find an equitable solution for extraction and transportation of eastern Mediterranean gas as alternative suppliers from the U.S. to East Africa will soon start to place downward price pressure and undermine profitability of new underwater pipeline projects.

The conflict over EEZ delimitation between Greece and Turkey is inextricably linked with long-standing confrontations over the Cyprus Problem. Rich reserves of recoverable natural gas resources in the Levant Basin, if translated into windfall profits, can be vital for Greece and Turkey that run large budget deficits. International law can contribute to peaceful settlement of the EEZ delimitation dispute over Kastellorizo, although priority should be given to multiparty negotiations that may involve Greek and Turkish Cypriots. Historical precedent on similar cases of dispute settlement highlights the necessity to take special geographical circumstances into account to find an equitable solution for all parties. This research finds that Kastellorizo may be entitled to an EEZ, the width of which should be coextensive with its 6-mile-wide Territorial Waters, based on the precedent of Anglo-French arbitration case.

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PART I: INTRODUCTION

Kastellorizo is the eastern-most territorial point of Greece and has a crucial strategic position in a dispute over delimitation of Exclusive Economic Zones (EEZs) between Cyprus¹, Greece, and Turkey that has been sparked by recent oil and gas exploration activities in the Mediterranean Sea. It is a potential crisis spot in the region due to a competition between aforementioned neighboring countries over rights to exploit rich energy resources that lie beneath the seabed and to exert political influence for furtherance of national interests. This situation should not be a surprise. Since most of the world population lives within 300 miles of a coastline, such littoral geographical areas will be probable locus for much of the early twenty-first-century conflict.²

The combined proven reserves of recoverable natural gas resources in the eastern Mediterranean are over 1.08 tcm³ that could guarantee to meet the demand in the region for the next 100 years. In addition, the U.S. Geological Survey (USGS) estimated that the Levant Basin houses undiscovered resources of 1.7 billion barrels of oil, which would increase the region's proven reserves by almost 70%, and 3.45 tcm of natural gas that could meet the regional demand almost indefinitely.⁴ Although difficulties remain to establish commercial viability of export production, successful offshore exploration activities may uncover higher quantities of gas in the coming years, especially with the advent of shale revolution. This, coupled with the strategic location of the region between major producers of the Middle East and demand centers of Europe, makes the eastern Mediterranean a frequent target of energy import and export project proposals⁵ as well as a potential energy transit hub. International pipeline projects over Cyprus, Greece, Israel, and

¹ Republic of Cyprus is a *sui generis* country established in 1960 under the guarantee of Britain, Greece, and Turkey. Inter-communal clashes between Greek and Turkish citizens of the island damaged the spirit of co-inhabitation and ultimately led to the collapse of the Cypriot government in 1963. After eleven years of low-scale armed conflict, in 1974 an attempted coup by Greek Cypriots to unite Cyprus with Greece led to Turkey's military intervention that split the northern part of the island. The Greek Cypriot "Republic of Cyprus" has since then gained international recognition as the legitimate representative government of Cyprus, whereas the *de facto* "Turkish Republic of Northern Cyprus", which declared its independence in 1983, is only recognized by Turkey. For consistency, the word "Cyprus" in this paper refers to the Greek Cypriot part of the island, unless otherwise stated.

² Robert L. Pfaltzgraff Jr., Stephen E. Wright, *"The Spectrum of Conflict: Symmetrical or Asymmetrical Challenge,"* p. 15, Security Studies and Crisis Management, GMAP, The Fletcher School of Law and Diplomacy, Tufts University, 2014.

³ U.S. Energy Information Administration, *Overview of oil and natural gas in the Eastern Mediterranean region*, August 15, 2013 (accessed May 28, 2014); available from http://www.eia.gov/countries/analysisbriefs/Eastern_Mediterranean/eastern-mediterranean.pdf

⁴ Ibid.

⁵ Ibid.

Turkey frequently compete to gain feasibility and security appraisals in finding the most cost-effective alternative energy supply route from Central Asia through the Middle East to Europe. “Moving from the discovery phase to the commercial production phase and from there to develop exporting capability requires ongoing commitment by all parties in the face of several regional issues”⁶, perhaps the most important of which is the dispute over maritime delimitation between Cyprus, Greece, and Turkey.

Although Greece and Turkey have not yet proclaimed their EEZs, the Greek Cypriot government in 2004 has passed a law defining and regulating its EEZ, the total area of which is ironically larger than the entire island itself. There are 13 sub-zones in the Greek Cypriot EEZ that can be auctioned for concession agreements to international energy companies, notwithstanding any sovereign rights that the Turkish part in northern Cyprus may be entitled to. Turkey does not recognize Greek Cypriot EEZ delimitation agreements with Egypt, Lebanon, and Israel and it claims that as a de-facto divided island “Republic of Cyprus” cannot represent the interests of northern Cyprus unless the island is reunified with a single EEZ. In the mean time, northern Cyprus has authorized Turkish Petroleum Corporation (TPAO) to conduct seismic research and hydrocarbon exploration activities in six EEZ areas that overlap with those demarcated by the Greek Cypriot government.

Due to conflicting claims by Greek and Turkish Cypriot communities on maritime delimitation within the wider context of bi-communal talks for reconciliation and peace on the island, Turkish side holds the view that exploitation of natural resources should be deferred until a comprehensive solution to the Cyprus Problem is reached. This view has been refused outright as non-negotiable by Greek Cypriot authorities that found considerable support to pursue their goals on a unilateral basis. In 2011, Greek Cypriot government started the process for natural gas exploration activities with assistance from the U.S. company Noble Energy and granted further licenses for exploration to Italian-South Korean venture ENI-KOGAS in 2013 with a plan to start drilling in 2014 and production in 2017.

⁶ Ibid.

In the meantime, the Eurozone crisis since 2008 has been a severe impediment for Greece and Cyprus, both of which found large hopes in offshore energy exploration projects to become net exporters of oil & gas and recover from bankruptcy in the coming decades. Furthermore, the recent crisis in Crimea between NATO and Russia also fed fears in Europe and boosted efforts to find alternative energy supply routes via the eastern Mediterranean. Notably, in 2013, Europe got over 24% of its gas from Russia, half of which passed through Ukraine.⁷ At the G7 Rome Ministerial Summit in May 2014, European leaders highlighted the need to address security challenges and ensure diversification of transit routes to sustain safe and uninterrupted access to energy.⁸ On top of this tectonic shift in energy geopolitics, voices within Turkey have been growing to put pressure on the Turkish government to proclaim its own EEZ and demonstrate greater determination to protect its maritime boundaries in the Mediterranean Sea, and to safeguard its position as the energy hub of the future. With a projected use of 2.5 tcf⁹ of natural gas per year by 2020, Turkey seeks to diversify its sources of energy geographically and translate this into economic and foreign policy gains.¹⁰

The unilateral proclamation of Greek Cypriot EEZ and its implications on extraction rights over rich energy reserves, especially in the context of international political and economic crisis in Europe, Ukraine, Syria, and the Arab uprisings has shifted the focus to another island – Kastellorizo, which is much smaller in size compared to Cyprus, but closer geographically to Turkey. Greece's claim to an area of 200-mile full EEZ entitlement for Kastellorizo overlaps with Turkey's EEZ. The question that is at the core of this dispute, with repercussions on Cyprus, is whether Kastellorizo may be entitled to a Continental Shelf (CS) and EEZ on its own merit and if so to what extent. The answer to this question and consequences of the island's final status may have profound implications not only for the stability of the region, but also on the power struggle over energy transit routes between the U.S., Europe, and Russia.

⁷ International Security Observer, "U.S. LNG Exports to Europe: Why it won't happen Anytime Soon?," Agnieszka Joanna Stolarczyk, June 10, 2014 (accessed July 5, 2014); available from <http://www.securityobserver.org>

⁸ European Commission, *Rome G7 Energy Initiative for Energy Security*, G7 Rome Energy Ministerial Meeting, IP/14/530, May 6, 2014 (accessed May 28, 2014); available from http://europa.eu/rapid/press-release_IP-14-530_en.htm

⁹ Mehmet Ögütçü, *Rivalry in the Eastern Mediterranean: The Turkish Dimension*, The German Marshall Fund of the United States, June 2012, Mediterranean Policy Program.

¹⁰ Ebru Oğurlu, *Turkey Amidst the Shifting Geopolitics in the Eastern Mediterranean*, Rethink Institute Washington DC, Rethink Paper 09, May 2013; available from <http://www.rethinkinstitute.org>

This paper looks at the competing claims over delimitation of EEZs between Greece and Turkey in the eastern Mediterranean. The research focuses on Kastellorizo's status with a view to assess the legal basis, or lack thereof, for such claims, and their implications for security, trade and economic development in the region. An important component of the assessment is to compare the validity of arguments and counter-arguments of Greece and Turkey in the light of bilateral agreements and the Treaty on Law of the Sea – UNCLOS – in order to understand whether international law can contribute to the resolution of this dispute.

The research for this paper is based on empirical evidence found in academic literature, documents readily available in the public domain, and public statements from primary sources of academic, military, and diplomatic backgrounds. English and Turkish language documents were consulted along with translations of Greek language documents, where available on public domains. The study's limitation resides in access to Greek and Greek Cypriot official government records and direct knowledge of the decision-making bodies, due to language constraints. Availability of information in these documents may contribute to further research that might necessitate revision of the analysis in this paper and lead to alternative conclusions.

This paper is divided into six parts. Part two lays out the background on legal aspects of maritime dispute resolution by covering the international law applicable to the dispute on Kastellorizo and an analysis of dispute settlement procedures in resolving similar cases in the past. Part three reviews legal arguments of Greece and Turkey for EEZ delimitation and their motivations for economic gains from energy supply security. Part four analyses strategic implications for the world of possible outcomes of the dispute over Kastellorizo. It presents the argument that, although litigation would help to resolve this dispute, an interim political solution in Cyprus can make a life-saving contribution for crisis prevention over Kastellorizo and facilitate a multilateral agreement on EEZ delimitations between Cyprus, Greece, and Turkey. Part five summarizes the findings and concludes with the recommendation that Turkey should pursue bilateral agreements with Egypt and Libya to delimit its EEZ in the Mediterranean Sea and if *bona fide* negotiations fail to settle the dispute around Kastellorizo within a reasonable period of time, it should consider to take the case with Greece for litigation to the ICJ.

PART II: BACKGROUND

1. UNCLOS III: Law of the Sea

For 400 years, those who possessed the greatest power in the global commons, especially at sea, have been able to exert dominion over those who do not¹¹. The US is the prime example of a Western naval power that maintains its hegemony through domination of the global maritime order. Practice over centuries of sea faring has been the engine for accumulation of customs that helped regulate rights and obligations of maritime nations and maintained the world order. In addition to these “rules of handshake”, globalisation gained momentum after the World War II and necessitated a formalised approach to maritime relations within the organisational capabilities of the United Nations (UN).

The New World Order of post-9/11 is characterised by multi-polar international relations involving many state and non-state actors with economic, social, and political interdependency. Increasingly, countries perceive “self-interest in the predictability and stability that law and legal relations bring to the international community”.¹² Therefore, customary international law based on non-binding “gentlemen’s agreements” may not be the most efficient way to deal with today’s complex, technical problems.¹³ Accordingly, interests of security and access to vast resources of assets that are vital to economic growth prompted maritime states to regulate rights of sovereignty and usage of sea areas under an international agreement called the “Law of the Sea”. This was not an easy outcome. United Nations Convention on Law of the Sea (UNCLOS III), also known as Law of the Sea Treaty (LOST), was conducted from 1973 to 1982 and was the longest international law negotiation ever¹⁴. Almost thirty years after the UN held its first conference on Law of the Sea in 1958¹⁵, UNCLOS was born as a codification of customary international law and systematised rules of engagement that were previously based on observed practice and *opinio juris* of nations. UNCLOS is a multilateral treaty that defines guidelines for

¹¹ David J. Betz and Tim Stevens, *Cyberspace and the State: Toward a Strategy for Cyber-Power* (New York: Routledge, 2011), Ch. 4.

¹² David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 10.

¹³ Prof. Joel Trachtman, “*International Business and Economic Law*,” Abu Dhabi Residency, Lectures 3-4, GMAP, The Fletcher School, Tufts University, 2014.

