

TURKISH INVOLVEMENT IN SOME INTERNATIONAL DISPUTES

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INDRODUCTION

Turkey did contribute to the development of international law. "To a great extent, much of our modern international law originated and developed from the competition of the great powers and their desire to expand at the expense of other countries. Turkey was a great power. Its peculiar geographical position and the ideas it stood for involved Turkey in all major wars and all postwar settlements. In this way the Turks influenced the development of international law"¹.

The following excerpt is a brilliant example of Turkish contribution to the development of international law attested by a eminent international law scholar, Mr. James W. Garner².

"According to the old practice, all enemy merchant vessels found in port at the outbreak of war or captured on the high seas while proceeding to or from such ports whether ignorant of the outbreak of hostilities or not, were liable to capture as "droits of admiralty" and in practice such vessels were usually condemned as good prize³. This liability to capture existed in fact long after the practice of appropriating enemy private property on Land had generally been abandoned frequently embargoes on vessels in port were laid in anticipation of war, so that in the event of hostilities they might be confiscated⁴. But, says de Boeck, the practice of se-

¹ Yılmaz ALTUĞ, *Turkey and Some Problems of International Law*, 1958, s. 3-4

² James W. Garner, Treatment of enemy merchant vessels in belligerent ports at the outbreak of war, 238-269, *The American Journal of International Law*, vol. 10, 1916.

³ "It was the general usage of Europe", says Merlin in the beginning of the nineteenth century, "that whenever one Power declared war against another he seized instantly all ships belonging to the enemy or his subjects, which were found in his ports". Cited by Pistoye et Dunerdy, *Traité des Prises Maritimes*, T. I, p. 122. Concerning the old practice see also de Boeck, *De la Propriété Privée Enemy sous Pavillon Enemy*, sec. 234; Dupuis, *Le Droit de la Guerre Maritime d'après les Conférences de la Haye et de Londres*, p. 163; Scoot, "Status of Enemy Merchant Ships," *American Journal of International Law*, Vol. II, pp. 260-261.

⁴ Westlake, *International Law*, pt. II, p. 42; and Moore, *Digest of International Law*, Vol. VII, sec. 1196

izing without previous notice and on the very day of the declaration of war merchant ships and goods belonging to peaceable citizens who were carrying on their trade under the Faith of treaties was too severe⁵. Bluntschli adds that "modern juridical sentiment revolted against the particularly brutal application of old principle that a belligerent may lay his heavy hand upon enemy merchant ships and the cargoes which they carry⁶. Accordingly a new practice known as the *indult* or *delai de faveur* was introduced, by which enemy merchant vessels in port at the outbreak of war allowed a certain period to depart without molestation. *This favor was first accorded in practice during the Crimean War, when the Porte granted to Russian vessels in Ottoman ports the privilege of departing within a fixed period. France and Great Britain followed the action of the Porte and allowed Russian ships of commerce in their ports at outbreak of the war six weeks to load their cargoes and depart. Moreover, Russian merchant ships which had left their port of departure before the outbreak of war were allowed to enter the ports of Great Britain and France, discharge their cargoes, reload, and to depart without molestation*⁷.

During the Russo - Turkish war of 1877-78 *delais* were accorded by both belligerent and the outbreak of the war between Greece and Turkey in 1897 the sultan allowed a period fifteen days during which Greek merchant vessels might depart from ottoman ports.

Concerning the question as to whether the privilege should be regarded as a right or a favor, there was a difference of opinion. A majority of the delegates, among them those of the United States, Germany, and Russia, felt that the privilege had been so long and generally observed that it had acquired sufficient international force to be treated as an obligation rather than an act of grace, but to this view the delegates of Argentine, France, Japan, and especially those of Great Britain were opposed. Each belligerent, according to their view, should be left at liberty to act as its own national interest might require. On account of this opposition, the final agreement of the conference was a compromise which on some points represents reaction rather than progress, and secures to commerce a less favorable position than it enjoyed before. The results of the

⁵ *Op. cit.*, sec 234. For the same view see Bonfils, *Droit International Public*, sec. 1399.

⁶ *Droit International Codifié*, Trans. by Lardy, Art. 669.

⁷ See the texts of the French decree and the British Order in Council, in *International Law Situations*, 1906, pp. 48-49.

discussion were embodied in a separate convention (VI) signed October 18, 1907, the more important articles of which are following:

ARTICLE 1

When a merchant ship belonging to one of the belligerent Powers is at the commencement of hostilities in an enemy port, it is desirable that it should be allowed to depart freely, either immediately or after a reasonable number of days grace and to proceed, after being furnished with a pass, direct to its port of destination, or any other port indicated.

The same rule should apply in the case of a ship which has left its last port of departure before the commencement of the war and entered a port belonging to the enemy while still ignorant that hostilities had broken out.

ARTICLE 2

A merchant ship unable, owing to circumstances of force majeure, to leave the enemy port within the period contemplated in the above article, or which was not allowed to leave, can not be confiscated.

The belligerent may only detain it without payment of compensation but subject the obligation of restoring it after the war, or requisition it on payment of compensation.

ARTICLE 3

Enemy merchant ships which left their last port of departure before the commencement of war and are encountered on the high seas while still ignorant of the outbreak of hostilities can not be confiscated. They are only Liable to detention on the understanding that they shall be restored after the war without compensation or to be requisitioned or even destroyed on payment of compensation, but in such cases provision must be made for the safety of the persons on board as well as the security of the ship's papers.

After touching at a port in their own country or at a neutral port, these ships are subject to the laws and customs of maritime war.

ARTICLE 4

Enemy cargo on board the vessels referred to in Articles 1 and 2 is likewise liable to be detained and restored after the termination of the

war without payment of compensation, or to be requisitioned on payment of compensation, with or without the ship.

The same rule applies in the case of cargo on board the vessels referred to in Article 3.

Article 5 provides that the convention shall not apply to merchant ships whose construction shows that they are intended for conversion into war ships⁸ and Article 6 stipulates that the convention shall not apply except between the contracting powers and then only if all the belligerents are parties.

The purpose of the convention as declared in the preamble was to "insure the security of international commerce against the surprises of war" and to "protect as far as possible operations undertaken in good faith and in process of being carried out before the outbreak of hostilities.

As finally adopted, the convention imposes no obligation upon belligerents to allow *délais de faveur*, but merely affirms the desirability thereof.

⁸ This article was inserted at the instance of the British delegate, Lord Reay. It was evidently aimed at subsidized steamers constructed according to special designs which make them easily convertible into cruisers, and in pursuance of an arrangement between the subsidizing government and the owner. The article was opposed by the German delegate Herr Krige, who contended that there were no steamships which were not capable of being converted into war vessels or which could not be used for mine laying or other subsidiary naval operations. The proposed article might therefore be so interpreted as to exclude from the benefit of the *délai de faveur* all ships except sail boats. *Actes et Documents*, p. 1033.

Compare also Whberg, *capture in War on Land and Sea* (Trans. By Robertson) p.59, who observes that "every steamer of high speed can also be employed as an auxiliary cruiser, and every vessel, at any rate, in mine-laying. In any case precisely the most valuable, which are often the pride of the whole communities -one has only to think of the splendid four-screw steamer, Lusitania, of the Cunard Line- are thereby exposed to the whole barbarity of the law of prize. Holland and Austria endeavored in vain to bring about a compromise by which all ships which had been granted time to clear might not be used by their native country for war purposes.

"The extent, however, to which views differ as to whether a ship is to be regarded as an auxiliary cruiser or not is shown by the fact that England then declared that it had only five merchant ships which were intended beforehand for fighting purposes. On the other hand the latest 'Naval Almanac' gives a total of 27 such English auxiliaries for the end of 1908"

Compare also Hall (*International Law, 5th ed. p. 616*) who remarks that while experts are perfectly able to distinguish vessels built primarily for warlike use, it is otherwise with many vessels intended primarily for commerce. "Mail steamers of large size are fitted by their strength and to receive without much special adaptation one or two guns of sufficient calibre to render the ships carrying them dangerous cruisers against merchantmen.

