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CIRCUMNAVIGATING THE AEGEAN QUESTION: JOINT DEVELOPMENT OF THE AEGEAN SEA BY GREECE AND TÜRKIYE

Murat SÜMER[1]

ABSTRACT: Greece and Türkiye have been at odds regarding the Aegean question for several decades. Past efforts between the two countries to reach a permanent maritime boundary settlement did not yield any substantial solution. In this context, a joint development arrangement between the two neighbours might offer several advantages and would serve good neighbourly relations between the two coasts of the Aegean Sea.

KEYWORDS: Aegean Sea, Delimitation of Maritime Boundaries, Greece and Türkiye relations, Joint Development

CIRCUNNAVEGANDO LA CUESTIÓN DEL EGEO: DESARROLLO CONJUNTO DEL MAR EGEO POR GRECIA Y TURQUÍA

RESUMEN: Grecia y Turquía han estado enfrentados respecto a la cuestión del Egeo durante varias décadas. Los esfuerzos anteriores entre los dos países para llegar a un acuerdo de límites marítimos permanentes no produjeron ninguna solución sustancial. En este contexto, un acuerdo de desarrollo conjunto entre los dos vecinos podría ofrecer ventajas y favorecería las buenas relaciones de vecindad entre las dos costas del Mar Egeo.

PALABRAS CLAVE: Mar Egeo, Delimitación de Límites Marítimos, Relaciones Grecia y Turquía, Desarrollo Conjunto

LE CIRCUMNAVIGATION DE LA QUESTION ÉGÉE: DÉVELOPPEMENT CONJOINT DE LA MER ÉGÉE PAR LA GRÈCE ET LA TURQUIE

RÉSUMÉ: La Grèce et la Turquie sont en désaccord sur la question de la mer **Égée** depuis plusieurs décennies. Les efforts antérieurs entre les deux pays pour parvenir à un accord permanent sur les frontières maritimes n'ont abouti à aucune solution de fond. Dans ce contexte, un accord de

[1] PhD, The Nippon Foundation Lecturer in International Maritime Law, IMO International Maritime Law Institute (IMLI). The views expressed herein are strictly personal.

développement conjoint entre les deux voisins pourrait offrir plusieurs avantages et favoriserait des relations de bon voisinage entre les deux côtes de la mer Egée.

MOTS CLÉS: Mer Égée, Délimitation des Limites Maritimes, Relations entre la Grèce et la Turquie, Développement Conjoint

I. INTRODUCTION

Overlapping maritime claims can be a major source of friction between opposite or adjacent states.[2] Before the 1950s, the jurisdiction claims of coastal states were limited to an area of no more than 3 nautical miles (nm) from the shore. However, since then, there has been a significant expansion in the maritime jurisdictional zones and corresponding claims of the coastal states. The United Nations Convention on the Law of the Sea (UNCLOS),[3] recognised several maritime zones that offer different levels of rights and control to coastal states. With the introduction of the UNCLOS, states have become geographically closer to each other which led to increased competing claims.[4] As a matter of fact, the issue of contested maritime boundaries arising from overlapping claims was an unavoidable outcome of the increased attribution of jurisdiction and sovereign rights afforded to coastal states.[5] Nonetheless, one should not overlook the fact that individual subjective claims of states do not necessarily mean that they are in fact entitled to such maritime zones. In the event of overlapping claims, the possible existence and extent of entitlement need to be objectively determined to overcome such disputes.[6]

The abovementioned expansion of maritime zones and the advancement of innovative drilling technologies in the last quarter of the 20th century

[2] Beckman, R. et al, "Factors Conducive to Joint Development in Asia – Lessons Learned for the South China Sea", in Beckman, R. et al (eds.), *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013, pp. 307-308.

[3] United Nations Convention on the Law of the Sea, 1982 - UNCLOS (adopted on 10 December 1982, entered into force on 1 November 1994) 1833 UNTS 397.

[4] Prescott, V. and Schofield C., *The Maritime Political Boundaries of the World*, Martinus Nijhoff Publishers, Leiden, 2005, pp. 9.

[5] Klein, N., "Provisional Measures and Provisional Arrangements in Maritime Boundary Disputes", *The International Journal of Marine and Coastal Law,* Vol. 21, No. 4, 2006, pp. 426 - 427.

[6] Lando, M., *Maritime Delimitation as a Judicial Process*, Cambridge University Press, Cambridge, 2019, pp. 34.

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triggered growing interest in coastal states for extracting seabed resources.[7] The unprecedented progress of the technology enabled further access at greater distances and deeper depths from coasts for developing seabed hydrocarbon resources. Nevertheless, this sudden progress caused more tension and ignited existing disputes of neighbouring coastal states for more resources in the areas where they have competing claims.[8]

The Aegean Sea (Aegean) is a subregional sea of the Mediterranean Sea (Mediterranean) with a confined maritime area, and it is less than 400 nm at its widest point.[9] In accordance with the UNCLOS, it possesses the characteristics of a semi-enclosed sea.[10] The Aegean is situated between the continental mainland coasts of Türkiye and Greece, connecting the Mediterranean and the Black Sea. Thus, the Aegean serves as a vital transit route between the Black Sea and the Mediterranean. It is the primary route for commercial navigation and is the sole access point to the Mediterranean from the Black Sea, and the western as well as northern Black Sea coasts of Türkiye. This quasi-strait passageway is particularly vital for all the coastal states of the wider Black Sea basin. Therefore, it is not only important for Greece and Türkiye but also for all nations engaged in shipping.[11] Currently, 49 per cent of the Aegean[12] is considered as high seas.[13] The international community has historically enjoyed traditional navigational rights and freedoms in the Aegean. Therefore, ensuring the unhindered exercise of these international navigational rights in the Aegean is also crucial for safeguarding the fundamental rights of the non-

[7] Papanicolopulu, I., "The Note on Maritime Delimitation in a Multizonal Context: The Case of the Mediterranean" , *Ocean Development and International Law,* Vol. 38, No. 4, 2007, p. 382.

[8] Baroudi, R., *Maritime Disputes in the Eastern Mediterranean: The Way Forward,* Transatlantic Leadership Network, Washington D.C., 2020, p. 65.

[9] See the limits of the Aegean Sea which have been defined by the International Hydrographic Organization (IHO), "Limits of Oceans and Seas", IHO Publications S-23, 1953.

[10] See Article 122 of the UNCLOS.

[11] Bölükbaşı, D., *The Aegean Disputes - A Unique Case in International Law*, Cavendish, London, 2004, pp. 72-73.

[12] Greek territorial sea comprises approximately 43.5 per cent of the Aegean Sea. For Türkiye the same percentage is 7.5 per cent.

[13] Oral, N., "Non-Ratification of the 1982 Law of the Sea Convention: An Aegean Dilemma of Environmental and Global Consequence", *Publicist – an Online Publication of Berkeley Journal of International Law*, No. 1, 2009, p. 69.