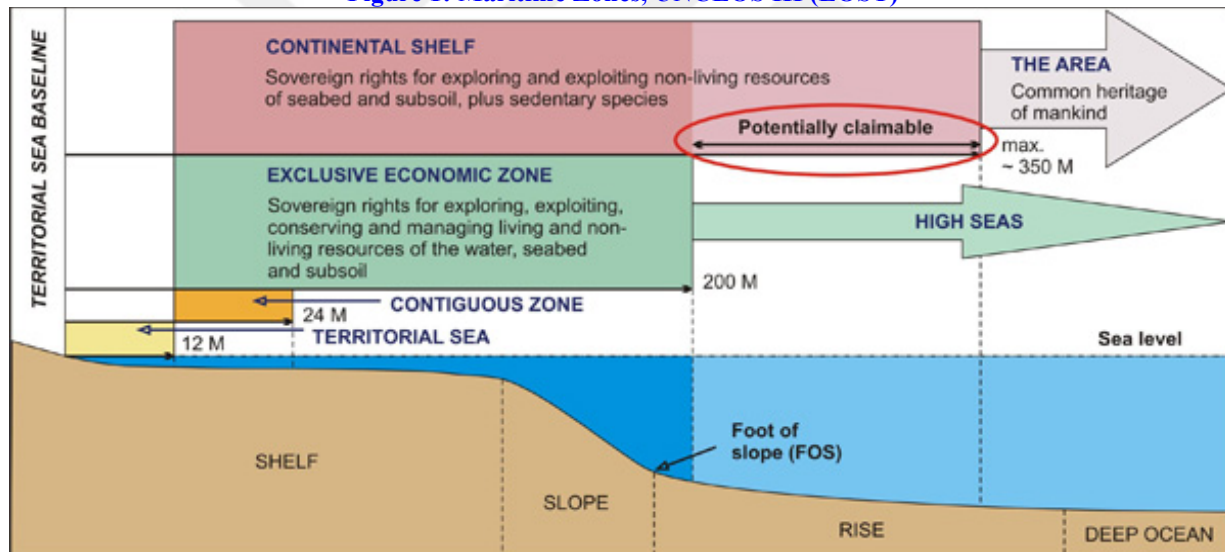
¹⁴ David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 125.

¹⁵ Ibid.

responsibilities and rights of nations in their use of seas. This last conference of Law of the Sea in 1982 was the third since 1958 and hence has been named as “UNCLOS III”.

Maritime zones, as shown in Figure 1, are at the heart of UNCLOS. These zones define levels of assertion of control and jurisdiction that a state may claim over offshore resources including the water column and seabed. Nearly one quarter of the world’s oil and gas reserves is located offshore¹⁶. This, by itself, is an important potential source of conflict between states that might have competing claims of sovereignty over maritime zones. These zones are home to rich presence of living and non-living resources and, if not delimited in an equitable way, can be a source of contention between nations that dispute their sea boundaries.

Figure 1: Maritime Zones, UNCLOS III (LOST)



Source: BGR – Germany, 2014

“The post-cold war liberal world order emphasized the idea that countries should use international tribunals rather than war to settle their disputes”.¹⁷ Experience of war and destruction over centuries of conflict has necessitated establishment of a permanent international judicial tribunal to arbitrate, *inter alia*, disputes over state sovereignty in global commons. Maritime delimitation disputes arising out of UNCLOS can therefore be taken to the associated

¹⁶ Ibid.

¹⁷ Foreign Policy, “Sorry, America, the New World Order is Dead,” Eric A. Posner, May 6, 2014 (accessed May 12, 2014); available from http://www.foreignpolicy.com/articles/2014/05/06/sorry_america_the_new_world_order_is_dead_russia_ukraine

judicial bodies of the UN for arbitration. The first of these, The International Tribunal for the Law of the Sea (ITLOS), has been given jurisdiction over maritime disputes concerning the interpretation or application of the Convention¹⁸. The other means is the International Court of Justice (ICJ), established in 1945, as the principal judicial organ of the UN with jurisdiction over all disputes that could arise under international law¹⁹.

The past history of litigations shows that, although the jurisdiction of ICJ is general and differs from that of specialist international tribunals²⁰, such as ITLOS, ICJ has been the *de facto* forum of choice for adjudication of contemporary maritime delimitation disputes including exemplary cases of Ukraine-Romania, Libya-Malta, and Qatar-Bahrain. In fact, maritime delimitation disputes have accounted for nearly one-fifth of the ICJ's schedule since 1969²¹ and the court had acquired the trust of many nations around the world in rulings over border disputes.²²

Article 38 of the Statute of the ICJ provides a prioritized list of available sources of international law, the most important of which is international conventions, also known as "treaties".²³ UNCLOS is a legally binding international treaty that definitively establishes a rule of conduct over all maritime disputes between signatory parties, including Greece, which signed the treaty in 1982 and ratified it in 1995.²⁴ Naturally, it is not binding to non-parties of the treaty including, among others, Turkey, the US, and Israel. Based on the principle of *ius tertii*, UNCLOS is a contractual law governed by the Vienna Convention on Law of Treaties that is not legally enforceable against a state that declines to sign and ratify it.²⁵

¹⁸ International Tribunal for the Law of the Sea, *Jurisdiction* (accessed May 12, 2014); available from <https://www.itlos.org/index.php?id=11&L=0>

¹⁹ International Court of Justice, *Practical Information* (accessed May 12, 2014); available from <http://www.icj-cij.org/information/index.php?p1=7&p2=2>

²⁰ Ibid.

²¹ David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 135.

²² Ibid.

²³ Prof. Joel Trachtman, "International Business and Economic Law," Abu Dhabi Residency, Lectures 3-4, GMAP, The Fletcher School, Tufts University, 2014.

²⁴ UN, *UNCLOS, Declarations and Statements*, Division for Ocean Affairs and Law of the Sea, October 19, 2013 (accessed May 19, 2014); available from http://www.un.org/depts/los/convention_agreements/convention_declarations.htm

²⁵ Ibid.

2. Continental Shelves and Exclusive Economic Zones

UNCLOS Article 76:1 defines Continental Shelf (CS) of a coastal state as follows:

The seabed and subsoil of the submarine areas that extend beyond its territorial sea [12 nautical miles] throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines.²⁶

The CS may extend further to a maximum of 350 miles²⁷ from a coastal state's baseline under certain geological circumstances if the seabed is a natural prolongation of the land domain. Article 77:1 expands on this definition and outlines the regime that governs offshore activities, including drill for oil & gas, by stating that "the coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources".²⁸ Perhaps as equally important, this is a natural right of a coastal state that does not depend on an express proclamation. This is referred to as the principle of *ipso facto* and *ab initio*.²⁹

By contrast, an Exclusive Economic Zone (EEZ), which is congruent with CS up to 200 miles as defined in Articles 56 and 57³⁰, does not fall upon as a natural right of existence on a state from the beginning and must be explicitly proclaimed to become effective. EEZ provides a coastal state the right to exercise economic exploitation and exploration of the zone, the seabed and its subsoil, as well as jurisdiction over offshore platforms and activities including marine fisheries such that of the global fish catch, 95% is taken within the 200-mile EEZs of individual coastal states.³¹

The creation of an EEZ regime in UNCLOS left little to gain by default for geographically disadvantaged or "zone-locked" states since even small but well-positioned islands adjacent to

²⁶ UNCLOS, *Part IV: Continental Shelf*, p. 53, Article 76: Definition of the continental shelf (accessed May 18, 2014); available from http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

²⁷ Ibid. Article 77:5

²⁸ Ibid. Article 77:1.

²⁹ Ibid. Article 77:3.

³⁰ Ibid. *Part V: Exclusive Economic Zone*, p. 43-44, Article 56, Article 57.

³¹ Pamela Chasek, David. L. D, Downie, and James Welsh Brown, *Global Environmental Politics* (Colorado: Westview Press, 2014), 208-209.

another state can potentially generate disproportionately large territorial seas, contiguous zones, and EEZs.³² Article 121 of UNCLOS entitles a naturally formed island to have same status as other land territory and generate full CS and EEZ, with the exception of rocks that are unable to sustain economic life.³³ For states that are less than 400 miles apart from each other, and in the absence of any pre-existing agreement, a problem of sovereignty may arise due to overlapping maritime zones. In case of a dispute, national boundaries should be delimited under an “equitable solution” as per Articles 74 and 83.³⁴ This is a potential source of major conflict for international relations as countries often contest over what constitutes such an equitable solution.

Under normal circumstances, the rule of “equidistance”, which is the *de facto* method for delimitation, stipulates that if the coasts of two states are opposite or adjacent to each other, then the maritime boundary delimitation line should be drawn at an equal distance from each state’s shore baseline.³⁵ The equidistance line, however, can be altered in “special circumstances” whereby both parties or an international tribunal may consider to devote an exceptional treatment to islands that are situated right offshore another state, such as Greek islands right off the coast of Turkey³⁶, one of which is Kastellorizo. The aim of such a special consideration is to remedy inequities that an otherwise geographically disadvantaged state might be subject to suffer.

UNCLOS explicitly refers to the jurisdiction of ICJ as per Article 38 of its Statue to affect a delimitation agreement on the basis of international law.³⁷ In principle, parties to a maritime delimitation dispute should first of all seek peaceful settlement through negotiations in good faith and, if only such efforts fail in a reasonable amount of time, then resort to a procedure that entails a binding decision as per Part XV of UNCLOS.³⁸ Arbitration of maritime delimitation disputes is a highly developed area of international law. In case of court litigation, the approach

³² David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 134.

³³ UNCLOS, *Part VIII: Regime of Islands*, p. 66, Article 121: Regime of Islands (accessed May 12, 2014); available from http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

³⁴ Ibid. Article 74:1-4, Article 83:1-4.

³⁵ Ibid. Article 15.

³⁶ David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 135.

³⁷ Ibid. Article 83:1-4.

³⁸ Ibid.

adopted under UNCLOS and applied by ICJ is a combination³⁹ of the “equidistance rule” and consideration for “special circumstances” as demonstrated in the judgment over delimitation of North Sea Continental Shelves between Germany, Netherlands and Denmark. In this case, the court rejected the equidistance principle as a natural consequence of continental shelf rights, in favor of Germany, which had not ratified the then Geneva Convention of 1958 precisely because of catastrophic consequences this would have had on its claims to offshore subsoil natural resources in the North Sea.⁴⁰ The court held that

Delimitation is to be effected by agreement in accordance with equitable principles, and taking account of all the relevant circumstances, in such a way as to leave as much as possible to each Party all those parts of the continental shelf that constitute a natural prolongation of its land territory into and under the sea, without encroachment on the natural prolongation of the land territory of the other.⁴¹

Similarly, in Qatar-Bahrain maritime delimitation case, the court held that

The most logical and widely practiced approach is first to draw provisionally an equidistance line and then to consider whether that line must be adjusted in the light of the existence of special circumstances.⁴²

In delimiting a maritime boundary between a small island and a coastal state, ICJ assigns the island’s claim to EEZ a weight that is proportional to the distance of the island to the mainland of its sovereign state and the length of the adjacent state’s coastline.

³⁹ Chinese Journal of International Law, “*Maritime Delimitation in the Jurisprudence of the International Court of Justice*,” Shi Jiuyong, 9 (2): 271-291, 2010 (accessed May 22, 2014); available from <http://chinesejil.oxfordjournals.org/content/9/2/271.full>

⁴⁰ International Court of Justice, *North Sea Continental Shelf (Federal Republic of Germany/Netherlands)*, February 20, 1969 (accessed May 2, 2014); available from <http://www.icj-cij.org/docket/index.php?sum=295&code=cs2&p1=3&p2=3&case=52&k=cc&p3=5>

⁴¹ Ibid. p. 53, paragraph 101; available from <http://www.icj-cij.org/docket/files/52/5561.pdf>

⁴² International Court of Justice, *Maritime Delimitation and Territorial Questions between Qatar and Bahrain*, Merits, Judgment of 16 March 2001, p.94, para.176 (accessed May 22, 2014); available from <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&case=87&code=qb&p3=90>

Map 1: Romanian and Ukrainian claims to EEZ Map 2: ICJ's Judgment on the Maritime Boundary



Source: International Court of Justice, "Maritime Delimitation in the Black Sea," Press Release, 3 February 2009

As in Romania-Ukraine delimitation case, the court may apply a proportionality test to determine the distorting effect of an island's position on maritime delimitation:

[The court] may on occasion decide not to take account of very small islands or decide not to give them their full potential entitlement to maritime zones, should such an approach have a disproportionate effect on the delimitation line under consideration.⁴³

In this case, the presence of Ukrainian Serpents' Island did not call for an adjustment of the provisional equidistance line between Ukraine and Romania:

Any continental shelf and exclusive economic zone entitlements possibly generated by Serpents' Island could not project further than the entitlements generated by Ukraine's mainland coast.⁴⁴

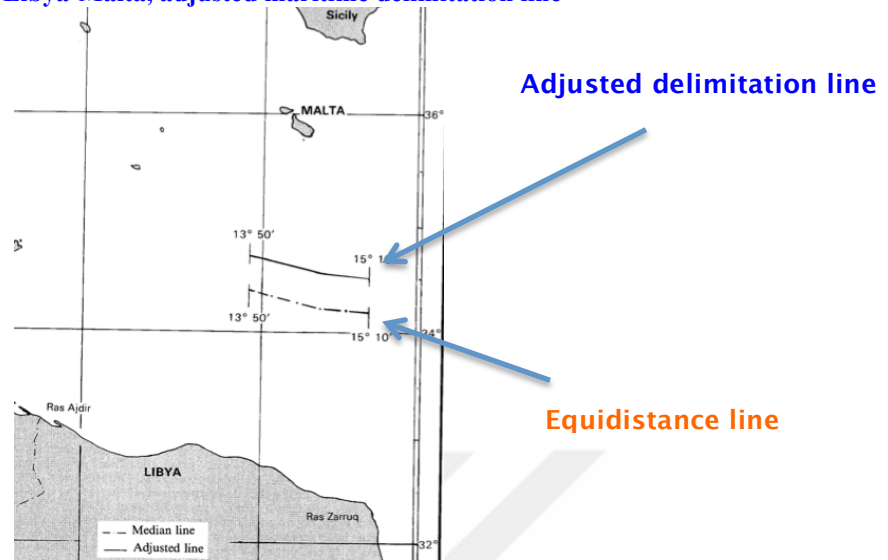
In Libya-Malta case, the court considered the "ratio between the lengths of each party's coast and the maritime areas allocated to that party by the provisional equidistance line".⁴⁵ The line has been adjusted by the court in accordance with equitable principles of proportionality to reflect the lengths of the relevant parts of each state's coastlines.