The present study deals only with the international disputes arisen during Turkish Republic. This new Republic with it motto "Peace in the country peace in the world" is the strongest bulwark against aggression in the troubled Middle-East which is ravaged by the war between Iran and Iraq, the bloody repression of Israel against Palestinians and constant unrest.

The study comprises two Chapters.

That Turkey has contributed to the peaceful solution of many international disputes which is explained in Chapter I.

Cyprus conflict which is dividing Turkey and Greece is explained in details in Chapter II.

CHAPTER I

INTERNATIONAL DISPUTES PEACEFULLY RESOLVED DURING ATATÜRK'S PRESIDENCY

In International law as in every other legal order there are rules to resolve peacefully the conflicts which arise in international order. However, these rules are not of equal perfection.

The following methods are used to resolve peacefully international disputes or conflicts: diplomatic negotiations, good offices, mediation, commission of inquiry and conciliation. Since the establishment of the League of Nations and the United Nations, disputes have been settled in these organizations.

Since the nineteenth century, international law has most significantly developed in the area of pacific settlement of disputes⁹, and since the establishment of the League of Nations, the rules of international law have developed greatly.

According to the Permanent Court of International Justice, a dispute is a disagreement on a point of law, a conflict of legal views of interests between two persons¹⁰. First of all, an international dispute is a disagree-

⁹ Mahmut BELİK, *Devletlerin Harp Selâhiyetinin Tahdidi ve Milletlerarası Sulh Yolu ile Halli Usulleri*, Birinci Cilt, ikinci Baskı, 1957. p. 85.

¹⁰ Collection of Judgments. Publications of the Permanent Court of International Justice, Judgment of August. 30 1924 on the Mavrommatis Palestine Concessions. Series A. No. 2.

ment between states because states are the first subjects of international law. Since the second half of the nineteenth century, international organizations have come to be recognized as subject to international law. "In 1865 a relatively large number of states organized what became the international Telegraphic Union, and in 1874 the Universal Postal Union took its shape from prior measures for cooperations in handling postal communications. The latter part of the nineteenth century saw the greatest contribution to international law in the form of international organization and international legislation"¹¹. Finally, international law and disputes concerning international organizations can involve persons, and in some permitted field such as article 25 of the European Convention of Human Rights, persons can be party of international disputes.

Atatürk, who won the independence of Turkey by war against the Greeks, Armenians and the Allies-Great, Britain, France and Italy- never resorted to war again but always settled International disputes by pacific means. He labeled war as a crime in the following words: "I have no desire to drive the nation for this or that reason headlong into war... War has to be necessary, ineyvitable and vital. My. deep conviction is this: by leading the nation into war, I may not feel anxiety. Against those who say, "We will kill, 'we can enter into war saying, 'We shall not perish' Nevertheless, as long as the existence of the nation is not exposed to danger, war is a crime"¹² Atatürk was sincere when on April 20, 1931 he adopted the motto "Peace at home, peace in the world" He condemned aggression saying:

"History if full of such tragical destinies suffered by invasion nations and invasion armies which under illusionary aims sunk to be merely instruments of their rules and of their greedy politicians. We have seen with our own eyes that those who had endeavored in attempting to give the idea of conquering the Turkish fatherland and the illusion enslaving the Turk an aspect of a great universal project could not save themselves from the fate thel deserved."

"Those men to whom the destiny of a nation is entrusted must never, even for a single moment, forget that they are bound to utilize the power

¹¹ Manley O. HUDSON, *By Pacific Means* 1935, Yale University Press. p. 56

¹² *Thus Spoke Atatürk, His Sayings. Thoughts and Memoirs Editeod and translated by Herbert Melzig.* Ankara, 1943, p. 7. *Atatürk'ün Söylev ve demeçleri,* Cilt II, 2. Baskı, 1959, p. 124. His speech of March 16 1923.

and the strength of their nation only for the real and only for the attainable interest of their nations... These men must consider the fact that the military occupation of a country is not sufficient to be master of the owners of this country. So long as the resolution and the will of a nation is not broken down, so long it is impossible to be master over this nation. But there is no power which can resist a national spirit inculcated through centuries of history. No tyrants have remained in the world mighty enough to hold in slavery a nation rebelling against such a condemnation"¹³.

For permanent peace on the earth he had his own views:

"We are ready to admit to all nations in the world the honor of holding the highest and noblest views and aims towards what the present civilization has introduced in the relations between mankind. That means every nation is master of its destiny, and we also ask the acknowledgment of this as our right by other nations. There is no force or other means imaginable that would be able to turn us from the pursuit of our national cause. Our national cause is our life. There is nothing in nature more clear than that even the most feeble creature on whose life an attempt is made will turn at bay against this attempt and try to struggle with fury until his last breath."¹⁴

Atatürk saw the war coming and on March 17, 1937 said:

"But today all nations in the world have become more or less each other's relatives or are about to become each other's relatives. Consequently, one should think just as much of the peace and prosperity of all nations in the world as the existence and well-being of his own nation and should work for the happiness of all nations with the same zeal as he would work for his own. All wise men admit that nothing can be lost in working for this purpose because working for the well-being of all nations in the world is another way of trying to provide for one's own peace and well-being. If peace, harmony and good understanding do not reign in the world and among the nations, a nation cannot attain peace whatever she may do for her own sake. This is why I advise people I love this: Men who conduct and lead nations desire, above all, to be factors in the lives and well-being of their own nations. But they should also foster the

¹³ MELZIG, *Thus Spoke Atatürk* op. cit. p. 12.

¹⁴ *Ibid.* pp. 12-13.

same wishes for all nations, All events in the world prove to us this truth very plainly. We cannot know whether an incident which we believe to be remote may not some day directly affect us. Therefore, mankind has to be considered as a body and different nations as the members of this body. The pain in one tip of the body affects all its members.

“We ought to say: ‘What do I care if there exists uneasiness in this or that part of the world?’ If such uneasiness does exist we must pay the same attention to it as if it were right in our minds. No matter how far away the event may take place, we should always hold to this principle... It is this way of looking at things that saves men, nations, and governments from selfishness. Selfishness, whether personal or national, must always be considered as an evil thing¹⁵. I will now from the above-said draw this conclusion: We shall, naturally enough, envisage our own interests and provide for them accordingly, and that done, we shall interest ourselves in the world in general”¹⁶.

In his opening speeches to the Turkish Grand National Assembly, he always insisted on the idea of peace. When four of five important international disputes of his time were solved peacefully between 1925 and 1928, he said on November 1, 1929: “our foreign policy is based specially on the idea of peace. Resolving international disputes by peaceful means is a way of conforming to our interest and our mentality”¹⁷.

During the administration of Atatürk five important international disputes to which Turkey was a party were settled through pacific means either before the Permanent Court of International Justice or the Council of the League of Nations. Also in March 1936 at a time when the Versailles Treaty was violated by Germany through its invasion of the demilitarized Rhineland, Turkey asked for a revision of the Lausanne Treaty on the straits, basing her claim on the principle of *rebus sic stantibus*. The just claim of Turkey was accepted. The revision was made, and the Montreux Convention took the place of the Lausanne Straits Convention under which Turkey has consented to a general guarantee for the straits according to Article X of the Covenant of the League. Her demand for an individual or a collective undertaking from all signatory powers to as-

¹⁵ His speech of June 21, 1935 Atatürk'ün Söylev ve Demeçleri, Cilt III, İkinci Baskı, 1961, p. 99.

¹⁶ MELZIG, Thus Spoke Atatürk, op. cit. pp. 14-15.

¹⁷ Atatürk'ün Demeçleri, Cilt 1, İkinci Baskı. 1961, p. 361.

sist Turkey by all means in their power in the event of an aggression in the straits or the sea of Marmara was not accepted at the Lausanne Conference.