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littoral states as well.[14]

A quick glance at the map would show that Türkiye enjoys a very long coastline, approximately 3,000 km, along the Aegean.[15] Greek islands, islets and rocks, varying in size / location / sustaining human habitation / presence of independent economic life / distance from the mainlands / having permanent demilitarised status etc., are scattered throughout the Aegean.[16] Adding to the inherent challenges of delimiting maritime boundaries between Türkiye and Greece in the semi-enclosed Aegean is the presence of several Greek islands, islets and rocks on the wrong side of the median line lying in very close proximity to the Turkish continental mainland.[17] Indeed, the presence of such formations and features in the predominantly narrow Aegean further complicates the delimitation of maritime boundaries therein and causes further complexities.[18]

None of the neighbouring coastal states can be entitled to full maritime zones such as the continental shelf and exclusive economic zone (EEZ) in this narrow sea area.[19] It is, therefore, unsurprising that Türkiye and Greece have been at odds regarding the Aegean question for several decades.[20] Unfortunately, past efforts between the neighbours to reach a permanent settlement of their maritime boundaries did not yield any substantial solution. Such initiatives were usually impeded by domestic political factors of the neighbours, developments related to the island of Cyprus or other geopolitical developments at large.[21]

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[14] Bölükbaşı, D., *op. cit.* pp. 79-81.

[15] Saltzman, D., "A Legal Survey Of Some Of The Aegean Issues Of Dispute And Prospects For A Non-Judicial Multidisciplinary Solution", http://turkishpolicy.com/pdf/vol_1-no_2-saltzman.pdf, accessed 4 August 2023.

[16] Bölükbaşı, D., *op. cit*. pp. 72-73.

[17] Oral, N., *op. cit*. pp. 54 - 55.

[18] Michail, C., "Cutting the Aegean Gordian Knot: A Pathway to Harness the Petroleum Resources Lying Within the Aegean Seabed", *Oil and Gas, Natural Resources and Energy Journal*, Vol. 7, No. 3, 2022, pp. 538-539.

[19] IHO, "Limits of Oceans and Seas", IHO Publications S-23, 1953.

[20] Schaller, C., "Hardly Predictable and Yet an Equitable Solution: Delimitation by Judicial Process as an Option for Greece and Turkey in the Eastern Mediterranean", *Leiden Journal of International Law*, Vol. 35, No. 3, 2022, p. 568.

[21] International Crisis Group, "Turkey-Greece: From Maritime Brinkmanship to

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In addition to the ongoing Cyprus question, perhaps the main cause of the enduring dispute was the ownership of the potential hydrocarbon resources in the Aegean, which began in the 1970s.[22] Nevertheless, it is worth noting that, Türkiye and Greece are North Atlantic Treaty Organization (NATO) allies. Moreover, they share a long common history and a similar geography. Likewise, they have many cultural similarities from their cuisine to music. Furthermore, they have several common Western values such as having viable democracies, upholding the fundamental freedoms and the rule of law. Despite fluctuating relations, especially after tragic disasters such as earthquakes or when confronted with geopolitical threats i.e., Mussolini or Nazi irredentism, both sides of the Aegean have been united and stood steadfast in the face of natural disasters or man-made threats. Such mutual support and solidarity recently facilitated the rapprochements between the two states.[23]

Against this background, joint development (JD) arrangements between the two neighbours might offer several advantages such as diffusing the tension significantly and promoting good bilateral relations. Unlike the final settlement of maritime disputes, in this case, both parties can be considered to benefit as no binding compromise is needed.[24] With the conclusion of a JD agreement, the Aegean can transform into a sea of cooperation between the neighbours rather than being a constant source of tension.

II. BRIEF OVERVIEW OF THE AEGEAN QUESTION AND THE LEGAL POSITIONS OF THE LITTORAL STATES

Throughout history, from the 1300s to 1828-1947, a number of eastern Aegean islands, situated in close proximity to the Turkish mainland, have experienced a succession of control by various entities and states. Prescott and Schofield observe that those group of islands has only belonged to Greece for a relatively short period considering their long history. For instance, since the

Dialogue", Report No. 623, 2021, https://www.crisisgroup.org/europe-central-asia/western-europemediterranean-turkiye-cyprus/turkey-greece-maritime-brinkmanship, accessed 4 August 2023.

[22] Oral, N., *op. cit.* p. 57.

[23] MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE, "The Aegean Status-Quo-Historical Perspective", https://www.mfa.gov.tr/foreword_.en.mfa, accessed 4 August 2023.

[24] Beckman, R. et al, "Factors Conducive…" *op. cit.*

1300s several eastern Aegean islands have belonged to the Sovereign Military Hospitaller Order of St John of Jerusalem of Rhodes and of Malta (Knights of Malta),[25] Egypt, Naples, Ottoman Empire, Venice, Greece (1832), Italy (1912), France (1915), Italy (1920) and Greece (1947).[26]

The current Aegean status quo is established by the 1923 Lausanne Peace Treaty (Lausanne Treaty).[27] The Lausanne Treaty sought to balance the crucial interests of Türkiye and Greece in the Aegean.[28] The treaty regime achieved a delicate balance between the neighbours by reconciling their crucial interests and rights in the Aegean.[29] The Lausanne Treaty confirmed the decision of 13 February 1914 by the Conference of London,[30] which ceded certain eastern Aegean islands to Greece with permanent demilitarised status.[31] The demilitarized status of those islands was once more confirmed in 1947.[32] Moreover, several more eastern Aegean islands are also demilitarized by other international legal instruments which ceded those islands to Greece and imposed strict obligations binding upon Greece.[33] For instance, pursuant to the 1947 Paris Peace Treaty, the Dodecanese islands[34] were ceded to Greece

[25] Also known as Knights *Hospitaller*.

[26] Prescott, V. and Schofield, C, *op. cit.* pp. 307-309.

[27] Lausanne Treaty was signed on 24 July 1923 by Türkiye, Greece, Britain, France, Italy, Japan, Romania, and the Kingdom of Serbs, Croats, and Slovenes (Yugoslavia). This treaty is the final treaty concluding World War I.

[28] Oral, N. *op. cit.* p. 56.

[29] MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE, "The Aegean..." *loc. cit.*

[30] See Article 12 of the Lausanne Treaty.

[31] UNITED NATIONS DIVISION FOR OCEAN AFFAIRS AND THE LAW OF THE SEA (DOALOS), Letter dated 5 October 2021 from the Permanent Representative of Türkiye to the UN addressed to the Secretary-General, A/76/379–S/2021/841.

[32] Treaty of Peace Between the Allied and Associated Powers and Italy, Paris, 10 February 1947.

[33] MINISTRY OF FOREIGN AFFAIRS OF GREECE, "Issues of Greek - Turkish Relations - Relevant Documents", https://www.mfa.gr/en/issues-of-greek-turkish-relations/relevant-documents/turkish-claims.html, accessed 24 June 2023; MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE , "Militarization of Eastern Aegean Islands Contrary to the Provisions of International Agreements", https://www.mfa.gov.tr/militarization-of-eastern-aegean-islands-contrary-tp-the-provisions-of-international-agreements.en.mfa, accessed 24 June 2023.

[34] Stampalia, Rhodes, Calki, Scarpanto, Casos, Piscopis, Nisiros, Calimnos, Leros, Patmos, Lipsos, Symi, Cos and Castellorizo.