⁴³ International Court of Justice, *Maritime Delimitation in the Black Sea*, Press Release, February 3, 2009 (accessed May 22, 2014); available from <http://www.icj-cij.org/docket/files/132/14985.pdf>

⁴⁴ Ibid. "Relevant circumstances," p. 4.

⁴⁵ Chinese Journal of International Law, "Maritime Delimitation in the Jurisprudence of the International Court of Justice," Shi Jiuyong, 9 (2): 271-291, 2010, (accessed May 22, 2014); available from <http://chinesejil.oxfordjournals.org/content/9/2/271.full>

Map 3: Libya-Malta, adjusted maritime delimitation line



Source: International Court of Justice, “Continental Shelf (Libyan Arab Jamahiriya/Malta)”, p.54, 1985

Nevertheless, the court in its decisions over maritime delimitation disregards certain factors, as it did in Libya-Malta case, such as arguments based on historic rights, disparities in economic welfare, oil concessions, or certain geographic formations of the seabed or subsoil.⁴⁶ Malta argued that “relevant equitable considerations of the court should include the absence of energy resources on the island of Malta, its requirements as an island developing country, and the range of its established fishing activity, but the court refused that delimitation should be influenced by the relative economic position of the two States in question”.⁴⁷ By contrast, if the “delimitation line passes very close to the coast of one of the states”,⁴⁸ the court may consider “security” as a relevant, special circumstance to adjust the equidistance line, as inspired by Truman Proclamation of 1945 to secure oil reserves in the Gulf of Mexico.⁴⁹

Maritime delimitation between two states must also avoid infringing upon rights of a third state, an example of which may be a consideration of the effect on Turkey of a possible EEZ

⁴⁶ Ibid.

⁴⁷ International Court of Justice, *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, Judgment of 3 June 1985, p. 41, paragraph 50 (accessed May 22, 2014); available from <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&case=68&code=lm&p3=90>

⁴⁸ Chinese Journal of International Law, “*Maritime Delimitation in the Jurisprudence of the International Court of Justice*,” Shi Jiuyong, 9 (2): 271-291, 2010 (accessed May 22, 2014); available from <http://chinesejil.oxfordjournals.org/content/9/2/271.full>

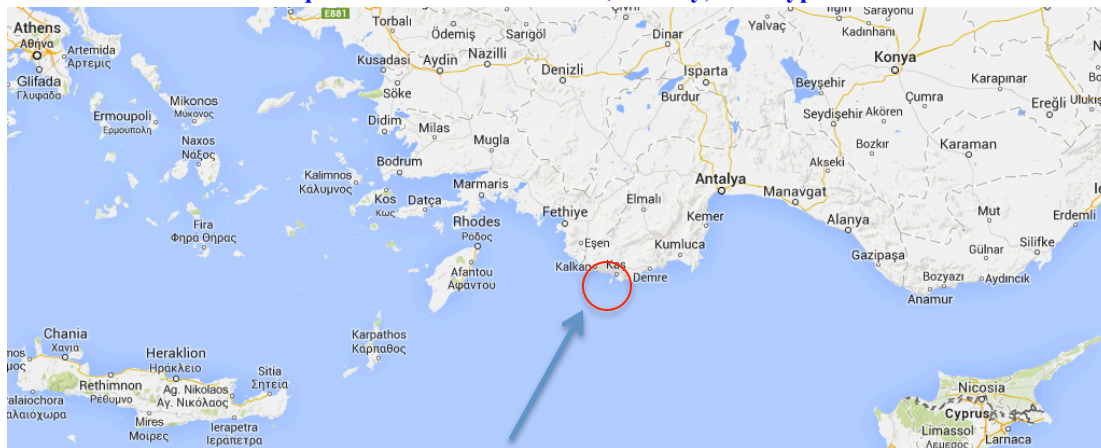
⁴⁹ David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 130.

delimitation between Greece and Cyprus. Management of conflict and peaceful resolution of disputes are by vast majority done through bilateral negotiations. Only if all mechanisms of peaceful settlement are exhausted, then under the authority of UN Charter, Article 36:3, parties should submit a legal dispute to the ICJ.⁵⁰

3. Kastellorizo: Maritime Delimitation Dispute between Greece and Turkey

Kastellorizo is part of the Dodecanese group of Greek islands that is located in the eastern Mediterranean Sea. It is 12 km² in size and lies approximately 1 mile off the south coast of Turkey, about 354 miles Southeast of Athens, and 170 miles northwest of Cyprus.⁵¹ It has a symbolic meaning as the eastern-most territorial point of Greece and is situated 72 miles⁵² east of the nearest Greek island of Rhodes. Only a few hundred people inhabit the island during winter times, since most of its native population that once amounted to 20,000⁵³ migrated to Australia after catastrophic years of the World War II. Spiritually, the Church of Kastellorizo is ecclesiastical to the Greek Orthodox Patriarch in Istanbul, Turkey.

Map 4: Kastellorizo – Greece, Turkey, and Cyprus



Source: Google Maps, 2014

Kastellorizo

As Map 4 above illustrates, Kastellorizo is at the cross-roads of vital sea lanes that connect Turkey, Greece, and Black Sea countries, including Russia, via the Aegean Sea, to trade routes

⁵⁰ UN, *Charter of the United Nations*, Chapter VI: Pacific Settlement of Disputes, Article 36:3 (accessed May 23, 2014); available from <http://www.un.org/en/documents/charter/chapter6.shtml>

⁵¹ *Municipality of Megisti* (accessed June 14, 2014); available from <http://www.megisti.gr/en/megisti.html>

⁵² Ibid.

⁵³ Dr. Ioannis N. Grigoriadis, “*Meis Adası*,” *Siyasi Yorumlar* (accessed May 7, 2014); available from <http://siyasiyorumlar.blogspot.co.uk/2013/08/meis.html>

of the Mediterranean Sea and beyond, to Suez Canal, the Red Sea and the Arabian Gulf. Since the ancient times, many regional powers including the Byzantine Empire and Crusader Knights of St. John dominated Kastellorizo, which, between 1522 and 1912, was part of the Ottoman Empire until the island's seizure by Italy after the First Balkan War. Following the end of World War II, under 1947 Paris Peace Treaty (Article 14), sovereignty of the Dodecanese islands including Kastellorizo and several nearby islets was ceded by Italy to Greece⁵⁴. More than 60 years after this treaty the island has gained unprecedented focus and heightened in importance by its crucial geostrategic position in the dispute over the extent of EEZs between Greece, Turkey, and Cyprus that has been sparked by recent oil and gas exploration activities in the Mediterranean Sea.

Greece is a party to UNCLOS and chose ITLOS as the means for the settlement of disputes concerning the interpretation or application of the Convention.⁵⁵ ITLOS is a UN adjudicatory body with jurisdiction over maritime disputes, similar to but with a more special focus on maritime law than ICJ. Although Greece has not yet officially proclaimed an EEZ in the Mediterranean Sea, it has signaled in 2013 through a verbal statement at the UN⁵⁶ and via printed press that it intends to proclaim full 200-mile EEZ for Greek islands in the eastern Mediterranean and make it contiguous with the EEZ of Cyprus.⁵⁷

On the other hand, Turkey deliberately did not sign UNCLOS treaty due to the consequences it would have had on its national security in the Aegean Sea, as shown in Maps 5 and 6 below. Article 3 of UNCLOS grants the right to every state to extend the breadth its territorial sea to 12 miles⁵⁸, which, if Turkey accepts, would allow Greece to dramatically increase its share of territorial waters in the Aegean Sea from 35% to 73% and increase Turkey's share from 7% to

⁵⁴ Hellenic Republic Ministry of Foreign Affairs, *Grey Zones* (accessed 5 May 2014); available from <http://www.mfa.gr/en/issues-of-greek-turkish-relations/relevant-documents/grey-zones.html>

⁵⁵ UN, *UNCLOS, Declarations and Statements*, Division for Ocean Affairs and Law of the Sea, October 29, 2013 (accessed May 26, 2014); available from http://www.un.org/depts/los/convention_agreements/convention_declarations.htm

⁵⁶ Hellas Frappe, *Indirect Proclamation of EEZ - Greece Gives Coordinates Of Continental Shelf To UN*, February 21, 2013 (accessed May 26, 2014); available from <http://hellasfrappe.blogspot.com/2013/02/indirect-proclamation-of-eez-greece.html>

⁵⁷ Daniel Pipes, *"Kastellorizo: Mediterranean Flashpoint,"* Daniel Pipes: Middle East Forum (accessed May 26, 2014); available from <http://www.danielpipes.org/10630/kastellorizo>

⁵⁸ UNCLOS, *Part II: Territorial Sea and Contiguous Zone*, p. 27, Article 3: Limits of the Territorial Sea (accessed May 26, 2014); available from http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

only 9%⁵⁹, granting Greece the right to suspend even innocent passage for its own national security reasons, essentially “zone-locking” Turkey to the rest of the world and asserting control over international sea lanes that link the Mediterranean Sea to the Black Sea.

Map 5: Greece's 6-mile Territorial Waters



Map 6: Greece's claim to 12-mile Territorial Waters



Source: *Foreign Policy*, 2002, http://www.foreignpolicy.org.tr/documents/stashan_130302_p.htm

Nevertheless, Turkey already observes almost all other principles of UNCLOS and has extended its territorial waters to 12 miles in the Black Sea and the Mediterranean Sea. Still, though, any possible litigation either at ITLOS or at ICJ of any maritime dispute between Greece and Turkey may not happen without mutual consent of both parties. In the absence of a binding treaty law, Turkey has no peaceful recourse to resolve disputes of Territorial Waters, CS or EEZs other than bilateral negotiations with Greece. In addition, it is important that a non-party to UNCLOS not only declines the treaty provision that would be contrary to its interests, but must also reject any tacit acceptance or acquiescence to a particular maritime delimitation, in order to avoid being bound to it as a custom in the future.⁶⁰ In this regard, Turkey often conducts naval exercises as an instrument of gunboat diplomacy and grants seismic research rights for oil & gas exploration activities in its potential EEZs within close proximity of Kastellorizo and Cyprus islands as a way to demonstrate its refusal to accept Greek and Greek Cypriot claims to EEZs.

⁵⁹ En Son Haber, “Wall Street Journal’ın Yunanistan ve Türkiye analizi,” March 9, 2013 (accessed May 26, 2014); available from <http://www.ensonhaber.com/wall-street-journalin-yunanistan-ve-turkiye-analizi-2013-03-09.html>

⁶⁰ David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 30.

Resolution of the EEZ delimitation dispute in the eastern Mediterranean is of crucial importance for the region's security and economic prosperity. If Kastellorizo is given full EEZ, Greece will have a maritime border with Cyprus and gain a strategic advantage that benefits the emerging Greece-Cyprus-Israel alliance by making it possible to transport offshore natural gas from Levant to Western Europe⁶¹, thus bypassing Turkey as a transit hub, despite the latter being the more economically feasible route. Turkey denies the claim that Kastellorizo is entitled to full EEZ and insists on bilateral negotiations to resolve the dispute, while Greece would like the issue settled in the ITLOS.