International disputes which were settled peacefully in Atatürk's administration were, in chronological order:

1. Exchange of Greek and Turkish Populations (Advisory opinion of February 21, 1925 of the Permanent Court of International Justice)

2. Frontier between Turkey and Iraq-article 3, Paragraph 2 of the Peace Treaty of Lausanne (Advisory opinion of November 21, 1925 of the Permanent Court of International Justice)

3. The Case S.S. Lotus (Judgment of September 7, 1927 of the Permanent Court of International Justice)

4. Interpretation of the Greco-Turkish Agreement of December 1, 1926 (Final Protocol, Article 4, Advisory Opinion of August 28, 1928 of the Permanent Court of International Justice)

5. The sanjak of Alexandretta dispute, which was settled before the Council of the League of Nations with good offices of Great Britain.

1. *The Meaning of "Established" In The Convention Regarding The Exchange of Greek and Turkish Population*

A matter which was important enough to be an international dispute if not settled immediately was the interpretation of the word *etablis* (established) in Article 2 of the Convention of January 30, 1923 regarding the exchange of Greek and Turkish populations.

Article 1 stipulated that: "Il sera dès le 1^{er} Mai 1923 l'échange obligatoire des ressortissants turcs de religion grecque-orthodoxe établis sur les territoires turcs et des ressortissants grecs de religion musulmane établis sur les territoires grecs."

Article 2 stipulated that: "Ne seront pas compris dans l'échange prévu à l'article premier.

"a) Les Habitants grecs de Constantinople;

"b) Les habitants musulmans de la Thrace occidentale.

"Seront considérés comme habitant grecs de Constantinople tous les grecs déjà établis avant le 30 October 1918 dans les circonscriptions de la

ville de Constantinople, telles qu'elles son déjà établis avant le 30 Octobre 1918 dans les circonscriptions de la prefecture de la ville de Constantinople, telles qu'elles sont délimitées par la loi de 1912. Seront considerés comme habitants musulmans de la Thrace occidentale tous les musulmans établis dans la région à l'est de la ligne de frontière en 1913 par le traité de Bucarest."

As stated above, the Greek population of İstanbul and the moslem population of Western Thrace were exempted from compulsory exchange. The Convention on Exchange of population has set up a mixed commission composed of four members each from Turkey and Greece plus three members chosen by the Council of the Ligue of Nations from amongst nationals of states which had not prticipated in the First World War. The mixed commission did not agree on an definition of the word *établis* (Established). the dispute was submitted to the Permanent Court of International justice by the Council of the League of Nations for an advisory opinion at tha request of the mixed commission. Mr. Tevfik Rüştü (Aras), who was the chairman of the Mixed commission, explained the dispute before the Permanent Court¹⁸.

The Governments of Turkey and of Grecece submitted their respective theses to the Permanent Court. The Turks held the following: the meaning of "established" in Article 2 was a technical legal term. According to Turkish Census Law there were two kinds of populations. The first were those who were born in one place and who lived there. They were called residents (*yerli*). The second were those not born in a place but who came to live there and to establish themselves. These were foreigners. (Here foreigners did not mean nationals of a foreign government). The foreigners could never be considered residents unless they transferred their census registration to the new cities, towns, and villages where they had moved. Most of those claimed by Greece to be in the category of "established" (about 4,500 altogether) had not transferred the registration of their census and, therefore, legally could not be considered to be "established".

The Greek Government's view was that those inhabitants who had arrived in İstanbul before October 30, 1918 —the date of the Armistice of Mudros— from any other pface whatsoever, whether part of Turkey or

¹⁸ Cemil BİRSEL, *Devletler arasında Andlaşmalar İstanbul*, 1936. p. 163.

a foreign country, and who also before that date had manifested either by an official formality or by some unequivocal fact their intention of habitually residing there and of making İstanbul the center of their interest and occupations¹⁹ were "established".

Turkish and Greek laws could not govern this situation. There existed an international act, a convention regarding the exchange of Greek and Turkish populations in which there was no provision for the application of local laws.

The Permanent Court of International Justice in its advisory opinion found that.

"It may be said that the word established as used in Article 2 serves no other purpose than to indicate that the article relates to the inhabitants of a certain place upon a certain date. Nevertheless, the choice of this word "established" serves to emphasize that for a person to be considered an inhabitant, his residence must be of a lasting nature and must have been so at the time in question. Persons who at that time were only residing in Constantinople as mere visitors cannot be regarded as exempt from exchange.

"The degree of stability required is incapable of exact definition. The court, however, considers that inhabitants who before October 30, 1918, fulfilled the conditions enumerated as examples under heading(2) of the Resolution adopted on October 1, 1924 by the Legal Section of the mixed commission are to be regarded as established within the meaning of the Article and, consequently, as exempt from exchange, even if they had come to Constantinople with the intention of making their fortune and subsequently returning to their place of origin. During their residence in Constantinople they must be regarded as established since they present the character of stability which is the condition necessary to constitute "establishment"²⁰.

2. *Mosul Dispute*

In the Treaty of Lausanne signed on July 24, 1923, the boundary with Iraq was not fixed. The high contracting parties were given nine

¹⁹ J.H.W. VERZIJL *The Jurisprudence of the World Court*, Vol. 1. The Permanent Court of International Justice (1922-1940), p. 67.

²⁰ Exchange of Greek and Turkish Populations, P.C.I.J. Series B. No. 10.

months to settle the boundary with "friendly arrangement." The nine months started on October 5, when negotiations between Turkey and Great Britain were formally opened. Actual discussions began on May 19, 1924 in İstanbul²¹. No result was obtained from the discussion. according to Article 3, sub 2 of the Peace Treaty of Lausanne, the parties asked the Council of the League of Nations to fix the definitive boundary line between the Republic of Turkey and the Kingdom of Iraq. "After attempting thorough protracted negotiations to secure the *status quo* pending its decision, the Council dispatched a commission of inquiry the region in dispute; but when it came to consider the report of this commission, serious legal questions were raised by the Turkish representatives as to the Council's powers and as to the extent of the unanimity required in their exercise"²².

The issue in particular was whether this decision represented an arbitrary award, or a recommendation in the sense of Article 15 para, 4 of the Covenant. Secondary issues were whether this decision had to be by a majority vote or unanimously and in the latter case, with the exclusion of the parties.

These questions were put to the Permanent Court of International Justice by the Council of the League for an advisory opinion which was rendered on November 21, 1925. This opinion drew sharp criticism from many learned scholars. Prof. Verzijl wrote:

"However, the argumentation of the Court on which it bases its opinion on the main issue seems to me mistaken²³. Its standpoint in the Mosul case (B.12) is not quite clear. Also in this Advisory Opinion the court stresses the fact, when the text of a treaty provision is in itself sufficiently clear (*suffisamment clair*), there is no reason for undertaking an inquiry into the genesis of the provision in question (p. 22); but immediately afterwards it sets out to refute certain arguments advanced by Turkey which are taken precisely from this genesis. When a court takes à *priori*, the standpoint that a text found "sufficiently clear" can never be invalidated even by unambiguous contrary data from its genesis, it does work that is completely useless and illogical if for the elucidation of the latter it never-

²¹ VERZIJI, op cit, pp. 52-53.

²² HUDSON, op cit, p. 37.

²³ VERZIJI, op, cit. pp. 53.

theless engages in an inquiry which indeed can, never have more than an academic value. For by such behavior it only exposes itself to the suspicion that it doubts either the absolute tenability of its own antihistorical rule of interpretation or the "sufficient clearness" of the interpreted text. These two doubts, which are not unjustified in this case, actually seem to me to account psychologically for the trend of thought of the Advisory Opinion of the Mosul case"²⁴.

"When the Council later proceeded to give its decision loud protest were made in some quarters, and there were the usual predictions that the Council had dug its own grave... its final action was stoutly opposed by men said it could never be accepted... the public opinion had been aroused"²⁵.

Turkey contested the legality of the Council decision awarding Mosul to Iraq. On December 17, 1925 four days after the decision of the Council, Turkey signed a new treaty of friendship and non aggression with Soviet Russia in Paris. However Turkey abided by this decision and a very important international dispute that would have been extremely dangerous for international peace and security was settled thanks to her willingness to keep the peace.