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with a firm obligation that they shall remain demilitarized.[35]

Evidently, in order to ensure lasting peace and stability in their common sea, the Lausanne Treaty granted Greece and Türkiye limited maritime zones and left the remaining parts of the Aegean to the common benefit of Türkiye and Greece. Arguably, as the aforesaid treaty was not only a bilateral instrument between the two littoral states, it also took the interests of the international community at large into consideration. Therefore, a significant portion of the Aegean is recognised as high seas for ensuring the freedom of navigation in this important passageway between the Mediterranean and the Black Sea. [36]

Turkish policy as regards the Aegean appears to be based on respect for the status quo established by the Lausanne Treaty whereas Greece seems to be willing to alter it in its favour. Indeed, the extension of the Greek territorial seas from 3 to 6 nm as early as 1936 and the current aspirations of Greece to further increase the same could be seen as examples supporting the said argument.[37] Moreover, the remilitarization of the eastern Aegean islands by Greece which have been placed under permanent demilitarized status under the relevant international legal instruments ceding them to Greece and a 10-mile national air space claim over its 6-nm territorial waters could be regarded as other examples of the aspirations of Greece to alter the balance established by the Lausanne Treaty.[38] One should not overlook the fact that the Lausanne Treaty predates the UNCLOS. It came into force 71 years before the entry into force of the Convention. Apparently, the concept of broader maritime zones was still unknown then. Moreover, the coastal states, including Türkiye and Greece, were certainly not aware of the potential of the hydrocarbon reserves lying beneath the seas. Even the breadth of the territorial sea under customary

[35] Article 14: "Italy hereby cedes to Greece in full sovereignty the Dodecanese Islands indicated hereafter, namely Stampalia (Astropalia), Rhodes (Rhodos), Calki (Kharki), Scarpanto, Casos (Casso), Piscopis (Tilos), Misiros (Nisyros), Calimnos (Kalymnos), Leros, Patmos, Lipsos (Lipso), Simi (Symi), Cos (Kos) and Castellorizo, as well as the adjacent islets. These islands shall be and shall remain demilitarised."

[36] MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE, "Background Note on Aegean Dispute", https://www.mfa.gov.tr/background-note-on-aegean-dispute.en.mfa, accessed 4 August 2023.

[37] MINISTRY OF FOREIGN AFFAIRS OF GREECE, "Territorial sea - Casus belli", https://www.mfa.gr/en/issues-of-greek-turkish-relations/relevant-documents/territorial-sea-casus-belli.html, accessed 24 June 2023.

[38] MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE, "Background Note…", *loc. cit.*

international law was much narrower then. Therefore, the Lausanne Treaty identified the 3 nm as a threshold. Accordingly, the territorial seas of both coastal states under the aforesaid treaty were determined as 3 nm. Pursuant to Lausanne Treaty, in the absence of provisions to the contrary, islands located within 3 nm of the coast, i.e. within their territorial seas, are included in the frontier of the coastal State.[39] Oral aptly opines that had the significant changes in the law of the sea been predicted, the Lausanne Treaty would have likely taken a different approach as regards the sovereignty of islands, their potential maritime zones, and the breadth of maritime zones in the Aegean.[40]

According to Acer, the striking aspect of the Turkish-Greek dispute is the fact that they could not resolve their differences for a very long period of time despite their numerous attempts.[41] Regrettably, various bilateral initiatives and negotiations have proved to be ineffective thus far. The expectations that there might be rich oil and gas reserves in the Aegean has been one of the chief reasons that both parties have vigorously safeguarded their overlapping claims. Hence, it is yet to be seen whether the ultimate solution would come through bilateral diplomatic negotiations or by other means of international adjudication.[42]

Both countries, as littoral states, have legitimate rights and interests in their common sea. Greece maintains a rigid position that does not even acknowledge the presence of several different disputes between the two countries. However, Türkiye firmly believes that there are a number of other interrelated outstanding issues which need to be addressed holistically, under international law, in accordance with the means of peaceful settlement of

[39] Article 6, Lausanne Treaty: "…In the absence of provisions to the contrary, in the present Treaty, islands and islets lying within three miles of the coast are included within the frontier of the coastal State."; and Article 12: "…Except where a provision to the contrary is contained in the present Treaty, the islands situated at less than three miles from the Asiatic coast remain under Turkish sovereignty."

[40] Oral, N. *op. cit.* p. 56.

[41] Acer, Y., "A Proposal for a Joint Maritime Development Regime in the Aegean Sea", *Journal of Maritime Law and Commerce,* Vol. 37, No. 1, p. 49.

[42] Yiallourides, C., "Part II: Some Observations on the Agreement between Greece and Egypt on the Delimitation of the Exclusive Economic Zone", EJIL: Talk! Blog of the European Journal of International Law, 25 August 2020, https://www.ejiltalk.org/part-ii-some-observations-on-the-agreement-between-greece-and-egypt-on-the-delimitation-of-the-exclusive-economic-zone/, accessed 4 August 2023.

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disputes as stipulated in Article 33 of the UN Charter.[43] Türkiye maintains that the essential cause of tension between the two neighbours is the tendency of Greece to treat the Aegean as an entirely Greek sea ignoring Türkiye's rights and interests stemming from international law.[44]

On the other hand, Greece claims that the only issue between the two countries in the Aegean is the delimitation of the continental shelf. Therefore, Greece disregards other significant issues raised by Türkiye.[45] Nevertheless, this does not accurately reflect the entire situation. In contrast, Türkiye acknowledges the presence and the subsequent need to address all problems squarely. It is also noteworthy that Türkiye does not rule out any peaceful settlement method outlined in the UN Charter including judicial settlement.[46]

In 1976, Greece unilaterally referred to the International Court of Justice (ICJ), alleging that certain exploration activities carried out by Türkiye violated the continental shelf rights of Greece and requested interim measures of protection. The Court in its Order dated 11 September 1976 rejected the request of Greece. Following the Court decision, neighbours signed Bern Agreement in 1976 which stipulated that both sides would refrain from any action concerning the continental shelf beyond their respective 6 nm territorial seas. Consequently, since then, the continental shelf area of the Aegean is acknowledged as a disputed area and remains untouched. As a result, the current situation in the Aegean can be characterized as a stalemate, where neither party is gaining any advantage. Both countries are unable to exploit the potential hydrocarbon reserves of the Aegean.[47] The ongoing impasse is further aggravated by the inherent historical and other critical factors such as the sentimental public opinion associated with the Aegean question.[48]

According to Schaller, Greece strongly claims that all of its islands, irrespective of their size and location etc., are entitled to all maritime jurisdiction areas. In this regard, Greece suffices to refer to Article 121

[43] MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE, "Türkiye´s Views Regarding the Settlement of the Aegean Problems", https://www.mfa.gov.tr/turkiye_s-views-regarding-the-settlement-of-the-aegean-problems.en.mfa, accessed 4 August 2023.

[44] MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE, "Background Note…", *loc. cit.*

[45] MINISTRY OF FOREIGN AFFAIRS OF GREECE, *loc. cit.*

[46] MINISTRY OF FOREIGN AFFAIRS OF TÜRKIYE, "Türkiye´s Views…", *loc. cit.*

[47] Bölükbaşı, D., *op. cit.* p. 71.

[48] Michail, C., *op. cit.* p. 546.

of UNCLOS without considering the relevant well established equitable principles and corresponding case law under international law. Notably, it is widely recognised that Türkiye has a persistent objector status regarding the aforesaid provision.[49]

Regarding the delimitation of the continental shelf in the Aegean, Greece insists on the application of the median line principle, conferring full effect on its islands, even to those on the wrong side of the median line in very close proximity to the Turkish mainland's coastline. In contrast, Türkiye upholds the view it cannot be assumed that all islands automatically generate full maritime jurisdiction areas. According to the latter's well-known legal position, islands of mainland which are on the wrong side of the median line need to be disregarded or given significantly limited effect as their location would distort equitable delimitation. Türkiye resolutely highlights that, by virtue of the UNCLOS and customary international law as well as the case law, it is of paramount importance and an obligation to achieve an equitable result in maritime boundary delimitation in the Aegean.[50]

Arguably, the unique characteristics of the Aegean might justify the Turkish approach. The UNCLOS also places a strong emphasis on achieving an equitable solution for the delimitation of the continental shelf and the EEZ.[51] Hughes aptly observes that, similar to Türkiye, the ICJ also maintains that the delimitation of maritime boundaries needs to be based on the principle of equity to achieve an equitable result.[52] Indeed, jurisprudence and state practice also appear to be in tandem with the aforementioned argument.[53] In this context, Türkiye underscores the importance of taking into account the relevant and special circumstances of the Aegean. Additionally, Türkiye observes that equitable delimitation in the Aegean needs to consider the broadly recognised principles of land dominates the sea (islands are features

[49] Schaller, C. *op. cit.* pp. 555-557.