PART III: Arguments of Greece, Cyprus, and Turkey

1. Greek Position

Greece's legal position about settlement of the EEZ dispute is essentially based on the claim that maritime delimitation between mainland Turkey and Greek islands must be done exclusively by adoption of the "equidistance principle" irrespective of any "special circumstances" that may exist. According to this view, islands have full right to exercise jurisdiction over their CS and coextensive EEZs as per Article 121 of UNCLOS.

Article 6.2 of the Geneva Convention of Continental Shelf (1958) states that "the boundary shall be determined by application of the principle of equidistance...unless another boundary line is justified by special circumstances".⁶² UNCLOS Articles 74 and 83, which superseded the Geneva Convention, take a more balanced stance and replace the word "equidistance" with "equitable solution" for arbitration of maritime delimitation. Nevertheless, Greece rejects the application of special circumstances rule that could justify an adjustment of the equidistance line with Turkey. To resolve the dispute concerning delimitation of CS in the Aegean Sea, Greece unilaterally submitted the case to the ICJ in 1976. This was prior to ratification of UNCLOS and

⁶¹ Daniel Pipes, "*Kastellorizo: Mediterranean Flashpoint*," Daniel Pipes: Middle East Forum (accessed May 26, 2014); available from <http://www.danielpipes.org/10630/kastellorizo>

⁶² UN, *Convention on the Continental Shelf*, United Nations: Treaty Collection (accessed May 27, 2014); available from https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXI-4&chapter=21&lang=en

Turkey at the time refused to recognize the jurisdiction of the Court, which therefore could not entertain Greece's application for arbitration.⁶³

Bilateral negotiations between Greece and Turkey have continued from time to time with focus on maritime disputes concerning the Aegean Sea. The status of Kastellorizo has been kept out of these talks upon Turkey's reservation that the island is located in the Mediterranean Sea, not the Aegean Sea, and thus requires a special treatment. In 2011, when Turkey declared the region south of Kastellorizo as a national zone for "oil exploration activities" and assigned a Turkish-funded Norwegian research vessel for the task, Greece protested this move by claiming that the area is part of Greek EEZ.⁶⁴

The critical point about this dispute is that if Kastellorizo may govern a full EEZ, it can set a precedent for similar cases in the Aegean Sea, which is host to hundreds of small islands and islets that can potentially deliver vast areas of sea and offshore resources to Greece's national sovereignty. Although precedent is not binding under international law, judiciary bodies do refer to them and may reserve a right to decide that the present situation is very similar to a past case that for consistency the same rule should apply.⁶⁵ Greece is disturbed by the possibility of Kastellorizo's exclusion from a potential maritime delimitation agreement with Turkey in the future.

It must be recognised that there is an estimated \$130 billion undersea hydrocarbon reserves around Greece that could ease the country's crippling debt burden of \$568 billion⁶⁶ and make it a significant energy supplier for Europe, which wants to reduce its dependence on Russia.⁶⁷ Kastellorizo's geopolitical gravity clearly becomes more significant if it is viewed from this

⁶³ International Court of Justice, *Aegean Sea Continental Shelf Case*, December 19, 1978 (accessed May 27, 2014); available from <http://www.icj-cij.org/docket/index.php?sum=327&code=gt&p1=3&p2=3&case=62&k=81&p3=5>

⁶⁴ NTVMsNBC, "Doğalgaz sondajında ilk kriz Meis'te," September 17, 2011 (accessed May 24, 2014); available from <http://www.ntvmnsnbc.com/id/25251304>

⁶⁵ Prof. Joel Trachtman, "International Business and Economic Law", Abu Dhabi Residency, Lectures 3-4, GMAP, The Fletcher School, Tufts University, 2014.

⁶⁶ Central Intelligence Agency, *The World Fact Book: Greece*, Economy: External Debt (accessed May 31, 2014); available from <https://www.cia.gov/library/publications/the-world-factbook/geos/gr.html>

⁶⁷ Wall Street Journal, "Greek Maritime Claims Rock Boat With Turkey," Alkman Granitsas and Stelios Bouras, March 7, 2013 (accessed May 29, 2014); available from <http://online.wsj.com/news/articles/SB10001424127887323978104578332352776971978>

perspective. Based on the fact that Greece is a signatory to UNCLOS and Turkey is not, Greece aims to build a coalition of support within the EU and UN to assert control over the full 200-mile EEZ around its maritime borders, notwithstanding any special circumstances surrounding Kastellorizo that may warrant a more equitable solution with Turkey. As with its claim over 12-mile Territorial Waters, Greece holds that Turkey's non-signatory status to UNCLOS is irrelevant and EEZ is not only a treaty law but also customary law that each respective member of the international community must obey.

The EU has ratified UNCLOS in 1998 and assigned it as part of *Community acqui* for candidate countries to apply in the course of accession talks.⁶⁸ Moreover, in 1999 at Helsinki European Council, the EU linked progress on Turkey's membership to the union with the resolution of its border conflicts with Greece⁶⁹, marking a significant diplomatic victory for the Greek foreign policy towards protection of its national interests. This is coupled with the EU's open support and encouragement to Greece for proclamation of the EEZ, which elevated the dispute to a broader European geopolitical level and put additional strain on Turkey's membership negotiations. EU Energy Roadmap 2050 also stresses the need for concerted action on energy security and a comprehensive policy on offshore drilling⁷⁰, which may lead in the long run to a common European EEZ, however premature it may yet be. On top of its central role in energy geopolitics, the EU plans to promote effective implementation of the provisions of UNCLOS on straddling and highly migratory fish stocks.⁷¹ This is consistent with the EU's goal to extend the coverage of distant-water fishing fleets to lucrative waters of the eastern Mediterranean and Black Sea, because highly migratory fish stocks, especially tuna and swordfish, move along long distances, passing through EEZs of multiple states each year.⁷²

⁶⁸ Ioannis Th. Mazis, "Geopolitics of Hydrocarbons in the South-Eastern Mediterranean: Greek – Israeli – Cypriot Relations and The Importance of the EEZ of Kastellorizo," National and Kapodistrian University of Athens, *Civitas Gentium* 3:1, 2013, 51-57.

⁶⁹ Kalyvioti Grigoria, Nergiz Devrimsel, Sakkas Panagiotis, *The EU Role in Greek-Turkish Rivalry and Cooperation*, ELIAMEP and IPC, 2004-2005 (accessed May 31, 2014); available from www.eliamep.gr/old/eliamep/files/Sakkas%20et.%20al..doc

⁷⁰ Vassilis Paipais, *Greek Expectations: Broaching the case for a European Exclusive Economic Zone*, The London School of Economics and Political Science (accessed June 1, 2014); available from <http://blogs.lse.ac.uk/eurocrisispress/2013/03/14/greek-expectations-broaching-the-case-for-a-european-exclusive-economic-zone/>

⁷¹ Pamela Chasek, David. L. D, Downie, and James Welsh Brown, *Global Environmental Politics* (Colorado: Westview Press, 2014), 208-209.

⁷² Ibid.

2. Cypriot Position

In pursuit of its goals, Greece is gradually making progress and meticulously trying to avoid confrontation with Turkey while lobbying for support from the EU capitals to gain recognition for a contiguous EEZ with Cyprus. The Greek Cypriot government was faced with the prospect of an uncontrolled default and Eurozone exit in 2013 and rescued by the EU-IMF joint bailout package worth of €10 billion, leaving considerable interest in Cyprus to the role hydrocarbons can play in reviving the country's economy.⁷³

“The U.S. EIA estimates that petroleum products meet up to 98% of Cyprus' total primary energy demand, so the effect of oil prices on the country's economy is significant”.⁷⁴ There is an opportunity for Cyprus to monetize on 0.15 – 0.23 tcm⁷⁵ of proven natural gas deposits, in addition to 8 billion⁷⁶ barrels of recoverable oil that is valued at \$131 billion, to help shoulder the external debt of \$95.28 billion and the public debt at 113% of the country's GDP.⁷⁷ The success of the U.S. company Noble Energy's discoveries in Aphrodite field of Cypriot EEZ, block 12, encouraged Greek Cypriot government officials to pursue the hope to discover 0.8 – 1.1 tcm of additional natural gas in blocks 2, 3, 9 with ENI-KOGAS consortium and blocks 10, 11 with Total of France.⁷⁸

Cypriot population is resistant to kind of the tough austerity measures imposed on Greece and views future windfall revenues from gas as a chance to “become like the oil-rich kingdoms in the Gulf.”⁷⁹ Essentially, Greece, would like to see Cypriot and Israeli natural gas to be exported via LNG terminals or pipelines across the seabed to mainland Greece, then linked with Greek natural

⁷³ Anastasios Giamouridis, *Natural Gas in Cyprus: Choosing the Right Option*, The German Marshall Fund of the United States, Washington DC, 2013.

⁷⁴ U.S. Energy Information Administration, *Overview of oil and natural gas in the Eastern Mediterranean region*, August 15, 2013 (accessed May 28, 2014); available from http://www.eia.gov/countries/analysisbriefs/Eastern_Mediterranean/eastern-mediterranean.pdf

⁷⁵ Ibid.

⁷⁶ TÜDAV, *Akdeniz Türkiye'ye kapanıyor mu?* (accessed May 31, 2014); available from <http://www.tudav.org>

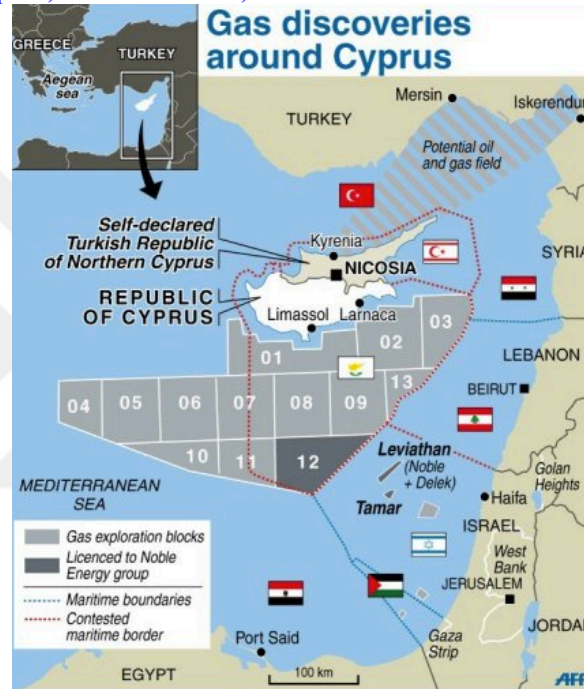
⁷⁷ Central Intelligence Agency, *The World Fact Book: Cyprus*, Economy (accessed May 31, 2014); available from <https://www.cia.gov/library/publications/the-world-factbook/geos/cy.html>

⁷⁸ U.S. Energy Information Administration, *Overview of oil and natural gas in the Eastern Mediterranean region*, August 15, 2013 (accessed June 16, 2014); available from http://www.eia.gov/countries/analysisbriefs/Eastern_Mediterranean/eastern-mediterranean.pdf

⁷⁹ AFP, “*Cyprus hopes gas riches will avert Greek contagion*” (accessed June 15, 2014); available from http://www.alternet.org/rss/breaking_news/799191/cyprus_hopes_gas_riches_will_avert_greek_contagion

gas in south of Crete and the Ionian Sea⁸⁰ and to ultimately become an energy transit hub for Europe. This is by and large contingent upon Greek and Cypriot EEZs to have a common maritime boundary. Greece sees Turkey as the only potential rival actor that can impede such a project, because consent of the coastal state with jurisdiction over the EEZ is required for the delineation of the course for the laying of pipelines on the continental shelf.⁸¹

Map 7: Cyprus, Gas Discoveries, and EEZ claims in the Mediterranean Sea



Source: AFP, "Cyprus hopes gas riches will avert Greek contagion", 2012

As a concrete step to achieve a contiguous EEZ with Cyprus, on 8 January 2013, days before the Greek Ministry of Foreign Affairs submitted a verbal note to the UN delineating Greece's desired coordinates of the EEZ, the daily newspaper *To Vima* in Athens published maps that are suspected to be leaked by the government, comparing views of Greece, Turkey, and Cyprus with respect to maritime delimitation in the Mediterranean Sea.⁸² The status of Kastellorizo is of