3. *The S.S. "Lotus" case*

Just before midnight on August 2, 1926, the French mail steamer "Lotus" collided with the Turkish collier "Bozkurt". The collision occurred in the high seas between five and six nautical miles to the north of Cape Sigrî (Mitlylene). The "Bozkurt" was cut in two, sank, and eight Turkish nationals on board lost their lives. Ten others were saved by the "Lotus", which was bound for İstanbul. The "Lotus" arrived in İstanbul on August 3.

On August 5 the officer of the watch on board the "Lotus" at the time of the collision, Monsicur Demones, a lieutenant in the French merchant service, and Hasan Bey, the "Bozkurt's" captain, were arrested by Turkish judicial authorities to ensure criminal prosecution of the two officers on a charge of involuntary manslaughter. This charge was brought by the public prosecutor of İstanbul on the complaint of the families of the victims of the collision.

²⁴ Ibid., pp. 17-18.

²⁵ HUDSON, op. cit. pp. 37-38.

On August 28 the case was first heard by the criminal court of İstanbul Monsieur Demons objected to the jurisdiction of the court, which overruled him. On September 11 the proceedings were resumed, and Lieutenant Demons asked to be released on bail. The Turkish court accepted this demand, and on September 13, he was bailed for 6,000 Lira.

On September 15 the criminal court gave its judgment condemning both officers. Lieutenant Demons was sentenced to eighty days' imprisonment and a fine of 22 Lira. Hasan Bey was given a slightly more severe penalty.

The action of Turkish judicial authorities against Lieutenant Demons caused diplomatic representations and other steps by the French Government, which protested the arrest, demanded the Lieutenant's release, and asked the case be transferred from Turkish to French courts.

Knowing the rightness of action, the Turkish Government declared on September 2, 1926 that "it would have no objection to the reference of the conflict of jurisdiction to the Court at the Hague." The French Government on September 6 gave its full consent to the proposed solution." The two governments appointed their plenipotentiaries to draw the special agreement to be submitted to the Permanent Court of International Justice.

Turkey was not a member of the Permanent Court of International Justice at the time so a special agreement was necessary for her to go before the court. On October 12, 1926 this special agreement was signed at Geneva, with ratifications deposited on December 27, 1926.

On January 4, 1927 the diplomatic representatives of the Turkish and French Republics at the Hague filed with the Registry of the Permanent Court the special agreement signed at Geneva on October 12 in accordance with Article 40 of the Statute and Article 35 of the rules of court.

According to the Special Agreement, the Permanent Court of International Justice *had to* decide the following questions:

- 1) Has Turkey, contrary to Article 15 of the Convention of Lausanne of July 24, 1923 respecting conditions of residence and business and jurisdiction, acted in conflict with the principles of international law by initiating, upon arrival of the French steamer in İstanbul, joint original proceedings in pursuance of Turkish law M. Demons, officer of the watch on board of the "Lotus" at the time of the collision, as well as against the

captain of the Turkish steamship, following the collision which occurred on August 2, 1926 and resulted in the loss of the "Bozkurt and the death of eight Turkish sailors and passengers, and, if, so, what principles?

2) Should the reply be in affirmative, what pecuniary reparation is due to M. Demons, provided according to the principle of international law, reparation has been made in similar cases?

The cases counter-cases were duly filed with the registry within the necessary time and were communicated to those concerned as provided in Article 43 of the statute.

The French Government based its case on the Lausanne Convention on Residence and Judicial Jurisdiction, Article 15 and the fact that the note İsmet Pasha dated March 8, 1923 was rejected by the representatives of France, Great Britain, and Italy, The note was an amendment to the relevant article of a draft for the Convention and sought to extend Turkish jurisdiction to crimes committed in the territory of a third state, provided that under Turkish law such crimes were within the jurisdiction of Turkish court. The French Government claimed that by refusing the Turkish amendment, the conference considered this Turkish claim as contrary to the "principles of international law" mentioned in Article 15 of the Convention of 24 July 1923.

The French Government tried to persuade the Permanent Court that the rejection of the Turkish amendment was sufficient argument to reject Turkish claims. Thus the French Government maintained that the meaning of the expression "principles of international law" in Article 15, which reads: "Subject to the provisions of the Article 16, all questions of jurisdiction shall, as between Turkey and other contracting powers, be decided in accordance with the principles of international law", should be sought in light of the evolution the convention. The Permanent Court did not accept this view: "The court must recall in this connection what it has said in some of its preceding judgments and opinions, namely there is no occasion to have regard to preparatory work if the text of a convention is sufficiently clear in itself²⁶.

²⁶ Collection of Judgments, Publications of the Permanent Court of International Justice, Series A No. 8, 9 Leyden 1927, Judgment No. 9, p. 16.

The French Government objected to the Turkish jurisdiction over M.Demons, declaring that this jurisdiction ought to conform to the rules of international law and that Turkish court in order to have jurisdiction should be able to point to some title granting such jurisdiction recognized by international law. The Turkish Government claimed that article 15 of the convention allowed Turkish jurisdiction whenever such jurisdiction does not come into conflict with a principle of international law.

The French Government claimed that Turkey did not have jurisdiction but that France had since according to international law. acts performed on the high seas on board a merchant ship are in principle and from the point of criminal law proceedings amenable only to the jurisdiction of the courts of the state whose flag the vessel flies. in other words, in collision cases it is necessary to recognize as the sole competent jurisdiction that of the state to which the vessel causing the collision belongs. The French Government also claimed that according to the existing law, the nationality of the victim is not sufficient grounds to override this rule, and that was held to be so in the case of the *Costa Rica Packet*²⁷. The court ruled that its duty fixed by the terms of the special agreement was to find out whether there was any violation of the principles of international law in the taking of criminal proceedings against M.Demons. It was not therefore a question of any particular proceeding such as his arrest, his detention pending trial his trials, or the judgement rendered by the criminal court of İstanbul²⁸. That is why the arguments put forward by the parties in both phases of the proceedings related exclusively to the question of whether Turkey in prosecuting the case had or had not act within its jurisdiction according to the principles of international law.

The cour found that international law governs relations between independent states. The rules of law binding upon states emanate, therefore, from their own free will as expressed in conventions or by general usage. These rules express principles of law and are established in order to regulate the relations between coexisting independent communities or a view to the achievement of common aims. Restrictions upon the independence of states cannot, therefore, be presumed.

Now the first and foremost restriction imposed by international law upon a state is that failing the existence of a permissive rule to the con-

²⁷ Ibid., p. 7.

²⁸ Ibid., p. 12.

trary it may not exercise its power in any form in the territory another state. In this sense jurisdiction is certainly territorial; it cannot be exercised by a state outside its territory except by virtue of a *permissive* rule derived from international custom or from a convention. It does not follow, however, that international law prohibits a state from exercising jurisdiction in its own territory with respect to a case whose acts have taken place abroad, and in which it would be tenable if international law prohibited states from extending the application of their laws and the jurisdiction of their courts to persons, property and acts outside their territory, and if, as an exception to this general prohibition, it allowed states to do so in certain specific cases. But this is certainly not the case under international law as it stands at the present time²⁹. So the Permanent Court decided that Turkey was not under obligation to point to a permissive rule of international law in order to extend her jurisdiction abroad. The second argument put forward by the French Government was the principle that the state whose flag is flown has exclusive jurisdiction over everything which occurs on board a merchant ship on the high seas. The French Government tried to prove the existence of such a rule by referring to decisions of international and municipal courts, to the teachings of publicists and "especially to conventions which, while creating exceptions to the principles of freedom of the seas by permitting war police vessels of a state to exercise a more or less extensive control over the merchant vessels of another state, reserve jurisdiction to the courts of the country whose flag is flown by the vessel proceeded against.

"In the court's opinion the existence of such a rule has not been proven conclusively³⁰. In the end the Permanent Court indicated it had arrived at the conclusion that the second argument put forward by the French Government does not, any more than the first, establish the existence of a rule of international law prohibiting Turkey from prosecuting Lieutenant Demons"³¹.

The third argument advanced by the French Government was that a rule especially applying to collision cases had grown up, according to which criminal proceedings regarding such cases come exclusively within the jurisdiction of the state whose flag is flown³².

²⁹ Ibid., p. 23.

³⁰ Ibid., p. 26.