[50] *Ibid*; Michail, C., *op. cit.* p. 540.

[51] See Articles 74 and 83 of the UNCLOS.

[52] Hughes, K., "Solving the Unsolvable? How a Joint Development Zone Could Extinguish the Natural Gas Conflict in the Eastern Mediterranean", *Vanderbilt Journal of Transnational Law,* Vol. 54, No. 4, 2021, p. 1055.

[53] See 1977-78 UK-France, 1985 Libya-Malta, 1988 Greenland - Jan Mayen (Denmark v. Norway) 2007 Nicaragua–Honduras, 2009 Romania – Ukraine, 2012 Nicaragua-Colombia cases; See also 1971 Tunisia-Italy and 1978 Papua New Guinea-Australia agreements.

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which are within the seas, therefore, unless they are part of island states they may be dominated), non-encroachment and it highlights the relevance of an obligation to avoid the cut-off effects, especially for those Greek islands competing against the seaward projection of the long continental mainland coast of Türkiye along the Aegean. In this context, Türkiye claims that Greek islands may get varying effects such as partial/no effects in line with state practice and international jurisprudence.[54]

In 2015, Greece made a declaration under the UNCLOS[55] not accepting any of the compulsory settlement of disputes procedures entailing binding decisions stipulated in Part XV/Section 2 of the Convention regarding the disputes pertaining to the delimitation of the territorial sea, continental shelf and EEZ as well as the disputes related to military activities.[56] This can be construed as the unwillingness of Greece to have recourse to international judicial mechanisms. Indeed, the said significant exclusions of Greece encompass the fundamental issues at the core of the Aegean disputes such as the breadth and delimitation of the maritime zones and the remilitarization of the demilitarized islands.[57] Hence, it appears that an agreement is the only viable option unless Greece changes its current position by lifting its reservation against international dispute settlement mechanisms.[58]

Typically, states tend to establish their maritime boundaries through agreements. This allows the parties to have more control over the outcome of the boundary delimitation process and avoid the risks associated with third-party dispute settlement mechanisms. Nonetheless, reaching a maritime

[54] Erciye, C., "Legal and Political Framework - Turkey's Views and Opinions", https://www.mfa.gov.tr/site_media/html/Maritime-Delimitation-Offshore-Activities-Presentation-17-September-2019.pdf, accessed 13 June 2023.

[55] See Article 298 of the UNCLOS.

[56] ICJ, "Declarations recognizing the jurisdiction of the Court as compulsory", https://www.icj-cij.org/declarations/gr, accessed 13 June 2023; MINISTRY OF FOREIGN AFFAIRS OF GREECE, *loc. cit.*

[57] See United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en#EndDec, accessed 4 August 2023.

[58] Tulun, T., "Greece's Cherry-Picking Policy in Invoking the Rules of International Law", *Center for Eurasian Studies (AVİM),* 2020, https://avim.org.tr/en/Yorum/GREECE-S-CHERRY-PICKING-POLICY-IN-INVOKING-THE-RULES-OF-INTERNATIONAL-LAW, accessed 4 August 2023.

boundary delimitation agreement can still be challenging, like in the example of Türkiye and Greece given that they cannot even agree on the scope and variety of their disagreements.[59]

It is also noteworthy that, notwithstanding the significance of international maritime law in resolving the Aegean dispute, it seems that both parties fall short of giving the proper attention to relevant applicable international maritime boundary delimitation principles.[60] In this vein, it is of utmost importance to monitor the general evolution of international law. For instance, the maritime boundary delimitation principles have evolved over the years, and crystallised into customary international law, especially in the post-UNCLOS period. As such, limited effect is given to certain offshore features in the maritime delimitation process. In this respect, Beckman and others rightly note that a strong trend has developed regarding the treatment of islands in maritime boundary delimitation cases. Particularly, in the event of overlapping claims between a small and remote island and the mainland of another State, the ICJ and the International Tribunal for the Law of the Sea (ITLOS) as well as arbitration tribunals tend to confer a significantly reduced effect or no effect on the islands whilst delimiting the boundaries.[61]

Such special treatment may be in the form of partial and/or no effect in generating maritime zones if the presence of islands distorts the equitable delimitation. Indeed, both state practice and jurisprudence show that, in such circumstances, those islands are enclaved and got no effect during the delimitation process.[62] In the Aegean, there are many remote islands, islets and rocks of Greece on the wrong side of the median line lying in very close proximity to the mainland of Türkiye, which might have minimal or no impact

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[59] El Diwany, I., "Legal Rules Applicable to the Equitable Maritime Boundaries Delimitation in the Eastern Mediterranean Sea: An Egyptian Perspective", *United Nations – The Nippon Foundation of Japan Fellowship Programme,* 2018, https://www.un.org/oceancapacity/sites/www.un.org.oceancapacity/files/eldiwany_ibrahim_un-nippon_researchpaper_15dec2018.pdf, accessed 4 August 2023.

[60] Beckman, R. et al, "Moving Forward on Joint Development in the South China Sea" in Beckman, R. et al (eds.), *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013, pp. 316-317.

[61] *Ibidem*.

[62] Erciye, C. and Sümer, M., "Maritime Boundary Delimitation Process", 2 *DEHUKAM Deniz Hukuku Dergisi* 2, 2019, p. 15.

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on the final delimitation. In parallel to this, Felde opines that if Greece and Türkiye resort to international litigation, it is anticipated that such adjudication would likely give no effect or reduced effect to many Greek islands, located on the wrong side of the median line between the two continental coastlines.[63]

Arguably, the demilitarized status of eastern Aegean islands, islets, and rocks which are in very close proximity to the Anatolian continental mainland also demonstrates the uniqueness of the Aegean problem. For instance, the demilitarised island of Samos is just 3 nm, Kos is 3 nm, Symi is 5 nm, Chios is 9 nm and Lesbos is 10 nm away from the Anatolian continental coastline whereas they are at a great distance from the Greek mainland.[64] Although it is beyond the scope of this study, it may not be realistic for Greece to expect that such islands would get full entitlement to sovereign rights in maritime zones where they were not even entitled to have a military presence which is one of the most important indications of full sovereignty.

Naturally, the limited width of the Aegean causes overlapping claims between the two littoral states, leading to an ongoing gridlock. As briefly mentioned above, the ongoing Aegean disputes are entangled with complex matters. Reportedly, the Aegean is thought to have rich hydrocarbon reserves. According to Michail, this could provide significant benefits to both states. However, the current stalemate prevents both littoral states from taking advantage of the potential resources. Consequently, predicted vast reserves remain untouched at the bottom of the Aegean.[65]

Nonetheless, international law provides a potential interim solution to break this deadlock by introducing the concept of provisional arrangements. Pursuant to UNCLOS,[66] the coastal states are expected to make efforts to establish provisional practical arrangements in the absence of a final delimitation agreement. Such interim arrangements often take the form of JD.[67] Fietta and Cleverly note that provisional arrangements may be in different forms and can vary in their types. As such, JD arrangements, inter alia, include

[63] Felde, R., "The Eastern Mediterranean Military Environment from a NATO Perspective", *Konrad Adenauer Stiftung,* 2020, pp. 2-8.