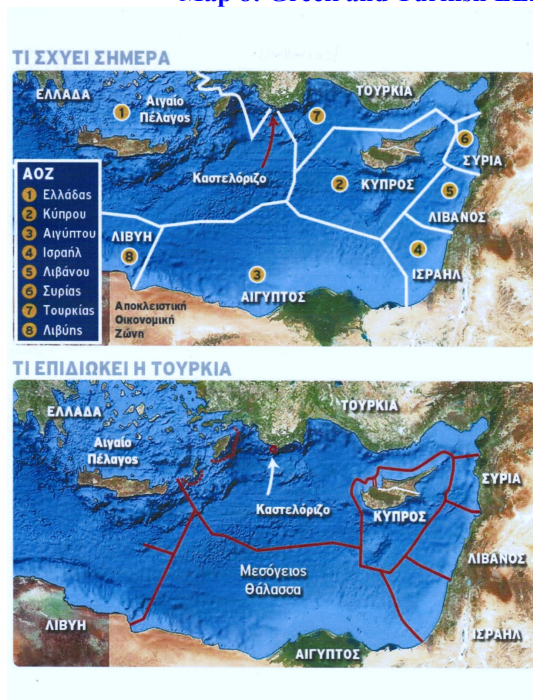
⁸⁰ Ekathimerini, "Greece takes steps to strengthen drill rights," January 7, 2013 (accessed May 29, 2014); available from http://www.ekathimerini.com/4dcgi/_w_articles_wsitel_1_07/01/2013_477228

⁸¹ Prof. Tullio Treves, *ITLOS and the Oil and Gas Industry*, Second International Oil and Gas Conference, London, 20 September 2007 (accessed June 19, 2014); available from https://www.itlos.org/fileadmin/itlos/documents/statements_of_president/wolfrum/treves_oil_gas_200907_eng.pdf

⁸² Milliyet, "Samaras çıldırmış olmalı!," January 9, 2013 (accessed May 29, 2014); available from <http://dunya.milliyet.com.tr/samaras-cildirmis-olmali-/dunya/dunyadetay/12.01.2013/1652660/default.htm>

pivotal importance to resolution of the dispute as illustrated in Map 8. Greece's claim to full 200-mile EEZ for Kastellorizo and nearby islands can enclose Turkey and confine its EEZ from a potential of 145,000 km² to less than one third of it, a mere 41,000 km².⁸³

Map 8: Greek and Turkish EEZ claims in the Mediterranean Sea



Greek View: The red arrow indicates the island of “*Kastellorizo*”. The map shows the full extent of 200-mile EEZ that Greece and Cyprus claim. White lines demarcate EEZs.

Turkish View: The white arrow indicates the island of “*Kastellorizo*”. The map shows the full extent of 200-mile EEZ that Turkey claims. Red lines demarcate EEZs.

Source: Daniel Pipes, “Kastellorizo: Mediterranean Flashpoint”, Middle East Forum

Amidst this tug-of-war over EEZ rights in the region, Egypt as a littoral state plays a key role in the prospect for resolution of the dispute. Egypt's EEZ agreement in 2003 with Cyprus had been cancelled by the upper house of the Egyptian parliament in 2013, partly due to friendly ties between governments of Turkey's AKP and deposed president Morsi's Muslim Brotherhood. The military coup of General Sisi in 2013 turned the tide and strained diplomatic ties with Turkey whose popular influence began to tumble in the region. Consequently, negotiations duly began to revive the Cypriot-Egyptian EEZ agreement and to delineate maritime borders with Greece based on “equidistance principle” as part of a three-way initiative⁸⁴ in an act of defiance

⁸³ TÜDAV, *Akdeniz Türkiye'ye kapanıyor mu?* (accessed May 31, 2014); available from <http://www.tudav.org>

⁸⁴ Ekathimerini, “Greece and Egypt to jointly delineate maritime zones,” September 5, 2013 (accessed June 2, 2014); available from http://www.ekathimerini.com/4dcgi/_w_articles_wsitel_1_05/09/2013_517467

against Turkey.⁸⁵ The outcome of a Cypriot-Egyptian-Greek agreement would be loss of control over 19,400 km² of sea area for Egypt, which is more than twice the size of Cyprus, compared to what it would be should Egypt sign a bilateral EEZ agreement with Turkey instead.

Map 9: Egypt's loss of potential EEZs



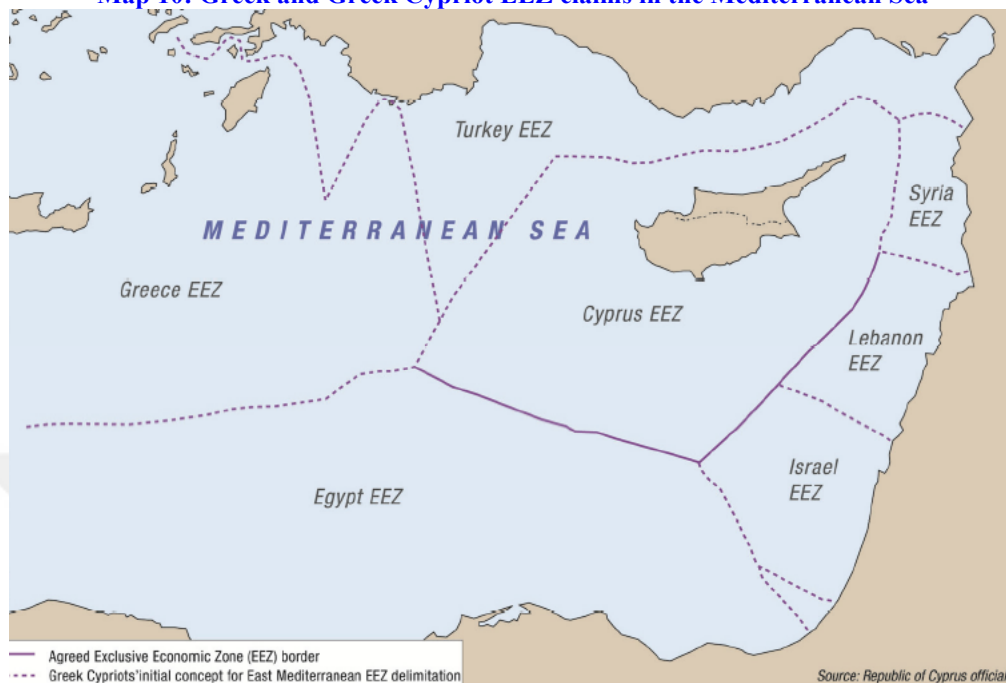
Source: SAREM, “Disputes over Eastern Mediterranean Maritime Jurisdiction Areas”, 2010

Libya also occupies an important position in the dispute and has been approached by Greece with a proposal to delimit maritime zones. Similarly, Libya would bear a loss of 16,700 km² of sea area should it decide to sign a bilateral EEZ delimitation agreement with Greece rather than Turkey. The tendency in Ankara has been to downplay such manoeuvres on the assumption that “what states do matters a lot more than what they say”⁸⁶ and that multilateral negotiations may anyhow take a certain period of time before a conclusive agreement may be reached. There is a risk for Turkey here that international practices may become “binding” over time even on non-parties. All of the aforementioned countries – except Turkey – are signatories to UNCLOS and, if not objected, nothing may prevent a state like Cyprus to make unconscionable claims on maritime limits under the customary international law.

⁸⁵ Cyprus Mail, “Cyprus and Egypt sign unitisation deal on the joint exploitation,” Stefanos Evripidou, December 13, 2013 (accessed June 2, 2014); available from <http://cyprus-mail.com/2013/12/13/cyprus-and-egypt-sign-unitisation-deal-on-the-joint-exploitation/>

⁸⁶ David J. Bederman, *International Law Frameworks* (New York, Thomson Reuters Foundation Press, 2010), 17.

Map 10: Greek and Greek Cypriot EEZ claims in the Mediterranean Sea



Source: International Crisis Group, "Can Cypriot Gas Power a New Dialogue?", 2012

Despite the deadlock in the dispute, it would be unrealistic to assume that Turkey will give up its long-term interests over the eastern Mediterranean by *fait accompli*. Turkish top state officials have played down unilateral declarations of Greece and Cyprus on the basis that these might be motivated by the hope to deflect public attention from austerity measures. Turkey has kept on the table an offer to resolve the dispute through negotiations since the relations between Greece and Turkey have gained momentum on a course of mutual understanding in the recent years. Yet, it seems a far possibility that Turkey will react militarily to confront an attempt by Greece to proclaim a 200-mile wide EEZ. Turkey's counter-move will probably take the form of a carefully measured tit-for-tat reprisal or coercive diplomacy to demonstrate resolution and to emphasize the credibility of its determination to protect its maritime interests.⁸⁷ This may be coupled with an accommodative approach to leave a way out of the quarrel for all sides to avoid unwanted escalation and mitigate the danger of mutual commitment, as experienced in resolution of the crisis in 1996 over disputed sovereignty of Kardak (Imia) islets in the Aegean Sea.

⁸⁷ Alexander L. George, *Avoiding War: Problems of Crisis Management*, Chapter 16: Strategies for Crisis Management (Colorado: Westview Press, 1991), 377-393.

3. Turkish Position

UNCLOS introduced the principle of “equitable solution” in place of “equidistance rule” as a basis to arbitrate maritime delimitations, which strengthened Turkey’s position.⁸⁸ The treaty gives consideration to proportionality of the length of adjacent coastlines in adjusting an equidistance line for maritime delimitation. Nevertheless, as a non-party to the treaty, Turkey may not appeal to ITLOS or ICJ for arbitration without a mutual consent with Greece and certainly not with Cyprus due to the issue of diplomatic non-recognition. This lack of legal and political instruments to settle the dispute has been a major cause of concern for thought circles at home in Turkey and abroad. In essence, Turkey’s legal position is based on the “equity” principle that calls for consideration of special circumstances surrounding the well-positioned island of Kastellorizo and the adjacent, disadvantaged Turkish mainland. Kastellorizo’s size, distance to mainland Greece, and relative length of total coastline has an undoubtedly disproportionate effect on a potential EEZ delimitation, as shown in Map 10. Under these circumstances, Turkey defends the view that “proportionality” and “non-encroachment” rules as applied by ICJ in Ukraine-Romania maritime dispute resolution case should govern the EEZ delimitation with Greece in the Mediterranean Sea.



Map 11: Kastellorizo and Turkey

Source: Google Maps, 2014

⁸⁸ Par Didier Ortolland, *The Greco-Turkish dispute over the Aegean Sea: a possible solution?*, April 10, 2009 (accessed May 27, 2014); available from <http://www.diploweb.com/The-Greco-Turkish-dispute-over-the.html#nb6>

In Ukraine-Romania case, the ICJ decided to accord Serpents' Island a maritime jurisdictional area no more than the width of its Territorial Waters – 12 miles.⁸⁹ This judgement may set a precedent to necessitate adjustment of the equidistance line between Kastellorizo and Turkey by taking into view the island's distorting effect on maritime delimitation. Also, the court arbitration in Anglo-French Continental Shelf case was to disregard British Channel Islands that lie only a few miles off the coast of France in maritime delimitation and to give only 6-mile zone of their own.⁹⁰ Therefore, even though Article 121 of UNCLOS grants the same right to islands as other land territory to determine EEZs, Turkey claims that Kastellorizo is a natural prolongation of the Anatolian landmass and, due to circumstances described herein, should not be entitled to CS or EEZ on its own merit, as it would otherwise create an inequitable result.

It is acknowledged by all parties to the dispute that delimitation of maritime zones will be a decisive step towards regional stability. Furthermore, international law stipulates that maritime delimitation in a semi-closed sea like the eastern Mediterranean should be done in the view of equitable principles and relevant circumstances with cooperation and consent of all littoral states, not the least of which are those with the longest stretch of coastlines – Turkey, Egypt, and Libya. In the case of marked disparity between ratios of respective coastal lengths⁹¹, delimitation in contested waters should be affected by supremacy of physical geography based on the principle that “land dominates the sea”.⁹² The ICJ emphasized this principle on its decisions over the Aegean Sea and North Sea Continental Shelf cases in 1969 and 1978.⁹³ Accordingly, Turkey's view is that delimitation should be done on geometrically objective basis by mutual agreement between adjacent states, which, in the mean time, should refrain from imposing maritime boundaries unilaterally as per UN Charter I, Article 2.⁹⁴

⁸⁹ International Court of Justice, *Maritime Delimitation in the Black Sea (Romania vs. Ukraine)*, Summary of the Judgment, February 3, 2009 (accessed June 16, 2014); available from <http://www.icj-cij.org/docket/files/132/14989.pdf>

⁹⁰ Ted. L. MacDorman, “*The Canada-France Maritime Boundary Case: Drawing a Line Around St. Pierre and Miquelon*,” *The American Journal of International Law*, Vol. 84, No. 1 (January, 1990), 181.