³¹ Ibid., p. 27.

³² Ibid., p. 28.

The Permanent Court found that "there is no rule of international law in regard to collision cases to the effect that criminal proceedings are *exclusively within* the jurisdiction of state whose flag is flown"³³. The final judgement of the Permanent Court was as follows: "The Court, having arrived at the conclusion that the arguments advanced by the French Government either are irrelevant to the issue or do not establish the existence of a principle of international law precluding Turkey from instituting the prosecution which was in fact brought against lieutenant Demons, observes that in the fulfillment of itself ascertaining what the international law is, it has not confined itself to a consideration of the arguments put forward but has included in its researches all precedents, teachings, and facts to which it had access and which might possibly have revealed the existence of the principles of international law contemplated in the special agreement. The result of these researches has not been to establish the existence of any such principle. It must, therefore, be held that there is no principle of international law within the meaning of Article 15 of the Convention of Lausanne of July 4, 1923 which precludes the institution of criminal proceedings under consideration. Consequently, Turkey, by initiating by virtue of the discretion which international law leaves to every sovereign state, the criminal proceeding in question, has not, in the absence of the principles of international law within the meaning of the special agreement"³⁴.

"Having thus answered the first question submitted by the special agreement in the negative, the Court need not consider the second question regarding the pecuniary reparation which might have been due to Lieutenant Demons"³⁵.

The judgement was a real legal victory for Turkey because it showed the world first, that Turkey was eager to settle her international disputes peacefully through the Permanent Court of International Justice and second, that Turkey, knew the rules of international law well.

4. *Interpretation of the Greco-Turkish Agreement of December 1. 1926*

A Mixed commission was established by the Convention for Exchange of Greek and Turkish populations signed at Lausanne on January

³³ Ibid., p. 30.

³⁴ Ibid., p. 31.

³⁵ Ibid., p. 32.

30, 1923. Article 12 defined its duties and powers. Declaration No. IX relating to Moslem property in Greece was signed on July 2, 1923 and annexed to the Lausanne Peace Treaty. This declaration gave further powers to the mixed commission, which was strengthened even further under a new Greco-Turkish agreement of December 1, 1926 with an annexed final protocol Article 65 and following provisions of the Lausanne Peace Treaty allowed the establishment of a mixed arbitral tribunal by Turkey and Greece. This tribunal was to deal, *inter alia*, with all disputes relating to identity or restitution of property, rights, and interest which were to be restored to those concerned, and also with claims designed to obtain an addition to the proceeds of liquidation in cases where the property, rights, and interests in question had been liquidated³⁶.

Article IV of final protocol annexed to the Agreement of Athens of December 1, 1926 stipulated that:

“Les questions de principe présentant quelque importance et qui pourraient surgir au sein de la Commission mixte à l'occasion des attributions nouvelles que lui confère l'Accord signé ce jour et qu'elle n'avait pas à la conclusion de ce dernier sur la base des actes antérieurs fixant sa compétence seront soumises à l'arbitrage du Président du Tribunal arbitral greco-turc, siégeant à Constantinople. Les sentences de l'arbitre seront obligatoires”³⁷.

This clause was interpreted differently with regard to the conditions for appealing to the arbitrator and on February 1, 1928 the mixed commission decided by a majority to ask the Council of the League of Nations to request the Permanent Court for an advisory opinion. The Turkish and Greek Governments consented to the proposed procedure on June 5, 1928. The Council of the League Nations requested the Permanent Court's advisory opinion upon the question of the interpretation of Article IV of the final protocol annexed to the Greco-Turkish Agreement of Athens relating to the conditions for appeals to the arbitrator.

The Permanent Court formulated the following points on which its opinion was required³⁸: 1) is it for the Mixed Commission for the Exchange of Greek and Turkish Populations to decide whether the condi-

³⁶ VERZIJL, *op. cit.* p. 141.

³⁷ *Ibid.*

³⁸ Advisory Opinion of August 28 1928 Series B, No 16, p. 16.

tions laid down by Article IV of the final protocol annexed to the agreement concluded at Athens on December 1, 1926 between the Greek and Turkish Governments for the submission of the question contemplated by that article to the arbitration of the President of the Greco-Turkish mixed arbitral tribunal at Constantinople, are or are not fulfilled or is it for the arbitrator contemplated by that article to decide this?

2) The conditions laid down by the said Article IV having been fulfilled, to whom does the right of referring a question to the arbitrator contemplated by the article belong?"³⁹.

Greek members the mixed commission and later the Greek Government rejected the right of reference of the mixed commission to the arbitrator, while Turkish members and the Turkish Government held that reference to the arbitrator without a decision of the mixed commission would be contrary to the agreements in force. The Turkish Government insisted that the commission had to declare by a vote that the conditions laid down by Article IV were fulfilled and that the commission was incompetent to deal with question. This decision of the commission was binding upon the President of the mixed arbitral tribunal according to the Turkish Government.

The court unanimously found the meaning of Article IV clear. The article was silent on the issue of by whom and when questions of principle presenting some importance might be referred to the President of the Greco-Turkish mixed arbitral tribunal. The commission not being allowed to decide itself the question of principle presenting some importance it was evident that "as a general rule any body possessing jurisdictional powers has the right in the first place itself to determine the extent of its jurisdiction"⁴⁰. So whether a question was of principle presenting some importance was to be decided within the mixed commission without the contracting states having to intervene as such in its word.

The court, therefore, completely adopted the interpretation propounded on the Turkish side. The legal situation under the relevant instruments was, indeed, so clear and the reasoning of the opinion so convincing that it cannot create a surprise that the Court was unanimous⁴¹.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

5. *Hatay Dispute*

The problem of Hatay, the former sanjak of Alesandretta, was the next to be solved. The Ankara Agreement of 1921 with France recognized a special status for Hatay, namely the maintenance of Turkish language and culture. Hatay was annexed to Syria after the collapse of the Ottoman Empire, and Syria was put under France's mandate. France recognized the independence of Lebanon in November 1936. Turkey asked restitution of Hatay by a note on October 9, 1936. France by her note of November 10, 1936 rejected Turkey's request and proposed to bring the conflict to the League of Nations. Turkey accepted this. The League of Nations started discussions on December 14, 1936, and with the intervention of Great Britain the Council of the League of Nations accepted for Hatay the status of a distinct entity (*entité distincte*) independent in the internal affairs with a special constitution of her own but externally tied to Syria. The League of Nations established a committee which took the views of Turkey and France and prepared a constitution accepted by the Council of the League on May 29, 1937. The same day Turkey and France signed a convention guaranteeing the territorial integrity of Hatay.

The Turkish Government always considered the sanjak (Hatay) to be predominantly Turkish since the Turkish population was its largest single ethnic group. Atatürk started the campaign for Hatay with a speech in the Turkish Grand National Assembly on November 1, 1935. He said: "the important topic of the day which is absorbing the whole attention of the Turkish people is the fate of the district of Alexandretta, Antioch, and its dependencies, which, in fact, belong to the purest Turkish element.

He said in another speech: "I am not interested in territorial aggrandizement. I am not a habitual peace breaker. I only demand our rights based on treaties. If we do not obtain these, I cannot rest in peace. I promise my nation: I will get Hatay." By this time his fatal sickness had begun.

But the constitution and the convention were not easily applied. Hatay was put under the surveillance of the League of Nations with this surveillance administered by a French representative. The situation grew tense because the French representative prevented the application of the constitution and of the convention. French colonial officials tried to curb popular manifestations in favor of independence and clashes between the people and the police resulted. The French tried to incite the minorities

in Hatay. Turkish public opinion became strongly anti-French, and French Turkish relations deteriorated. The constitution was to be put into force on November 29, 1937, and general elections were necessary, but under these conditions they were not held. Turkey and France had separate and opposing views on the electoral system. The League of Nations, taking into consideration Turkish objections, commissioned a committee to prepare an election regulation. Elections would be held by July 15. Beginning in May 1938, lists of voters were prepared, but the French officials attitude caused new clashes. Turkey sent 30.000 troops to the Hatay border, and France, realizing that a war was imminent and that European situation was getting worse, changed her attitude and appointed a Turkish Governor instead of the French governor. Germany's annexation of Austria in March 1938 surely influenced the action.