[64] DOALOS, Letter dated 14 July 2021 from the Permanent Representative of Türkiye to the UN addressed to the Secretary-General, A/75/961–S/2021/651.

[65] Michail, C. *op. cit.* p. 537.

[66] See Articles 74(3) and 83(3) of the UNCLOS.

[67] Michail, C. *op. cit.* pp. 537, 544.

moratoriums on all activities in disputed areas, the creation of JD for oil and gas or fisheries, agreements on environmental cooperation/ allocation of criminal and civil jurisdiction.[68]

III. ANOTHER ALTERNATIVE FOR GREECE AND TÜRKIYE TO CIRCUMNAVIGATE THEIR MARITIME DISPUTES

Although the concept of JD zones is not entirely new and there have been several JD arrangements, nevertheless, there is no uniform definition in the doctrine. Perhaps, this is due to the fact that it is not specifically governed by any international treaty. For instance, the UNCLOS suffices to allude to provisional arrangements broadly and it grants a wide discretion to the states as to what sort of provisional arrangement they may enter into. Yet, it may be safe to note that their common denominator is essentially their provisional and practical nature.[69]

JD arrangements may be broadly defined as a generic term given to an agreement of a provisional nature between states to arrange the joint exploration of oil and gas resources in a designated zone beyond the territorial sea in disputed maritime areas.[70] As a provisional pragmatic mechanism, such arrangements permit the utilization of resources in contested maritime areas.[71]

Commentators recognise the increasing trend in State practice for concluding JD agreements in order to perform joint exploration and exploitation activities in overlapping maritime zones.[72] State practice demonstrates that there have been a number of successful examples of JD arrangements between states with overlapping maritime claims such as the

[68] Fietta, S. and Cleverly, R., *A Practitioner's Guide to Maritime Boundary Delimitation,* Oxford University Press, Oxford, 2016, p. 118.

[69] Hughes, K. *op. cit.* p. 1060; Davenport, T., "The Exploration and Exploitation of Hydrocarbon Resources in Areas of Overlapping Claims" in Beckman, R., et al (eds.) *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013, pp. 109-112.

[70] Cameron, P. and Nowinski, R., "Joint Development Agreements: Legal Structure and Key Issues" in Beckma, R., et al (eds.), *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013, pp. 154-155.

[71] Yiallourides, C., "Joint Development of Seabed Resources in Areas of Overlapping Maritime Claims: An Analysis of Precedents in State Practice", *University of San Francisco Maritime Law Journal*, Vol. 31, No. 2, 2019, p. 129.

[72] Yiallourides C., *Maritime Disputes and International Law,* Routledge, London, 2019, p. 209.

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Bahrain - Saudi Arabia Agreement, 1958; Saudi Arabia - Sudan Agreement, 1974; Japan – South Korea Agreement, 1974; Malaysia – Thailand Agreement, 1979; Australia – Indonesia Agreement (Timor Gap Treaty), 1989; Malaysia – Vietnam Agreement, 1992; Nigeria - Sao Tome and Principe Agreement, 2001 and Barbados – Guyana Agreement, 2003.[73] Furthermore, State Practice also shows that the employment of JD arrangements in disputed maritime areas where the relevant parties have not been willing to be perceived as making compromises in any boundary delimitation agreement proved to be very efficient, improved relations, and enabled cooperation between the respective neighbours.[74]

The UNCLOS, as a framework instrument, is widely acknowledged as the legal basis of JD arrangements between states pending the settlement of the maritime boundary delimitation in their disputed maritime areas. From the legal perspective, JD agreements are the natural outcome of the duty laid down under the UNCLOS. As a matter of fact, the formation of JD zones appears to be consistent with Articles 74(3) and 83(3) which set out the legal foundation for the provisional arrangements.[75] Thus, the conclusion of JD agreements might satisfy the duty imposed on states by the UNCLOS. Indeed, the said provisions of the UNCLOS oblige states with overlapping claims to make efforts to conclude provisional arrangements of a practical nature that do not hinder or impede the achievement of a final delimitation agreement.[76]

Both articles regarding the delimitation of the EEZ and continental shelf, 74(3) and 83(3) are identical and state the following:

> Pending agreement as provided for in paragraph 1, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such

[73] *Ibidem* pp. 185-186; Deng N., "Joint Development Between Australia and Timor-Leste", *Chinese Journal of International Law*, Vol. 22, No. 1, 2023, pp. 123–132.

[74] Abrahamson, J., *Joint Development of Offshore Oil and Gas Resources in the Arctic Ocean Region and the United Nations Convention on the Law of the Sea*, Brill, Leiden, 2018, p. 61.

[75] *Ibidem* 8-9; Van Logchem, Y., *The Rights and Obligations of States in Disputed Maritime Areas*, Cambridge University Press, Cambridge, 2021, p. 118.

[76] Mcgarry B., "The Settlement of Maritime Boundary Disputes in Southeast Asia and Oceania: A Synthesis in Light of Indonesian Practice", *Journal of Territorial and Maritime Studies,* Vol. 5, No. 2, 2018, p. 32.

arrangements shall be without prejudice to the final delimitation.[77]

The phrase inserted in the above articles "without prejudice to the final delimitation" safeguards that whatever arrangement is agreed to will not bear any eventual effect on the future maritime boundary delimitation agreement. Usually, JD agreements also explicitly incorporate "no-prejudice" clauses. These clauses ensure that by participating in a JD, none of the parties involved relinquish their existing claims. Therefore, if a State makes a compromise for reaching an agreement for such provisional arrangements, such concessions cannot be used against that state in a later stage.[78]

Indeed, the JD agreements neither generate legal basis nor endorse the respective parties' claims over the designated areas. Moreover, such arrangements cannot be construed as a unilateral waiver or recognition of the respective claims.[79] Thus, this safeguards that both countries would be able to utilise the potential reserves in the Aegean whilst neither Türkiye nor Greece would need to compromise their respective claims.[80] Remarkably, Türkiye and Greece may reach a JD zone arrangement without first concluding a maritime boundary delimitation agreement to determine established boundaries with respect to sovereignty and jurisdiction issues. Should this be the case, then parties may share the resources based on their arrangement.[81]

Annex VII Tribunal in Guyana – Suriname arbitration noted that: "joint development has been defined as the cooperation between States with regard to exploration for and exploitation of certain deposits, fields or accumulations of non-living resources which either extend across a boundary or lie in an area of overlapping claims." More importantly, the Tribunal emphasised the importance of provisional arrangements in attaining the objectives stipulated

[77] Keyuan, Z, "Joint Development in the South China Sea: A New Approach", *The International Journal of Marine and Coastal Law*, Vol. 21, No. 1, 2006, p. 91; ABRAHAMSON, J. *op. cit.* p. 13.

[78] Hughes, K., *op. cit.* p. 1060; Beckman, R. and Bernard, L., "Framework for the Joint Development of Hydrocarbon Resources", *Asian Yearbook of International Law*, Vol. 22, No. 1, 2016, p. 100.

[79] Beckman, R., "International Law, UNCLOS and the South China Sea" in Beckman, R. et al (eds.) *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013, pp. 77-78.