⁹¹ University of Virginia, *Base Points and Base Lines in Maritime Boundary Delimitation*, Captain J. Ashley Roach, 24 June 2011 (accessed June 17, 2014); available from <http://www.virginia.edu/colp/pdf/Bali-Roach.pdf>

⁹² Ibid.

⁹³ International Court of Justice, *Aegean Sea Continental Shelf Case (Greece v. Turkey)*, December 19, 1979 (accessed June, 17 2014); available from <http://www.icj-cij.org/docket/files/62/6245.pdf>

⁹⁴ United Nations, *Charter of the United Nations* (accessed June 17, 2014); available from <http://www.un.org/en/documents/charter/chapter1.shtml>

On the north-south axis, Turkey and Egypt have a potential to realize the longest adjacent EEZs. If Kastellorizo, as a populated island with economic activity, is given full influence in maritime delimitation as per Article 121 of UNCLOS, Greece may encroach upon the area delineated with red demarcation lines in Map 11 and have a common border with Cyprus on the east-west axis. This would be illicit in the interests of equity for Turkey and Egypt, because the general direction of coastlines in the semi-closed Mediterranean Sea is on the east-west axis. Maritime delimitation between opposite coastal states should be done on the north-south axis by priority to prevent encroachment into EEZs of third parties. It would, furthermore, be an unfounded attempt to redraw the map as though Greek islands of Kastellorizo, Rhodes, Karpathos and Crete constitute a contiguous national frontier facing eastward. Each and every island should be accorded treatment based to its own unique circumstances, since Greece is not an “archipelagic state”⁹⁵ and may not be entitled to “draw straight baselines joining the outermost points of the outermost islands”.⁹⁶

Map 12: Turkey’s EEZ claims in the Mediterranean Sea



Source: International Crisis Group, “Solving the EU, Turkey, Cyprus Triangle”, 2013

20.7% of Turkey’s coastline is on the Mediterranean Sea and is 832 miles in length.⁹⁷ The segment between Marmaris and Antalya that is opposite to the west coast of Cyprus is 656 miles, which is more than even the total coastline of Cyprus – 402 miles – including the Turkish part in

⁹⁵ Archipelagic State means a State constituted wholly by one or more archipelagos and may include other islands; UNCLOS, *Part IV: Archipelagic States*, p. 40, Article 46 (accessed June 19, 2014); available from http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

⁹⁶ Ibid.

⁹⁷ Türk Deniz Kuvvetleri, *Türkiye Denizlerini Tanıyor muyuz?* (accessed June 18, 2014); available from <http://www.dzkk.tsk.tr/denizweb/turkce/biliyormuydunuz/TurkiyeDenizleri.php#>

the north.⁹⁸ By comparison, the western coast of Cyprus is only 32 miles long. In Libya-Malta case, the ICJ adjusted the median line by 18 miles to the north against Malta in accordance with equitable principles of proportionality to reflect the lengths of the relevant parts of each state's coastlines. In doing so, nor did it take into account arguments about oil reserves and economic disparity. Given the more than 20 times difference in coastal length between Cyprus and Turkey, it would be a gross act of negligence to overlook equitable rights and to let the "equidistance" line be the rule that governs EEZ delimitation. Moreover, maritime delimitation between Cyprus and Egypt, Israel, Lebanon must be adjusted to establish a proportionate distribution of EEZ areas, as shown in Map 12, and to prevent loss of over 30.000 km² of sea area to Cyprus.

Map 13: Losses of Egypt, Israel, and Lebanon due to the "equidistance" principle



Source: Bilge Strateji, Dr. Cihat YAYCI, Volume 4, No: 6, Spring 2012

Safe access to high seas and the underlying economic resources of the seabed are of key significance for Turkey's health and well-being. The Mediterranean Sea is host to 1/3 of world's

⁹⁸ Sertaç H. BAŞEREN, *Disputes over Eastern Mediterranean Maritime Jurisdiction Areas*, SAREM, 2010 (accessed June 18, 2014); available from http://vizyon21yy.com/documan/genel_konular/Milli%20Guvencilik/Kibris_Ege/Dogu_Akdeniz_Deniz_Yetki_Alanlari_Uyusmazligi.pdf

maritime transport⁹⁹ and is a vital route for Turkey's foreign trade. Although the EU and Turkey have had a symbiotic economic relationship and their trade volume is once again on the rise, Turkey's membership negotiations with the union are at stalemate primarily due to the Cyprus Problem.¹⁰⁰ Therefore, thanks to the government's diversification strategy and bilateral foreign trade agreements with developing nations of Middle East and Africa, Turkey's robust growth even in the face of economic turmoil in Europe led the two rating agencies to upgrade Turkey's debt to investment grade in 2012 and 2013.¹⁰¹ In particular, container traffic and energy trade via the ports of Antalya, Mersin, and Iskenderun became crucial to sustain the country's economic growth performance of 3-4% per annum.¹⁰²

Nevertheless, structural current account deficit reached a record high of -7.90% of its GDP¹⁰³ in 2014, the bulk of which is due to rising price of oil & gas imports and has been exacerbated by the turmoil within Turkey's neighbourhood. The \$60 billion current account deficit is largely financed by short-term foreign capital, or "hot money", rather than FDI.¹⁰⁴ On top, the corporate sector's mounting debt of over \$165 billion¹⁰⁵ denominated in foreign currency expose the country to exchange rate risks. These facts reveal that Turkey's growth over the past decade has depended on unsustainable levels of domestic consumption and trade deficits,¹⁰⁶ partly due to the ruling AKP government's populism and the Central Bank's loose monetary policies. The Prime Minister, Mr. Erdogan, whose party still holds unrivalled political power after more than a decade, had vowed to put Turkey among the top ten largest economies in the world. This has albeit been challenged by violent popular protests and corruption scandals since 2013 that laid

⁹⁹ Dr. Cihat YAYCI, "The Problem of Delimitation of Maritime Areas in Eastern Mediterranean and Turkey," Bilge Strateji, Volume 4, No: 6, Spring 2012.

¹⁰⁰ EU Representative Office in Turkey, Belo Zsombatio, Deputy Head of the EU Delegation to Turkey, *EU-Turkey Relations: Opportunities and Challenges*, Young Diplomats Forum, Ankara, September 3, 2013.

¹⁰¹ Central Intelligence Agency, *The World Fact Book: Turkey*, Economy (accessed June 19, 2014); available from <https://www.cia.gov/library/publications/the-world-factbook/geos/tu.html>

¹⁰² Trading Economics, *Turkey: Economic Forecasts* (accessed Jun 19, 2014); available from <http://www.tradingeconomics.com/turkey/forecast>

¹⁰³ Ibid.

¹⁰⁴ APCO Worldwide, "A Flux in Turkish Politics and Its Impact on the Economy in 2014," Valerie Harrison, January 2014 (accessed June 19, 2014); available from http://www.apcoworldwide.com/content/PDFs/APCO_2014Turkey_PoliticalFlux2.pdf

¹⁰⁵ Ibid.

¹⁰⁶ Daron Acemoğlu, "The Failed Autocrat," Foreign Affairs, Council on Foreign Relations, May 22, 2014 (accessed May 31, 2014); available from <http://www.foreignaffairs.com/articles/141444/daron-acemoglu/the-failed-autocrat>

bare the fragile foundation upon which the image of Turkey as a regional, and global power, has been presented to the world by the AKP government.¹⁰⁷

As it so happens in many cases, “foreign policy presents itself as a glorious terrain for injecting hope to a demoralized population”.¹⁰⁸ Turkey has an abundance of reasons to flex its muscles as a regional power in order to reap lion’s share of the Mediterranean oil & gas bonanza. It has a very advantageous geographic position to transfer natural gas to Europe and there is a strong possibility for it to become an energy hub.¹⁰⁹ “Therefore, any possible gas export routes to European markets through the Mediterranean, connecting Israel, Cyprus, and Greece, will be conceived as a threat to Turkish ambitions to become a transit hub for gas sales”.¹¹⁰

Inasmuch as rival claims for EEZs in the eastern Mediterranean illustrate the substantial risk of escalation for crisis, there are opportunities to expand the pie and create mutually beneficial partnerships among neighbors. In Cyprus, independent confidence-building moves such as treatment of gas finds as a common heritage of Greek and Turkish Cypriots, possibly distributed through a UN-supervised arrangement,¹¹¹ would ease the tensions and could offer Cypriot gas access to a growing market with relatively high import prices in Turkey.¹¹² In terms of the cost element, although there is reason to believe that a pipeline to Turkey would probably entail lower development costs than other proposed monetization options,¹¹³ as long as the Cyprus Problem persists it would hinder rapprochement between Greece and Turkey, and might render regional

¹⁰⁷ The International New York Times, “*Mine disaster evolves into a political crisis*,” Tim Arango, Kareem Fahim, Sebnem Arsu, (Soma, Turkey: May 17-18, 2014).

¹⁰⁸ Vassilis Paipais, *Greek Expectations: Broaching the case for a European Exclusive Economic Zone*, The London School of Economics and Political Science (accessed June 1, 2014); available from <http://blogs.lse.ac.uk/eurocrisispress/2013/03/14/greek-expectations-broaching-the-case-for-a-european-exclusive-economic-zone/>

¹⁰⁹ Steven Cook, *Turkey’s Turn*, The Fletcher School of Law and Diplomacy, Tufts University, April 10-11, 2014 (accessed June 15, 2014); available from http://fletcher.tufts.edu/IBGC/turkeys-turn/video-interviews?utm_campaign=%20&utm_medium=email&utm_source=newsletter&utm_content=please%20visit%20here%21

¹¹⁰ Ebru Oğurlu, *Turkey Amidst the Shifting Geopolitics in the Eastern Mediterranean*, Rethink Institute Washington DC, Rethink Paper 09, May 2013; available from <http://www.rethinkinstitute.org>

¹¹¹ International Crisis Group, *Aphrodite’s Gift: Can Cypriot Gas Power a New Dialogue*, Europe Report No: 216, 2 April 2012.

¹¹² Anastasios Giamouridis, *Natural Gas in Cyprus: Choosing the Right Option*, The German Marshall Fund of the United States, Washington DC, 2013.

¹¹³ Ibid.

energy projects unprofitable in the face of downward price pressure from alternative sources such as the U.S. shale gas.

PART IV: Strategic Analysis and Implications

1. Turkey's emergence as an energy hub

The EEZ delimitation dispute around Kastellorizo is inextricably linked to the geography. Turkey occupies a pivotal geographic and economic position, heightened in importance by recent crisis in Ukraine and the Middle East. In the oil age, Turkey became a conduit for Iranian and Caspian Sea oil, a too important an economic factor for Europe to ignore.¹¹⁴ As its neighborhood is once again being redrawn like it once was during the collapse of the Ottoman Empire, Turkey today stands out as one of the most dynamic yet stable states in its region.¹¹⁵

In particular, Turkey has put itself on the map as an important player in energy geopolitics, acting as a transit route between the Central Asia, Middle East, and Europe. Most recently, the transport of crude oil to Israel through Turkey's Mediterranean port of Ceyhan via pipelines from the semi-autonomous Kurdish Regional Government in Iraq, the holder of world's fifth largest deposits,¹¹⁶ underscored Turkey's tactical maneuverability and keen interest to consolidate its influence and soft-power as an economic hub in the eastern Mediterranean.

Location matters even more in the case of energy and, therefore, an opportunity might present challenges. The eastern Mediterranean has the greatest potential for controversy due to rich reserves of undersea hydrocarbons and a certain sense of disagreement on equitable distribution of these resources. This is demonstrated by presence of warships from many countries in the region, including China, Iran, and, of course, Russia.¹¹⁷ Natural gas is the most important pillar of Turkey's demand for energy and as the world's energy demand and supply maps are being

¹¹⁴ Robert Kaplan, *The Revenge of Geography*, (New York: Random House, 2012), 301.

¹¹⁵ Dr. Joshua Walker, APCO Worldwide, "The Future of US-Turkey," Huffington Post Impact, June 30, 2014 (accessed July 3, 2013); available from http://www.huffingtonpost.com/joshua-w-walker/the-future-of-usturkey-pe_b_5526073.html

¹¹⁶ Bloomberg, "Iraq Government Condemns Kurds for 'Illegal' Oil Sale to Israel," Kadhim Ajrash and Nayla Razzouk, June 22, 2014 (accessed June 25, 2014); available from <http://www.bloomberg.com/news/2014-06-22/iraq-government-condemns-kurds-for-illegal-oil-sale-to-israel.html>

¹¹⁷ Dean James Stavridis, Admiral (Ret) USN, "Turkey's Turn," The Fletcher School of Law and Diplomacy, Tufts University, April 10, 2014.

redrawn, Turkey emerges both as a major conduit and heavy importer, with potential to decrease its excessive dependence on Russia.