On June 13 Turkish and French military delegations met in Antakya, and on July 3, 1938 a convention was concluded to respect the territorial integrity and political status of Hatay by the two powers. A force of 6,000 men would be provided for the security of Hatay, 1.000 from Hatay and 2,500 from Turkey and France each.

On July 4, 1938 a treaty of friendship was signed in Ankara between Turkey and France. Each party agreed not to help an aggressor against the other nor to join any political or economic agreement against the other.

Elections were held in August, and Turks won 22 of the 40 seats. Twenty-two deputies took the oath of office in Turkish while the 18 minority deputies took it in Arabic. The Sancak Assembly met on September 2, 1938 and called the new state the Republic of Hatay.

Atatürk saw this and was happy, later after his death, the Parliament of Hatay adopted Turkish civil and penal codes. The Hatay people wanted to join Turkey but were prevented by the Guaranty Convention of May 29, 1937 under which Turkey and France were co-guarantors. France was not willing to alter the arrangement. With the situation in Europe growing worse, and the first steps of a Turkish-British alliance being taken, France accepted the annexation of Hatay by Turkey in an Agreement on June 23, 1939. The Hatay parliament in its last session June 29, 1939 unanimously decided to join Turkey.

Atatürk, the great military genius and state builder, was a dedicated peace lover. In his time many international disputes ended in war. Japan

attacked China, and Italy attacked Ethiopia, Germany annexed Austria by force. But Atatürk always preferred peaceful means and the peaceful settlement of international disputes between Turkey and other states. He abided by the judgements of the Permanent Court of International Justice and the decisions of the Council of the League of Nations even though they were sometimes unjust.

In his last speech to the Turkish Grand National Assembly on November 1, 1938, delivered not by himself but by Celal Bayar, the Prime Minister, he left a legacy to the Turkish nation: "Peace is the best way leading nations to well-being and happiness."

CHAPTER II

THE CYPRUS QUESTION

I. *A Brief Story*

The history of Cyprus dates back to 3000 B.C. Cyprus has been ruled by the Aegeans, the Phoenicians, the Assyrians, the Egyptians, the Persians, Alexander the Great, Rome, Byzantium, the Arabs, the Knights of Pelmier, the Lusignans, the Genoese, the Memelukes, the Venetians and the Ottomans⁴². The population of the island has been very mixed. "In actual fact, the supposition of the exclusively Greek character of appears to be very dubious even in respect of the time previous to the conquest of the island by the Turks"⁴³.

II. *Cyprus under Turkish Rule*

The Ottoman fleet of 200 ships left from Istanbul in the spring of 1570 with a strength of 50,000 infantry, 6,000 Janissaries, 6,000 cavalry, and 6,000 sappers. The Turkish sovereignty over Cyprus was officially acknowledged by the Venetians on 7 March 1573⁴⁴. In the Ottoman-Russian war of 1877, the defeat of the Turks threatened British route to India. Mr. Salisbury, the British Foreign Secretary, began preparations to make "another dyke behind the shattered break-water"⁴⁵. After consider-

⁴² Yılmaz ALTUĞ, *The Cyprus Conflict, Foreign Policy*, 1977, 118-143

⁴³ Christian HEINZE, *The Cyprus Conflict*, 1971, 24.

⁴⁴ *Encyclopedia Britannica*, 1929, Cyprus

⁴⁵ William L. LANGER, *European Alliances and Alignments*, 1956, 148.

ing Midilli, Limnos, Alexandretta, Akka, Crete and Haifa, the Prime Minister of Britain, Mr. Disraeli, convinced Queen Victoria that Cyprus was the key to western Asia.

The British Cabinet accepted the draft contract on 16 May 1878, and after it became clear that the Russians had no intention of leaving Kars and Batum, Layard, the Ambassador to İstanbul, was ordered to present the draft to the Sultan, with the ultimatum that it be accepted within 48 hours⁴⁶.

On 25 May 1878, the Ottoman state made the decision to cede Cyprus to Great Britain, because of the great pressure that had been brought to bear. Thereupon, a secret agreement was reached between the two states in İstanbul on 4 June 1878. This agreement stated that Cyprus was to be left to Great Britain with the condition that the sovereign rights of the Ottoman state on Cyprus would not be violated. In return for this, in the case of a Russian attack against the Ottoman Empire, Great Britain agreed to fight with the Ottomans. Thus, a defense agreement was signed on 10 July 1878 between Great Britain and the Ottoman Empire. In this, it was stated that if Russia were to return the conquered Anatolian territory to the Ottomans, Great Britain would also forego its rights to the island of Cyprus and would return it to the Ottoman state.

III. *Cyprus under British Rule*

1. British Rule until the London Conference 1955

On 5 November 1914, when the Ottoman State declared war on Great Britain, the British annexed Cyprus by virtue of an order in Privy Council of November 5, 1914. The legal separation of Cyprus from Turkey was accomplished with the Lausanne Treaty of 24 August 1923. Following this Cyprus was made by letters patent of March 10, 1925 a crown colony of Great Britain until 16 August 1960, when Cyprus became a sovereign state.

In October 1915, Great Britain proposed to give Cyprus to Greece if Greece would enter the war. However, Athens refused the offer. Russia was also against the proposal⁴⁷.

⁴⁶ Fahir ARMAOĞLU, *Siyasi Tarih 1789-1960*, 1973, 271.

⁴⁷ Maurice FLORY, Force Internationale des Nations Unies et Pacification intérieure de Chypre, *Annuaire Français de Droit international* 1964, 458-482, (460)

After 1925, political tension became apparent on Cyprus and was followed by chaos and terrorism⁴⁸. In 1930, the rapprochement between Turkey and Greece, and the agreements reached between the two states lead to the possibility of the foundation of an federal Turko-Greek Cypriot state, and this possibility also served to bring the two communities together⁴⁹.

There was an uprising for Enosis ("union with Greece") under the leadership of the Greek Orthodox Church in 1931⁵⁰.

The Union of Cyprus with Greece which is the part of the Megali Idea or the Grand Idea aims the resurrection of the Byzantine Empire at its apogee, may be traced as far back as 1821.

Advocates of the "Megali Idea" have made no secret of their ultimate objective: Possession first of the entire Aegean and then of Anatolia.

When the Ottomans conquered the Aegean islands and the present Greek territories during the 15th and 16th centuries, no Greek State or even Greek identity existed. After the decline of Byzantines, the Venetians had become the dominant power in the Aegean basin, and it was the Venetians whom the Ottomans fought for the possession of these territories.

The nation state of Greece began its life only 158 years ago on territory that had been exclusively Ottoman, in other words Turkish, for at least four centuries. The total area of the fledgling state covered approximately 18,350 square miles.

Since that time, Greece has almost tripled her size to an actual area of 51,180 square miles. With the small exception of the Ionian Islands, which the Ottomans had for only a limited number of years, this expansion was solely at the expense of Turkey and involved territories that had been legally and legitimately Turkish for centuries⁵¹.

⁴⁸ Ibid.

⁴⁹ Patric SUBREMAN, *Les rapports communautaires à Chypre depuis 1955, Mémoire dactylographiée*, 1971, 8; Haluk HUN, *Projet de la Fédération Greco-Turque, Thèse dactylographiée*, 1959, 16

⁵⁰ P. N. VANEZIS, *Makarios, Faith and Power*, 1972, 72

⁵¹ The "Megali-Idea" Expansionist Policy, *THE AEGEAN REALITIES*, Published by the Association of Journalists, p. 8

In 1931 the Government House and the Commissioner's offices were burnt down. Greece's Consul, Mr. Kyrou, was expelled from Cyprus, and Greece was informed that he would be unacceptable for service in any part of the British Empire. The Bishop of Kitrium and his accomplices in the provocation were also expelled from the island. The Church was condemned to pay £ 34,345 compensation⁵².