[80] Hughes, K. *op. cit.* p. 1060; Davenport, T. *op. cit.* pp. 109-112.

[81] DOALOS, *Handbook on the Delimitation of Maritime Boundaries,* United Nations Publications, New York, 2000, p. 84.

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under the UNCLOS. Furthermore, it underscored that the Convention sets out an obligation on states with overlapping maritime claims to make every effort to conclude JD agreements.[82] Likewise, in the North Sea Continental Shelf Cases, Judge Jessup noted that "in this context, I may add that the simplest way to have achieved an equitable apportionment with respect to known or unknown resources would have been to place the areas of the continental shelf of the North Sea situated farther off the Coast under a régime of joint control and exploitation."[83]

Unsurprisingly, disputed maritime zones are usually politically unstable and they are surrounded by legal uncertainty. Therefore, these are characterised as risk factors both for the disputing parties as well as for the potential investors and oil companies. Consequently, establishing a JD zone may also be useful for promoting an investment-friendly environment.[84] Pursuant to the UNCLOS, Article 123, which is titled "Cooperation of States bordering enclosed or semi-enclosed seas", littoral states of semi-enclosed seas such as the Aegean[85] are required to cooperate with each other in the exercise of their rights and duties. In addition to the UNCLOS, it is broadly recognised that states have a general duty to cooperate concerning common resources under international law. [86]

Yiallourides opines that the presumed existence of hydrocarbon resources in the Aegean is one of the key elements of the aforesaid dispute which is also related to the energy security of both countries as they are highly dependent on energy import.[87] He further aptly argues that the JD of hydrocarbon resources

[82] Award in the arbitration regarding the delimitation of the maritime boundary between Guyana and Suriname, Award of 17 September 2007, Reports on International Arbitral Awards, Vol. XXX pp.1-144.

[83] North Sea Continental Shelf Cases (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands), 20 February 1969, I.C.J. Reports 1969, p.3, Separate opinion of Judge Jessup, p. 73.

[84] Yiallourides, C., "*Maritime Disputes*…", *op. cit.* p. 180.

[85] See Article 122 of the UNCLOS.

[86] Van Dyke, J., "The Aegean Sea Dispute: Options and Avenues", *Marine Policy*, Vol. 20, No. 5, 1996, pp. 397-404; Davenport, T. *op. cit.* pp. 107-109.

[87] Erdemir, N., "Energy Dependence of Turkey: The Role of Renewable Energy Sources", 6 *Başkent Üniversitesi Ticari Bilimler Fakültesi Dergisi* 1, 2022, pp. 1-14, https://dergipark.org.tr/en/download/article-file/2208672, accessed 4 August 2023; INTERNATIONAL ENERGY AGENCY, "Türkiye", https://www.iea.org/countries/turkiye, accessed 11 June 2023; EUROPEAN COUNCIL, "How dependent are EU member states on energy imports?",

in the Aegean seems to have the potential to be useful for both neighbours as the possible discovery of resources therein can help to reduce their heavy dependency on expensive imports.[88]

Considering the unique character of the Aegean, which is wrapped up with complex intertwined issues, JD arrangements could be truly instrumental in shifting the current paradigm and defusing the unnecessary tension between the neighbours. Michail aptly draws attention to the rapidly emerging renewable energy which might eventually replace fossil fuels. Indeed, in the future, it may become financially unfeasible or even illegal to exploit fossil fuels to mitigate ever deteriorating climate change. Consequently, both Greece and Türkiye might face considerable financial losses if they continue with their ongoing stalemate.[89]

It is acknowledged that there is not sufficient data concerning the possible resources in the Aegean as none of the parties was able to conduct meaningful exploration activities such as 3D seismic surveys or test drillings under Bern Agreement. The current gridlock does not allow the parties to explore and exploit the resources of the Aegean. Therefore, it is difficult to estimate to what extent substantial reserves exist in the Aegean. Nevertheless, various reports seem to suggest that there might be substantial quantities of hydrocarbon reserves in the Aegean. However, the entire resource potential is yet to be seen.[90]

Maritime disputes naturally provide a suitable climate for nationalistic rhetoric to have an impact on public sentiment. Therefore, these sovereignty disputes can easily be exploited as political tools.[91] Since jurisdictional disputes have the tendency to escalate rapidly, they can mobilize nationalistic sentiments and thus further harden national positions. This would consequently hinder reaching a possible compromise in the future. [92] Nonetheless, the majority of

https://www.consilium.europa.eu/en/infographics/how-dependent-are-eu-member-states-on-energy-imports/, accessed 11 June 2023.

[88] Yiallourides, C., "*Maritime Disputes…*"*, op. cit.* p. 86, 88.

[89] Michail, C., *op. cit.* p. 548-549.

[90] Yiallourides, C., "*Maritime Disputes…*"*, op. cit.* pp. 89, 210.

[91] Prescott, V. and Schofield, C. *op. cit.* pp. 249-251.

[92] Acer, Y., *op. cit.* p. 50; Townsend-Gault, I., "Rationales for Zones of Co-Operation" in Beckman, R. et al, *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013, p. 138.

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conflicts in the Aegean may necessitate compromises on both sides. However, it is usually challenging to back down from maximalist positions as they would crystallise into national rhetoric and such impossible aspirations would be embraced by the public.

It is also noteworthy that any JD agreement requires political will from both parties. Presumably, Türkiye is willing to enter into such a provisional arrangement pending a final delimitation. For instance, Turkish diplomats proposed the idea of such an arrangement during a meeting of both countries held in Bern as early as 1976, whence this concept was still emerging.[93] Notably, the delegation of Greece did not refuse the said proposal outright but preferred to remain silent then.[94]

Similarly, the then Turkish Foreign Minister Caglayangil told to the then US Secretary of State Kissinger the following: "…This is a political matter and a settlement must be found in that context. So we said that *either we explore all of the continental shelf together* or we make some kind of political bargain and come to a conclusion as to a delimitation of the shelf. There is no other way. We are prepared therefore to sit around a table for political bargaining…" (emphasis added).[95]

Should both countries look favourably to the JD arrangements in the Aegean, then they need to consider the importance of the public perception for the conclusion and implementation of a potential agreement. It may be advisable that both countries avoid unhelpful rhetoric and highlight the potential benefits of cooperation to pave the way for such an agreement. Therefore, there is a potential constructive role for the media on both sides of the Aegean. For instance, the media can underscore the potential benefits of such provisional arrangements whilst pointing out their provisional character. Be that as it may, the opposite is also equally true, and adverse public opinion regarding prospective cooperation can certainly have detrimental consequences.[96] Otherwise, domestic political pressures in both countries can

[93] Yiallourides, C., "*Maritime Disputes…*", *op. cit.* p. 218.

[94] Letter dated 19 May 2022 from the Permanent Representative of Türkiye to the UN addressed to the Secretary-General, A/76/842-S/2022/405; Acer, Y., *op. cit.* p. 59.

[95] UNITED STATES. DEPARTMENT OF STATE, "Foreign Relations of the United States, 1969–1976", Volume XXX, (2007) Memorandum of Conversation, New York, August 14, 1976, 829, available at: https://2001-2009.state.gov/documents/organization/96610.pdf.