2. Russia's interests in gas pipeline projects

Gazprom, the Russian state-owned monopoly, holds 18% of world's natural gas reserves and accounts for more than half of Turkey's gas imports.¹¹⁸ From this perspective, alternative gas pipelines are very disconcerting for Russia as it is a matter of national interest for them. The Trans-Caspian and Trans-Anatolian pipelines that would by-pass Russia's "South Stream" project in 2018, for example, may even be a *casus belli* for Moscow, because Russia will continue to rely on its rich reserves of hydrocarbons for economic well-being in the foreseeable future.

Map 14: Russia's "South Stream" pipeline project



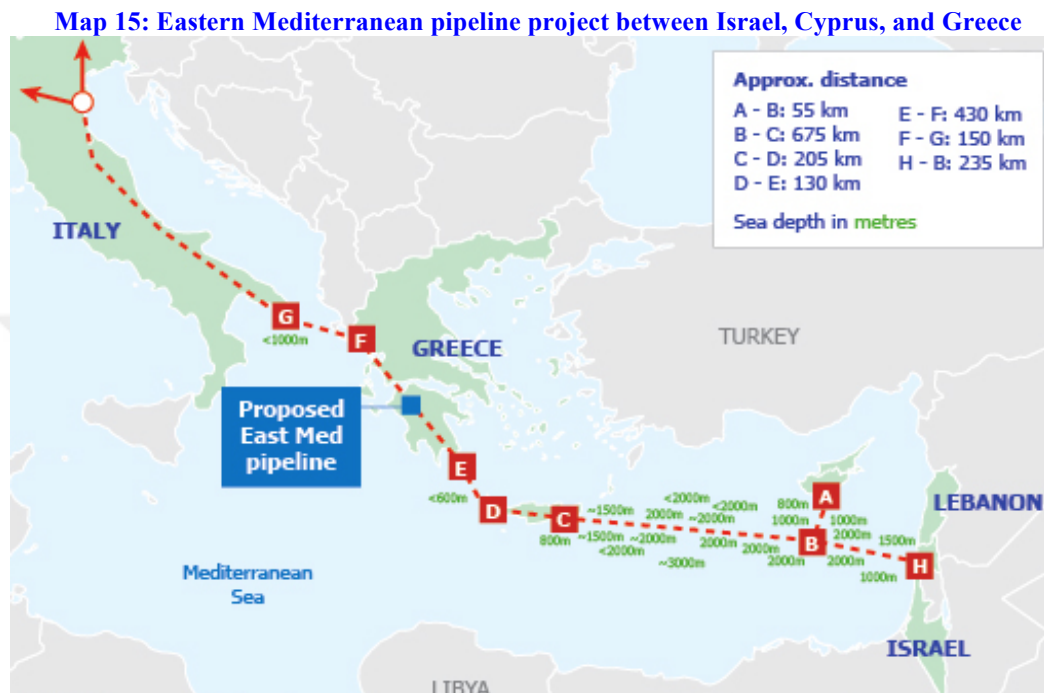
Source: WSJ, "Turkey Approves Russian Gas Plan", <http://online.wsj.com/news/articles>, 2011

As President Putin indulges an imperial nostalgia of "energy superpowerhood" that prevails over Europe and China, Gazprom is being consumed by a pipeline craze¹¹⁹. This is evident in the company's diversification strategy to monopolistically control all energy routes to the west and especially in the fact that Russia's maximal goal in the eastern Mediterranean is to aggregate Cypriot, Israeli, and Greek offshore gas volumes for transport and reselling on European

¹¹⁸ Gazprom, "About Gazprom" (accessed July 3, 2014); available from <http://www.gazprom.com/about/>

¹¹⁹ Stephen Kotkin, *Armageddon Averted* (Oxford: Oxford University Press, 2001), 207-208.

markets.¹²⁰ In essence, Russia is Gazprom, because the gas giant is the single largest contributor to Russian GDP.¹²¹



Source: Defence Greece, "Prospects for the East Med", <http://www.defencegreece.com>, 2012

Machiavellian leadership in Russia exercises power by playing the energy card strategically, but whatever geopolitical benefits new pipeline construction on the east-west axis under Black Sea or the Mediterranean would deliver, these would be astronomically costly and ecologically complex.¹²² Building a gas export pipeline through Cyprus and Greece requires extraction in waters 3,000 meters deep over a distance of 1,200 km, which is an engineering problem of epic proportions.¹²³ Principally, energy projects require large investment and debt service over a relatively long term and oil companies are no longer willing to fund new projects solely from their own balance sheets.¹²⁴ Currently recoverable offshore gas resources in the Levant Basin are

¹²⁰ Mehmet Ögütçü, *Rivalry in the Eastern Mediterranean: The Turkish Dimension*, The German Marshall Fund of the United States, June 2012, Mediterranean Policy Program.

¹²¹ Brian A. Treat, "Russia's Gas Stoppage to the Ukraine" (GMAP Thesis, Tufts University, 2008).

¹²² Stephen Kotkin, *Armageddon Averted* (Oxford: Oxford University Press, 2001), 207-208.

¹²³ Al-Monitor, "Gas remains divisive issue in Mediterranean region," November 2013 (accessed July 3, 2014); available from <http://www.al-monitor.com/pulse/business/2013/11/mediterranean-gas-disputes-egypt-turkey-israel.html>

¹²⁴ Ralph H. Folsom, Michael W. Gordon, John A. Spagnole, *International Business Transactions: A Problem-Oriented Coursebook*, 11th Edition (MN: West, 2012), 1024.

inadequate for a multi-billion dollar investment decision in building Cyprus-Greece pipeline due to market off-take risk and price-risk in the project financing. International lenders base their credit appraisals on merits and cash flow forecast from revenue-producing parts of a project. 15-20 billion dollar investment in an underwater pipeline project to Greece, which would be the longest and deepest in the world, is commercially unviable, because it would take at least seven years to build and cost ten times more than an alternative route over Turkey.¹²⁵

Map 16: Israel-Cyprus-Turkey energy corridor



Source: Solon Kassinis, "Hydrocarbon Exploration Activities in the Republic of Cyprus", 2010

For gas exploitation, “Cyprus recently concluded the initial stages of a proposed LNG liquefaction facility in hopes of beginning exports overseas to Asia by 2019”.¹²⁶ When completed, this will cost around 10 billion dollars and face significant market risk¹²⁷ due to insufficient capacity to economize on gas volumes between Cyprus and Israel. According to

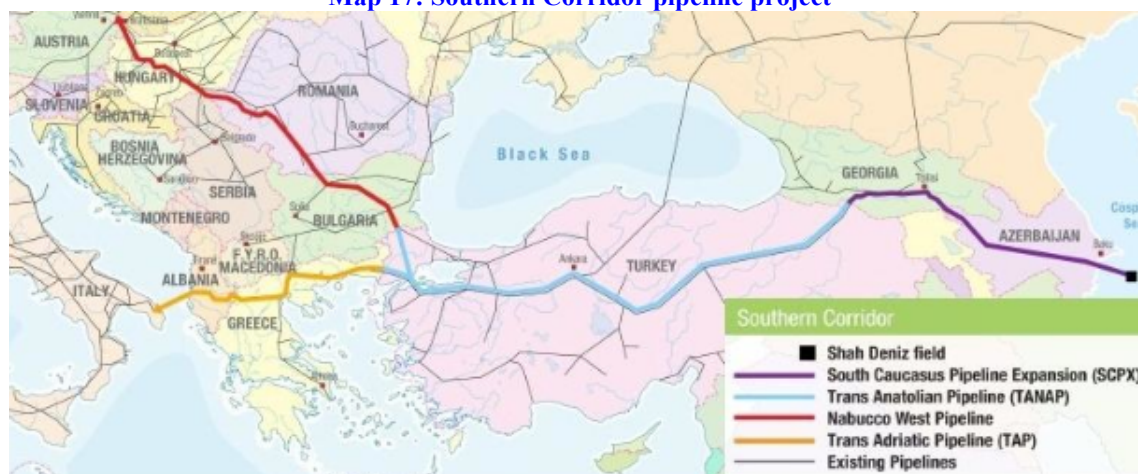
¹²⁵ International Crisis Group, *Aphrodite's Gift: Can Cypriot Gas Power a New Dialogue*, Europe Report No: 216, 2 April 2012.

126 Ibid.

¹²⁷ Ekathimerini, "The cost of frozen conflict for Cyprus, Greece and Turkey," Hugh Pope, March 25, 2013 (accessed June 17, 2014); available from <http://www.ekathimerini.com/4dcgi/ w articles wsite3 1 25/03/2013 489743>

energy executives, net returns from a pipeline through Turkey to Europe would still be higher than shipping LNG to Asia.¹²⁸

Map 17: Southern Corridor pipeline project



Source: New Europe, “Shah Deniz’s pipeline of choice is TAP”, <http://www.neurope.eu>, 2013

Regardless of which scenario becomes the most viable option, Turkey is Gazprom’s second largest gas export destination after Germany and neither Turkey nor Russia has the luxury to poison this relationship by trading one bilateral relation for another.¹²⁹ Nevertheless, Turkey tries to block Cypriot-Greek gas transport project and to reap as a large a share of the Cypriot gas as possible either through a comprehensive settlement on the island or via TPAO’s concession agreement with the Turkish government in northern Cyprus. In return, Gazprom exercises its bargaining power to hinder an Israeli-Cypriot-Turkish pipeline project and to defend its market position in Turkey by offering better supply terms.¹³⁰ Therefore, Russia supports Cypriot and Greek view of 200-mile EEZ rights for islands in the eastern Mediterranean.

3. New energy suppliers and the geopolitics

Turkey offers the most attractive commercial pipeline route and the only market that can generate the real demand for eastern Mediterranean gas. Nevertheless, there is a small window of

¹²⁸ International Crisis Group, *Aphrodite’s Gift: Can Cypriot Gas Power a New Dialogue*, Europe Report No: 216, 2 April 2012.

¹²⁹ Anastasios Giamouridis, *Natural Gas in Cyprus: Choosing the Right Option*, The German Marshall Fund of the United States, Washington DC, 2013.

¹³⁰ Ibid.

opportunity to resolve current standoffs between Cyprus, Greece, and Turkey until 2017 when the market will be flooded with gas from emerging market entrants in East Africa that can put substantial downward price pressure on the Mediterranean gas and undermine profitability.¹³¹ According to BP Energy Outlook report, the U.S. could reach energy independence by 2035, thanks to the shale gas revolution that will supply 46% of its domestic gas requirement.¹³² Although U.S. LNG exports to Europe will not start anytime soon and not before both sides sign the Transatlantic Trade and Investment Partnership (TTIP) agreement, partly because Europe lacks pipeline infrastructure to transport gas from LNG ports to landlocked EU countries, the EU will continue to rely on foreign gas and oil for more than 80% of its supply by 2035.¹³³

If Turkey can be part of a brokered peace deal in Cyprus¹³⁴, finally, this might settle the EEZ delimitation dispute and help to build confidence between Greece and Turkey to resolve the confrontation around Kastellorizo. It might also decrease political risk and increase affordability of a Cypriot-Turkish pipeline project that may be linked with the “Southern Corridor” to by-pass Russia. This best-case scenario not only would place Turkey in a very advantageous position¹³⁵ towards Europe, but it would also be a clever non-military maneuver to coerce Russia into ending its military aggression in eastern Ukraine.

The U.S. Vice President Joe Biden’s visit to Cyprus in May 2014, the most senior U.S. official state visit since 1962, highlights the growing importance the U.S. has given to the region, because settling the division in Cyprus is the mother of all obstacles to stability and prosperity in the eastern Mediterranean.¹³⁶ In fact, the Cypriot gas transportation project has been code-named

¹³¹ Mehmet Ögütçü, Chairman of Global Resources Corporation, *Turkey’s Turn*, The Fletcher School of Law and Diplomacy, Tufts University, April 11, 2014.

¹³² International Security Observer, “U.S. LNG Exports to Europe: Why it won’t happen Anytime Soon?,” Agnieszka Joanna Stolarczyk, June 10, 2014 (accessed July 5, 2014); available from <http://www.securityobserver.org>

¹³³ Ibid.

¹³⁴ Prof. Soli Özel, International Relations and Political Science, Istanbul Kadir Has University, *Turkey’s Turn*, The Fletcher School of Law and Diplomacy, Tufts University, April 10, 2014.

¹³⁵ Ibid.