2. London Conference of August 29, 1955

Upon an invitation issued by Great Britain on 30 June 1955 foreign ministers of Turkey, Greece and Britain met in London on 29 August 1955 for a conference about Cyprus, to discuss the political issues which concerned the Eastern Mediterranean as well as the defense problems. According to the principles disclosed on 6 September 1955, a limited autonomy would be granted to the Cypriot people the Governor-General would have powers as to foreign affairs, defense and internal security, and a legislative body with most members elected would be formed, where the Turkish community would be represented in a given proportion. The powers outside of those given to the Governor-General would be transferred to Cypriot ministers who would be responsible to the legislative body.

An ad hoc committee of three was to be formed in London to fix the details of the constitutional principles. Greece rejected this attempt, saying that the right to self-determination for the people of the island was not recognized, even though in the beginning, the Greek government had participated in the Conference. Makarios had opposed this conference from the beginning.

The Turkish government required a solution which took into consideration the presence of two communities. Turkey proposed the return of Cyprus to Turkey if the sovereignty of the island were going to be changed. Great Britain was ready to grant local autonomy, but not under any circumstances did Great Britain wish to give up her sovereignty over the island.

3. Field Marshall Harding's Proposals

While Greece was requesting Enosis, Turkey objected to this idea on the bases of security considerations. On the other hand, Britain was not

⁵² H. Fikret Alasya, *Kıbrıs tarihi ve Kıbrıs'ta Türk Eserleri*, 1964, 114.

willing to leave the island. Due to the lack of agreement, the subject of giving independence to the colony after the London Conference became an international issue.

Throughout recent history Greek Cypriots had self assertingly looked upon Cyprus as a Greek land and destined to be united with Greece while the the Turkish Cypriots, due to historical, geo-political and other reasons, looked upon the island as Turkish land and adamantly opposed its annexation to Greece. To the Greek Cypriots union of Cyprus with Greece (Enosis) was "Liberation and freedom", to the Turkish Cypriots such a union was "colonization", loss of all human rights and eventual extinction. Thus, the Greek action for achieving Enosis always brought immediate reaction from the Turkish Cypriot side. Greece which coveted Enosis helped the Greek Cypriots by giving them arms and personnel while Turkish Cypriots sought help from Turkey in self-defence.

The terrorist organisation called EOKA (Ethniki Organosis kyprion Agoniston) was founded on 1 April 1955 . Nicosia and other big cities were shaken by severe explosions and the radio transmitter in Nicosia was destroyed. It was openly proclaimed by the members of EOKA that their ultimate objective was to unite Cyprus with Greece. Under the command of the terrorist group EOKA, the uprising of the Greek-Cypriots was becoming more intensified and bloody. Upon this, Field Marshall Harding, the Chief of the Imperial General Staff, was appointed as the Governor-General of the island in October 1955. Harding declared martial law on Cyprus on 29 November 1955, which naturally restricted freedom on the island. However, these bloody incidents were only happening between the British and the Greek-Cypriots. The Turkish community had risen up, but had gathered around their leaders and focused attention on Ankara. On 9 January 1956, Harding made fresh proposals according to which, conflicts arising over the constitution, education and administration were to be brought to a committee which would be composed of one British, one Greek and one Turk. In Harding's proposals, no date was noted for independence. Makarios rejected these proposals on the basis that the Cypriot Parliament should be composed of representatives elected in proportion to the population of the two communities, and that all authority except that of and foreign affairs should be exercised by those representatives.

With the formation of EOKA, the intercommunal strife, which had the form of a verbal duel and demonstrations from 1878 until 1955, turned into an armed conflict.

In February 1956, the British government proposed giving absolute local autonomy to Cyprus. Only defense and foreign affairs were to be left to Great Britain's discretion. The British government would exercise the necessary measures to ensure the internal security for one year after a constitution came into force. Makarios accepted the scheme, but the release of EOKA terrorists from the prisons was a very thorny subject. The talks suddenly ceased, and Makarios, claiming to be a supporter of EOKA, was exiled to the Seychelles in the Indian Ocean.

4. Lord Radcliffe's Proposals

On 12 July 1956, the British Prime Minister Anthony Eden declared in the House of Commons that the English lawyer Lord Radcliffe was going to prepare constitution for Cyprus. In fact, Lord Radcliffe prepared constitutional proposals for Cyprus⁵³.

A Governor-General to be appointed by the British Government, a Legislative Assembly for Cyprus and a Cabinet of Ministers responsible to that Assembly were foreseen. The Governor would have the power to make laws and to conduct all aspects of executive administration with respect to external affairs, defense of Cyprus and internal security.

The draft was rejected by all parties concerned.

5. Macmillan's Plan

In March 1957, the British government decided to release Makarios, due to the pressure of the President of the United States. Sir Hugh Foot was appointed as Governor-General to replace Marshall Harding in October 1957.

On 19 June 1958, Harold Macmillan, the Prime Minister of Great Britain, presented a new scheme, according to which, Cyprus was to be connected to Great Britain, to the Group of Commonwealth countries, to Turkey and to Greece. Mr. Macmillan proposed for the states of Great Britain, Turkey and Greece to join the cooperative efforts on Cyprus to keep the peace and to improve the standard of living. According to Sir Hugh Foot, the Turkish and Greek governments should each send an emissary to cooperate with the Governor-General. The Cypriots were to possess British, Turkish and Greek nationalities. The Macmillan plan did

⁵³ *Ibid*

not foresee any change in the international status of the island; Great Britain was going to maintain her sovereignty over the island.

In 1950, Makarios III had become the Archbishop, whereupon he took an oath on 20 October 1950 in the Church that he would achieve Enosis before his death. In 1953, Makarios had managed to secure the support of the Greek government for a terrorist movement (later to be known as the EOKA). In 1954, Grivas, a terrorist leader, arrived on Cyprus and the Enosis movement used terrorism for uniting Cyprus with Greece.

“There were two alternatives for the Turks. They would either have to remain silent and wait for the success of the Greeks’ Enosis struggle, or they would have to prevent Enosis which they knew meant “slavery” for them. They decided to put up a struggle and a resistance organization to counter EOKA was set up under the name Volkan (Volcano)⁵⁴.

This organization, which later took the name of Turkish Resistance Organization (TMT), carried on with defense activities of the Turkish community with great sacrifices, fortitude and courage, and in August 1976 was incorporated the Turkish Cypriot Security Forces.

Inter-Communal clashes had reached their peak during the period of June-July 1958; the civil war was spreading. The cause of the dispute was self-evident: the peoples of Cyprus could not agree on the determination of the future status of Cyprus. While the Greek Cypriots were endeavoring, with supplies of arms, personnel and monetary aid Greece, to place the island under the Greek flag, the Turkish Cypriots were trying to prevent this and were calling on their motherland Turkey to help them. The policy of Greece was the realization of the “Megali Idea” (the Grand Ideal)⁵⁵.

IV. The Cyprus Question in the Ninth, Eleventh and Twelfth Assemblies of the United Nations

Makarios in 1950 insisted that the Greek government should take the Cyprus issue to the United Nations Assembly. However, it was not until 16 August 1954 that Greece took the Cyprus issue to the United Nations General Assembly’s 9th meeting.

⁵⁴ Alasya (n. 10), 86.

⁵⁵ M. Necati Münir Ertekün, *Inter-Communal Talks and the Cyprus Problem*, 1977, 9.

The Cyprus issue was debated on the agendas of the tenth, eleventh, twelfth and thirteenth General Assemblies of United Nations. Turkey requested the division of the island between the two communities. In 1957, Mr. Fatih Rüştü Zorlu, the Foreign Minister of Turkey, stated to the General Assembly that.

“Cyprus has been under the rule of Turkey for over four centuries, and with the exception of a few times had always belonged to the Anatolian States. There does not exist a Cypriot nation, nor even is there a Cypriot entity. It is necessary to take into consideration the national views put forward by the communities”⁵⁶.

Again in 1957, Mr. Selim Sarper, the Turkish representative to the United Nations, stated that “Turkey is interested in Cyprus from two angles: the presence of Turks in the island and the vital importance of the island for Turkey due to the geographical, historical, links and international laws”⁵⁷.