[96] Beckman, R., et al, "Factors Conducive…", *op. cit.* pp. 309-311.

make it difficult for either side to make public concessions.[97]

Indeed, JD in the Aegean would offer a useful mechanism to both countries to jointly exploit the potential hydrocarbon reserves in the disputed areas without violating or hampering each other's sovereign rights[98] whilst successfully suspending their maritime boundary disputes.[99]

Considering the numerous futile attempts to resolve their ongoing maritime disputes, it might be wiser to have a paradigm shift. In light of the foregoing, Greece and Türkiye may contemplate on a more practical and realistic approach to ensure cooperation in the Aegean. Furthermore, in the aftermath of a devastating earthquake in Türkiye in 2023, similar to the 1999 tragic disaster, there seems to be improvement and de-escalation in the relations of both countries, following the high tensions of the last couple of years.[100] Therefore, the current conjuncture appears to be conducive to a such collaborative arrangement.

IV. CONCLUSIONS

Both Greece and Türkiye appear to prioritize political aspects of the Aegean question, by which, they treat this complex myriad of issues primarily from a political perspective. However, for decision-makers of both countries to make learned decisions they are by definition required to fully comprehend the legal scope of their disputes as well as perceive the strengths and merits as opposed to weaknesses of their respective claims. After all, the Aegean question is arguably more of an intricate legal problem rather than just a political matter. Such an enhanced legal analysis would indeed offer valuable insights into the complex issues at hand in the Aegean. As such this would potentially contribute to avoiding maximalist claims and bring the two sides closer to a possible final settlement of their disputes as well.

The peaceful settlement of the Aegean question through a delimitation agreement or having recourse to international litigation is evidently the

[97] Van Dyke, J. *op. cit.* pp. 397-404.

[98] Michail, C, *op. cit.* p. 547.

[99] Abrahamson, J., *op. cit.* p. 2.

[100] "Can an earthquake once again improve relations between Turkey and Greece?", *Euronews*, https://www.euronews.com/2023/05/16/can-an-earthquake-once-again-improve-relations-between-turkey-and-greece, accessed 23 June 2023; Acer, Y., *op. cit.* p. 59.

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ultimate solution. Be that as it may, in the absence of such a desired outcome, a temporary JD agreement might be certainly useful and would serve good neighbourly relations. Beckman and Bernard rightly observe that in the event that disputing states cannot define their maritime boundaries through an agreement then JD is the second-best option.[101]

The peaceful exploitation of the resources in the Aegean can be possible through a JD agreement concluded between the neighbours. Moreover, as a legal arrangement, it has the capacity to freeze their ongoing maritime boundary disputes temporarily to enable the joint exploration and exploitation of resources for a predetermined duration, pending the final delimitation.[102] As an alternative to the current deadlock and the consistent risk of escalation in the Aegean, JD seems to be the most plausible approach. [103] Inherently, as they are related to sovereignty, maritime boundary disputes have the risk of escalation and conflict between states. Therefore, with the employment of JD arrangements, such cooperation between Türkiye and Greece is expected to take away an actual disruptive issue from their common agendas and it could foster good relations.[104]

Indeed, a Turkish-Greek JD zone in the Aegean will present certain advantages to both parties. The conclusion of a JD agreement by Türkiye and Greece would enable the development of hydrocarbon resources in the absence of a maritime boundary delimitation agreement or judicial settlement. Certainly, this would not mean that all outstanding Aegean problems would suddenly disappear, nonetheless, it will pave the way for peaceful settlement of disputes through cooperation instead of the constant risk of escalation. Besides it will serve to stabilize the relations of the two countries by eliminating an important source of tension. According to Baroudi, if Greece would like to exploit the resources in the Aegean, there is no alternative to developing some kind of understanding with the Turkish side.[105]

In order to reach a JD agreement, essentially, both countries must have a common desire to set aside their differences and overlapping claims at

[101] Beckman, R. and Bernard, L., *op. cit.* p. 100.

[102] Yiallourides, C., "*Maritime Disputes…*", *op. cit.* p. 173.

[103] Yiallourides, C., "*Maritime Disputes…*", *op. cit.* p. 248.

[104] Townsend-Gault, I, *op. cit.* pp. 129-130.

[105] Baroudi, R., *op. cit.* pp. 3-4.

least for a specified period. Moreover, both countries need to persuade their respective publics, as regards the potential rewards, particularly that it is in their financial interest to cooperate with each other by sharing the possible oil and gas reserves.[106]

Even if the proposed JD arrangement between the two neighbours would not achieve success in utilising the hydrocarbon resources of the Aegean, it can certainly be instrumental in alleviating current disputes.[107] Certainly, such an arrangement would also enable closer cooperation between the two countries both at the bilateral and multilateral levels. More significantly, the neighbours can work together on blue economy and can cooperate for the protection of the marine environment in the Aegean.[108]

In this regard, there might be a positive role to play for the European Union (EU) as well. Instead of supporting the claims of one of the neighbours, the EU can encourage both sides[109] to negotiate and conclude a JD agreement. However, one should not overlook the fact that inappropriate intervention of third states is usually counterproductive and may lead to a stall in JD negotiations. Hence, Greece and Türkiye need to eliminate any possible external interference which may not be constructive for the process.[110]

In the absence of JD, both Türkiye and Greece may deem bound to continue the current vicious cycle of challenging each other's actions in the Aegean to uphold their claims.[111] On the other hand, Greece and Türkiye can significantly benefit from the conclusion of a JD agreement both economically and politically. Such an arrangement would certainly defuse potential conflicts between the two states and will allow them to jointly utilize the untouched

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[106] Beckman, R. and Bernard, L., *op. cit.* p. 108.

[107] Acer, Y., *op. cit.* p. 76.

[108] Baroudi, R., *op. cit.* p. 72.

[109] Jiménez García-Carriazo Á., "The Maritime Delimitation between Turkey and the Libya's Government of National Accord: Another Concern for the European Union?", *Peace & Security - Paix et Sécurité Internationales (Euromediterranean Journal of International Law and International Relations)*, Vol. 9, 2021.

[110] Lin, K. and Chuanyu, L., "China-Philippines Joint Development of South China Sea Hydrocarbon Resources: Challenges and Future Priorities", *China International Studies*, 6, 2018, p. 147.

[111] Klein, N., *op. cit.* p. 443.

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resources of the Aegean.[112] Overall, introducing a JD between Türkiye and Greece could provide a potentially appealing option to circumnavigate the Aegean question and move forward with the exploitation of the disputed maritime areas that are subject to overlapping claims. In this way, the Aegean could serve as the common heritage of both countries, so to speak.

BIBLIOGRAPHICAL REFERENCES

ABRAHAMSON, J., Joint Development of Offshore Oil and Gas Resources in the Arctic Ocean Region and the United Nations Convention on the Law of the Sea, Brill, Leiden, 2018.

ACER, Y., "A Proposal for a Joint Maritime Development Regime in the Aegean Sea", Journal of Maritime Law and Commerce, Vol. 37, No. 1.

BAROUDI, R., *Maritime Disputes in the Eastern Mediterranean: The Way Forward,* Transatlantic Leadership Network, Washington, D.C., 2020.

BECKMAN, R., "International Law, UNCLOS and the South China Sea" in BECKMAN, R. et al (eds.) *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013.

BECKMAN, R. and BERNARD, L., "Framework for the Joint Development of Hydrocarbon Resources", *Asian Yearbook of International Law*, Vol. 22, No. 1, 2016.

BECKMAN, R. et al, "Moving Forward on Joint Development in the South China Sea" in BECKMAN, R. et al (eds.), *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013.

BECKMAN, R. et al, "Factors Conducive to Joint Development in Asia – Lessons Learned for the South China Sea", in BECKMAN, R. et al (eds.), *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013.