¹³⁶ Ekathimerini, “The cost of frozen conflict for Cyprus, Greece and Turkey,” Hugh Pope, March 25, 2013 (accessed June 17, 2014); available from: http://www.ekathimerini.com/4dcgi/_w_articles_wsite3_1_25/03/2013_489743

as “Obama Plan”¹³⁷ in resemblance to the “Annan Plan” in 2004 by the then UN Secretary General Kofi Annan’s attempt to re-unite the island under a federal government. For Obama administration now scrambling for foreign policy success, reconciliation over Cyprus would allow U.S. companies to make safer investments into gas exploration, substantially reduce Europe’s reliance on Russia for energy supplies, and help to bring pro-American countries together in a region that had become increasingly anti-western with the rise of Islamic fundamentalism since the Arab Spring.¹³⁸

A broader Cyprus-Greece-Turkey EEZ settlement would benefit all three countries if done equitably with consideration of each party’s rights and comparative advantage. An equitable solution to the EEZ delimitation dispute in the Mediterranean Sea would be to draw a median line¹³⁹ between Greek and Turkish mainland coasts. The trajectory of the line may be determined over bilateral negotiations. In the Anglo-French continental shelf case, the tribunal observed that the Channel Islands fall on the “wrong side” of the median line between UK’s and France’s mainland coasts and thus decided to ignore their effect on constructing the maritime boundary line, even though the Channel Islands are populated islands entitled to their own continental shelf.¹⁴⁰ This argument would make it possible to consider separating the exercise of jurisdiction on the continental shelf from that of the EEZ.¹⁴¹

Similar to the court ruling in Anglo-French maritime border case, islands on the west of the Greek-Turkish median line would be granted 12-mile-wide Territorial Waters as well as jurisdiction over CS and EEZs in accordance with UNCLOS, while those on the east of the line would be appropriated only 6-mile-wide Territorial Waters and coextensive EEZs. The island of Kithira on south of Peloponnese, for example, would lie to the west of the median line and

¹³⁷ Dr. Joshua Walker, APCO Worldwide, *Turkey’s Turn*, The Fletcher School of Law and Diplomacy, Tufts University, April 11, 2014.

¹³⁸ Helena Smith, “US vice-president Joe Biden pushes energy cooperation in visit to Cyprus,” *The Guardian*, May 22, 2014 (accessed July 4, 2014); available from <http://www.theguardian.com/world/2014/may/22/us-vice-president-joe-biden-visits-cyprus-energy-cooperation>

¹³⁹ Leonardo Bernard, *The role of islands on maritime boundaries delimitation: A look at the recent decision of ITLOS*, Centre for International Law, National University of Singapore, December 2012 (accessed July 6, 2014); available from <http://cil.nus.edu.sg/wp/wp-content/uploads/2012/12/LeoBernard-Effect-of-Islands-in-Maritime-Delimitation-19-Nov-2012.pdf>

¹⁴⁰ Ibid.

¹⁴¹ Par Didier Ortolland, *The Greco-Turkish dispute over the Aegean Sea: a possible solution?*, April 10, 2009 (accessed May 27, 2014); available from <http://www.diploweb.com/The-Greco-Turkish-dispute-over-the.html#nb6>

therefore govern a 200-mile-wide EEZ, whereas Kastellorizo would lie to the east of the median line and be entitled to a 6-mile-wide EEZ.

If Greece and Turkey fail to reach a negotiated agreement, which is more probable unless a significant breakthrough is achieved over the Cyprus Problem, litigation before the ICJ could help to settle the EEZ dispute. Greek state officials are of the opinion that Turkey's claims in the Mediterranean Sea are much stronger than theirs¹⁴², just the reverse of the situation for the Aegean Sea. "In its disputes with Japan, South Korea, the Philippines, and other neighbors over various islands in the Pacific, China refuses to submit to a tribunal because its goal is not to vindicate international law, but to extend its power over its neighborhood".¹⁴³ Turkey should not follow the same path. Against a wide-held suspicion in Turkey towards ICJ's impartiality, if the two sides decide to go to an arbitration panel or litigation, the court would probably decide in favor of Turkish rights concerning the status of Kastellorizo¹⁴⁴, notwithstanding any unresolved Cypriot claims on overlapping EEZs.

For Cyprus, creation of a Joint Development Area could partly satisfy the EEZ claims of both parties, determination of the sharing of benefits being the most delicate aspect.¹⁴⁵ The World Bank could be a possible lender of finance for an underwater pipeline project from Cyprus to Turkey via Israel. This arrangement has been demonstrated to be helpful in the case of Chad-Cameroon pipeline where all windfall revenues were deposited in an offshore escrow account, a certain portion of which was required to be used for joint development purposes.¹⁴⁶

Access to cheaper energy would help Turkey to ease its current account deficit and help to realize its vision for the centennial anniversary in 2023. In addition, to the extent that natural gas

¹⁴² Ekathimerini, "The cost of frozen conflict for Cyprus, Greece and Turkey," Hugh Pope, March 25, 2013 (accessed June 17, 2014); available from

http://www.ekathimerini.com/4dcgi/_w_articles_wsite3_1_25/03/2013_489743

¹⁴³ Foreign Policy, "Sorry, America, the New World Order is Dead," Eric A. Posner, May 6, 2014 (accessed May 12, 2014); available from

http://www.foreignpolicy.com/articles/2014/05/06/sorry_america_the_new_world_order_is_dead_russia_ukraine

¹⁴⁴ Ibid.

¹⁴⁵ Par Didier Ortolland, *The Greco-Turkish dispute over the Aegean Sea: a possible solution?*, April 10, 2009 (accessed May 27, 2014); available from <http://www.diploweb.com/The-Greco-Turkish-dispute-over-the.html#nb6>

¹⁴⁶ Prof. Joel Trachtman, "International Loan Agreements and Project Financing," International Business and Economic Law, Lecture 10, The Fletcher School of Law and Diplomacy, Tufts University, 2014.

replaces more carbon-intensive fuels through regional partnerships of Turkish Energy Company (TEC), Turkey can further diversify its energy supplies and also contribute to the mitigation of urban pollution and CO₂ emissions.¹⁴⁷

PART V: Conclusion

EEZ provides a coastal state the right to exercise economic exploitation and exploration of the seabed. For Greece and Turkey that run large budget deficits, delimitation of maritime boundaries translating into ownership over sub-soil resources and potential windfall profits from gas finds are very attractive. The research reveals that Kastellorizo has a pivotal position in a multi-dimensional conflict over exertion of political influence and control of energy reserves in a region with long-standing confrontations. The final status of the island may have implications on settlement of the dispute over EEZ claims in the eastern Mediterranean. Past cases of dispute settlement before the International Court of Justice (ICJ) on Libya-Malta, Ukraine-Romania, and Germany-Denmark-Netherlands cases demonstrated that international law could contribute to peaceful resolution of EEZ disputes and set a successful precedent if political obstacles can be overcome. This may all the more be facilitated if parties involved avoid political brinkmanship and refrain from unilateral proclamations of sovereignty over disputed areas.

Maritime delimitation between islands and adjacent coastal states should be based on an “equity” principle and take into consideration special circumstances, such as relative length of coastlines, distance from mainland, and freedom of access to high seas. Kastellorizo may be entitled to an EEZ, albeit in proportion with its size, location, population, and distance to mainland Greece. The width of the EEZ should be coextensive with its territorial waters, due to the distorting effect of the island’s position on maritime delimitation that would otherwise create an inequitable delimitation for Turkey. Moreover, Egypt, Israel and Lebanon may benefit from revising their EEZ delimitation agreements with Cyprus to reach a more equitable distribution of sea areas in accordance with UNCLOS, which might reinforce a possible multilateral agreement between Cyprus, Greece and Turkey.

¹⁴⁷ The U.S. Energy Information Administration, *Turkey: Environment*, Turkey in the 21st Century, March 2000 (accessed April 9, 2014); available from <http://www.nuce.boun.edu.tr/turkey.html>

Eurozone financial crisis exacerbated economic divergence in the 28-member union that may lead to its political disintegration in the long run. As Europe looks increasingly towards gaining energy independence, Cyprus and Greece, whose economies are closely linked and stricken worst from the sovereign-debt crisis, should disengage from unilateral efforts to create *fait accompli*. An opportunistic approach to view energy resources as a life buoy would jeopardize a possible final agreement. Reciprocally, Turkey should avoid using harsh rhetoric against the spirit of neighborliness that might widen current stand-offs and alienate its allies further. Viability of natural gas extraction and transportation projects from the eastern Mediterranean to energy consumer markets of Europe and Asia depends on just and equitable resolution of the EEZ delimitation dispute not only between Greece and Turkey, but also Cyprus. There are deep-rooted hostilities between Greek and Turkish Cypriot sides that render it unlikely to reach a quick and immediate solution, although an interim agreement to jointly search for and produce natural resources could serve as a confidence-building measure and catalyze settlement of the EEZ dispute over Kastellorizo whereby all parties would gain.

In the bigger picture, competing EEZ claims between Greece and Turkey are part of a multi-dimensional, complex puzzle that involves clash of interests between U.S. and Europe on one side and Russia on the other side, which, as the recent crisis over Ukraine has shown, aggressively exercises its near-monopoly power as an energy supplier against Europe. Turkey emerges as an energy transit hub and the most viable commercial route to deliver eastern Mediterranean gas to Europe, which harms Russian interests and could potentially lead to a multinational crisis over EEZ delimitation and associated energy pipeline projects. The advent of shale revolution and discovery of higher quantities of oil & gas in the coming years will reduce the world's dependence on Russia, whose policymakers have distaste of potentially rival energy supply routes via the "Southern Corridor". This is because "gas demand in the medium term is inelastic so that increases in supply cause sharp price declines, which would harm Russian income".¹⁴⁸ Coupling hydraulic fracturing and horizontal drilling with better use of seismic

¹⁴⁸ Defence Greece, "Russia's Motives in Cyprus and Greece," Michael J. Economides and Nicholas Mitsos, December 9, 2012 (accessed July 6, 2014); available from <http://www.defencegreece.com/index.php/2012/12/russias-motives-in-cyprus-and-greece/>

surveys¹⁴⁹ will vastly alter the world's energy landscape and allow the U.S. to become a net exporter of liquefied natural gas in 2016.¹⁵⁰ Alternative suppliers of energy will soon start to place downward price pressure on gas that could undermine bids for project appraisal from international financiers to justify a multi-billion dollar investment in an underwater pipeline. The net effect will inevitably be a downfall in energy prices and subsequent loss of an important leverage to reach conclusive peace in the eastern Mediterranean. Cooperation to utilize energy resources in the region offers a unique, but a small window of opportunity to bring stability and prosperity to long-time adversaries that will also help to protect national security interests of the U.S.

States have obligations under international law, which stipulates that a clear, undisputed borderline is a necessary pre-requisite for seeking oil and gas concessions and for exploiting the resource.¹⁵¹ Considering related decisions by the ICJ that constitute significant precedents, it is possible to conclude that a peaceful settlement may be reached on the EEZ delimitation dispute in the eastern Mediterranean, on the condition that the agreement would satisfy fundamental concerns of Greece and Turkey, and these are security and equity. Greece has committed to resolve disputes arising from UNCLOS through the ITLOS, but since Turkey is non-signatory to the treaty, maritime delimitation dispute concerning the status of Kastellorizo should be resolved through negotiations as a priority. The key guiding principle should be to avoid brinkmanship during the process and to possibly draw Greek and Turkish Cypriots into a multilateral agreement. All parties should keep the channels open for discussion to overcome frictions on long-entrenched opposing views on sea rights. This would ensure maximum utilisation of opportunities for offshore gas exploitation in a limited time window by picking the most commercially viable option to reach energy consumer markets. Turkey should also pursue bilateral agreements with Egypt and Libya to delimit its EEZ and should not hesitate to take the case with Greece for litigation to the ICJ if negotiations fail to reach a resolution.

¹⁴⁹ Reuters, "Shale revolution reverses global energy flow," April 9, 2014 (accessed June 14, 2014); available from <http://uk.reuters.com/article/2014/04/09/shale-usa-idUKL6N0N13JK20140409>

¹⁵⁰ The Advocate, "Shale gas will continue changing world energy outlook," Ted Griggs, March 27, 2014 (accessed June 4, 2014); available from <http://theadvocate.com/home/8667689-125/shale-gas-will-continue-changing>

¹⁵¹ Prof. Tullio Treves, *ITLOS and the Oil and Gas Industry*, Second International Oil and Gas Conference, London, September 20, 2007 (accessed June 19, 2014); available from https://www.itlos.org/fileadmin/itlos/documents/statements_of_president/wolfrum/treves_oil_gas_200907_eng.pdf

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