BÖLÜKBAŞI, D., *The Aegean Disputes - A Unique Case in International Law*, Cavendish, London, 2004.

CAMERON, P. and NOWINSKI, R., "Joint Development Agreements: Legal Structure and Key Issues" in BECKMA, R., et al (eds.), *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013.

DAVENPORT, T., "The Exploration and Exploitation of Hydrocarbon Resources

[112] Maclaren, G. and James, R., "Negotiating Joint Development Agreements", in Beckman, R. et al, Beckman, R., et al (eds.) *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013, pp. 141-143; Erciye, C. and Sümer, M., *op. cit.* p. 16; Beckman, R. et al, "Moving Forward…" *op. cit.* pp. 329-331.

in Areas of Overlapping Claims" in BECKMAN, R., et al (eds.) *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013.

DENG N., "Joint Development Between Australia and Timor-Leste", *Chinese Journal of International Law*, Vol. 22, No. 1, 2023.

DOALOS, *Handbook on the Delimitation of Maritime Boundaries,* United Nations Publications, New York, 2000.

EL DIWANY, I., "Legal Rules Applicable to the Equitable Maritime Boundaries Delimitation in the Eastern Mediterranean Sea: An Egyptian Perspective", *United Nations – The Nippon Foundation of Japan Fellowship Programme,* 2018, https://www.un.org/oceancapacity/sites/www.un.org.oceancapacity/files/eldiwany_ibrahim_un-nippon_researchpaper_15dec2018.pdf.

ERCİYES, C., "Legal and Political Framework - Turkey's Views and Opinions",

https://www.mfa.gov.tr/site_media/html/Maritime-Delimitation-Offshore-Activities-Presentation-17-September-2019.pdf.

ERCİYES, C. and SÜMER, M., "Maritime Boundary Delimitation Process", 2 *DEHUKAM Deniz Hukuku Dergisi* 2, 2019.

ERDEMİR, N., "Energy Dependence of Turkey: The Role of Renewable Energy Sources", 6 *Başkent Üniversitesi Ticari Bilimler Fakültesi Dergisi* 1, 2022, https://dergipark.org.tr/en/download/article-file/2208672.

FELDE, R., "The Eastern Mediterranean Military Environment from a NATO Perspective", *Konrad Adenauer Stiftung,* 2020.

FIETTA, S. and CLEVERLY, R., *A Practitioner's Guide to Maritime Boundary Delimitation,* Oxford University Press, Oxford, 2016.

INTERNATIONAL CRISIS GROUP, "Turkey-Greece: From Maritime Brinkmanship to Dialogue", Report No. 623, 2021, https://www.crisisgroup.org/europe-central-asia/western-europemediterranean-turkiye-cyprus/turkey-greece-maritime-brinkmanship.

JIMÉNEZ GARCÍA-CARRIAZO Á., "The Maritime Delimitation between Turkey and the Libya's Government of National Accord: Another Concern for the European Union?", *Peace & Security - Paix et Sécurité Internationales (Euromediterranean Journal of International Law and International Relations)*, Vol. 9, 2021.

HUGHES, K., "Solving the Unsolvable? How a Joint Development Zone Could Extinguish the Natural Gas Conflict in the Eastern Mediterranean", *Vanderbilt Journal of Transnational Law,* Vol. 54, No. 4, 2021.

KEYUAN, Z, "Joint Development in the South China Sea: A New Approach", *The International Journal of Marine and Coastal Law*, Vol. 21, No. 1, 2006.

Peace & Security – Paix et Securité Internationales
ISSN 2341-0868, No 11, January-December 2023, 1202
DOI: http://dx.doi.org/10.25267/Paix_secur_int.2023.i11.1202

KLEIN, N., "Provisional Measures and Provisional Arrangements in Maritime Boundary Disputes", *The International Journal of Marine and Coastal Law,* Vol. 21, No. 4, 2006.

LANDO, M., *Maritime Delimitation as a Judicial Process*, Cambridge University Press, Cambridge, 2019.

LIN, K. and CHUANYU, L., "China-Philippines Joint Development of South China Sea Hydrocarbon Resources: Challenges and Future Priorities", *China International Studies*, 6, 2018.

MACLAREN, G. and JAMES, R., "Negotiating Joint Development Agreements", in BECKMAN, R. et al, BECKMAN, R., et al (eds.) *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013.

MCGARRY B., "The Settlement of Maritime Boundary Disputes in Southeast Asia and Oceania: A Synthesis in Light of Indonesian Practice", *Journal of Territorial and Maritime Studies,* Vol. 5, No. 2, 2018.

MICHAIL, C., "Cutting the Aegean Gordian Knot: A Pathway to Harness the Petroleum Resources Lying Within the Aegean Seabed", *Oil and Gas, Natural Resources and Energy Journal*, Vol. 7, No. 3, 2022.

ORAL, N., "Non-Ratification of the 1982 Law of the Sea Convention: An Aegean Dilemma of Environmental and Global Consequence", *Publicist – an Online Publication of Berkeley Journal of International Law*, No. 1, 2009.

PAPANICOLOPULU, I., "The Note on Maritime Delimitation in a Multizonal Context: The Case of the Mediterranean" , *Ocean Development and International Law,* Vol. 38, No. 4, 2007.

PRESCOTT, V. and SCHOFIELD C., *The Maritime Political Boundaries of the World*, Martinus Nijhoff Publishers, Leiden, 2005.

SALTZMAN, D., "A Legal Survey Of Some Of The Aegean Issues Of Dispute And Prospects For A Non-Judicial Multidisciplinary Solution", http://turkishpolicy.com/pdf/vol_1-no_2-saltzman.pdf, .

SCHALLER, C., "Hardly Predictable and Yet an Equitable Solution: Delimitation by Judicial Process as an Option for Greece and Turkey in the Eastern Mediterranean", *Leiden Journal of International Law*, Vol. 35, No. 3, 2022.

TOWNSEND-GAULT, I., "Rationales for Zones of Co-Operation" in BECKMAN, R. et al, *Beyond Territorial Disputes in the South China Sea*, Edward Elgar, Cheltenham, 2013.

TULUN, T., "Greece's Cherry-Picking Policy in Invoking the Rules of International Law", *Center for Eurasian Studies (AVİM),* 2020, https://avim.org.tr/en/Yorum/

GREECE-S-CHERRY-PICKING-POLICY-IN-INVOKING-THE-RULES-OF-INTERNATIONAL-LAW.

VAN DYKE, J., "The Aegean Sea Dispute: Options and Avenues", *Marine Policy*, Vol. 20, No. 5, 1996.

VAN LOGCHEM, Y., *The Rights and Obligations of States in Disputed Maritime Areas*, Cambridge University Press, Cambridge, 2021.

YIALLOURIDES, C., "Joint Development of Seabed Resources in Areas of Overlapping Maritime Claims: An Analysis of Precedents in State Practice", *University of San Francisco Maritime Law Journal*, Vol. 31, No. 2, 2019.

YIALLOURIDES C., *Maritime Disputes and International Law,* Routledge, London, 2019.

YIALLOURIDES, C., "Part II: Some Observations on the Agreement between Greece and Egypt on the Delimitation of the Exclusive Economic Zone", EJIL: Talk! Blog of the European Journal of International Law, 25 August 2020, https://www.ejiltalk.org/part-ii-some-observations-on-the-agreement-between-greece-and-egypt-on-the-delimitation-of-the-exclusive-economic-zone/.

Peace & Security – Paix et Securité Internationales
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