In 1957, the Greek delegate requested the application of a self-determination principle to the Cypriots under the supervision of the United Nations. It may be remembered that during the years 1922-1923 at the negotiations of the Lausanne Conference, Turkey asked for the application of the same principle to the people of Western Thace, where there was a Turkish majority. At that time, the Greek delegate rejected the application of a self-determination principle in Western Thace, and the conference agreed to this.

V. *The Republic of Cyprus created by the Treaties of 16 August 1960*

On 18 December 1958, the foreign ministers of Turkey, Greece and Great Britain met in Paris to discuss the Cyprus issue. This meeting was the first of its kind since 1955 in bringing the foreign ministers of Turkey, Greece and Great Britain together at a conference table.

The Greek Foreign Minister, in a statement to the press, stated that considerable progress had been made over the Cyprus problem within the framework of the Turko-Greek Friendship Agreement, and that there was no question his country's insistence on Enosis. Following the Paris meeting, the three governments started work on the solution of the problem.

⁵⁶ Subreman (n. 8), 18.

⁵⁷ Ibid., 19.

There was another meeting in Paris in January 1959 which lasted there days. Goodwill was noted during these discussions. Thus, in a declaration dated 29 January 1959, it was stated to world that Turkey and Greece had agreed to oppose the division of Cyprus between the two communities and also to oppose the union Cyprus with Greece. In the meantime, they agreed on giving Cyprus an independent status and recognized the autonomy of both communities which were to share the administration of the island.

The second Paris meeting opened door to another meeting which was held in Zurich. During the first week of February, the Turkish and Greek foreign ministers met and discussed at length the question of establishing an independent republic on Cyprus. They agreed in the end that the Turkish and Greek Prime Ministers should meet and take the final decision on the matter and sign the agreements. The two Prime Ministers, Mr. Menderes and Mr. Caramanlis, signed the Zurich Agreement made up of 27 articles, on 11 February 1959. This agreement had to be approved by Britain and the representatives of the Turkish and Greek communities.

The diplomatic documents which form the 19 February agreements are as follows:

1. Basic Structure of the Republic of Cyprus.
2. Treaty of Guarantee between the Republic of Cyprus and Greece, the United Kingdom and Turkey.
3. Treaty of Alliance between the Republic of Cyprus, Greece and Turkey.
4. Declaration made by the Government of the United Kingdom on 17 February 1959.
5. Additional Article to be inserted into Treaty of Guarantee.
6. Declaration made by the Greek and Turkish Foreign Ministers on 17 February 1959
7. Declaration made by the Representative of the Greek-Cypriot community on 19 February 1959.

8. Declaration made by the Representative of the Turkish-Cypriot community on 19 February 1959.

9. Agreed Measures to prepare for the new arrangements on Cyprus.

The Zurich Agreement of 27 articles was also signed by Great Britain, together with Turkey and Greece. This Agreement was called "The Memorandum of 19 February 1959, the Essentials of the Solution of the Cyprus Problem". The Constitution of Cyprus, which was prepared afterwards, consisted of 149 articles and entered into force on 6 April 1960. It contained certain immutable articles which were based mainly on the final agreement. The British government on 17 February 1959 issued a notice which stated that the government had examined the Basic Structure of the Republic of Cyprus, the Treaty of Guarantee signed in Zurich on 11 February 1959 between the Turkish and Greek governments, the documents concerned with the foundation of Cyprus which included the Treaty of Alliance, had considered the discussions between Great Britain, Turkey and Greece in London between 11 and 19 February 1959, and after the ratification of the Constitution and related documents, the sovereignty of Cyprus with the exception of Akrotiri, Episkopu, Dhekelia, Perge, Ayios, Nikolas and Xylophagau would be transferred to the Republic of Cyprus.

On 17 February 1959, the foreign ministers of Turkey and Greece in a common statement declared to the world that they both accepted the declaration of the British government. Archbishop Makarios, as the representative of the Greek Cypriots, made the following statement on 19 February 1959:

"Archbishop Makarios, representing the Greek Cypriot community, having examined the document concerning the establishment of the Republic of Cyprus drawn up and approved by the Heads of the Government of the United Kingdom and by the Foreign Ministers of Greece and Turkey on February 17, 1959, declares that he accepts the documents and declarations as the agreed foundation for the final settlement of the problem of Cyprus⁵⁸.

Dr. Fazıl Küçük, the representative of the Turkish community on Cyprus, also made a similar statement.

⁵⁸ Ertekün (n. 13), 45.

1. The Permanent International Status of the Republic of Cyprus

The Cyprus Republic was created by the Zurich and London Agreement, the Treaty of Alliance and the Treaty of Guarantee; in other words, by the approval, acceptance and ratification of a special international status by Great Britain, Turkey and Greece. Thus the Republic of Cyprus was created not only to serve the interests of the two communities on the island, but also to reconcile the conflicting interests of Great Britain, Turkey and Greece, and to serve their common interest. With the Treaty of Guarantee, the High Contracting Parties established a permanent status for the territory of Cyprus for their common interests. We say that the established status was a permanent one because in the Treaties and Agreements of 16 August 1960, there is no clause on the duration of these Treaties and Agreements, no clause on the amendments, and no clause on the ending of these Treaties and Agreements.

After much suffering and loss of life, in 1960 the two peoples accepted a compromise and worked out a constitution after continuous deliberations which lasted for eighteen months. In short, the two peoples who had fought for opposing political aims, agreed by the text signed in Zurich and London to forego these aims in lieu of a "partnership Republic" based on the existence of the two national peoples and on their inalienable rights and partnership status. *These two peoples together brought about the "bi-national" State of Cyprus.* They together, under agreed terms of cooperation and partnership, shared the legislative, executive, judicial and other functions. Matters which the two peoples had managed on a "Communal" basis over the centuries-like education, religion, family law, etc., were left to the autonomy of the "Communal" administration which had legislative, executive, and judicial authority over such matters. In effect a "functional federative system" had been established by the two co-founder peoples of the Republic. This functional federative character of the former Republic of Cyprus is often forgotten by those who are apt to see the present search for a federal solution as an attempt to dismantle a completely "unitary" system of government, which was not created or envisaged even by the 1960 Constitution⁵⁹.

⁵⁹ Sevim Toluner, *Kıbrıs Uyuşmazlığı ve Milletlerarası Hukuk* 1977, 83.

2. The Equality and the Separation of the Two Communities According to the Constitution

The compromise solution which was reached by the Zurich and London Agreements was the basis of (a) a bi-national independence (b) resting on the political equality and administrative partnership of the two communities (c) who were given full autonomy in what were strictly defined as "communal affairs". The settlement thus established was to be guaranteed by Turkey, Greece and Britain, thus ensuring the permanence of the Cyprus Republic and assuring both sides that peace would be maintained on the island. It was believed by the Turkish side that this functional federative system would eliminate discrimination and remove all causes of intercommunal friction^{59a}. It was with this understanding that the two communities had come together on the basis of equality and prepared the Constitution of this bi-communal state.

The basic articles of the Constitution as they were defined in the Zurich Agreement provide for the equality of the two communities and their cooperation in all functions of the state. This system guarantees the separate continuation of two communities and any attempt at domination and pressure of a community on the other was prevented by the constitutional guarantees.

The fifth article of the Zurich Agreement openly stated that the executive power belonged to the President and the Vice-President; a council of Ministers composed of seven Greek Cypriots and three Turkish Cypriots would assist the President and the Vice-President in the exercise of their powers. These Ministers were chosen by the President and Vice-president respectively from among their community members.

A Second proof that the Zurich Agreement established a political system based on the separation and on the equality of the two communities was the existence of Article 19, which foresaw land reform. According to Article 19 the land to be expropriated from the persons belonging to one community could only be distributed to persons of the same community.

The structure and the powers of the judicial organs established took into consideration the existence of two separate and distinct communities. The civil and criminal cases involving members of one community would

^{59a} Necati Münir Ertekün, Cyprus: finding a solution, paper submitted to 292 nd Wilton park Conference 11-16 May 1986.

be heard by a judge belonging to the same community. If the plaintiff and the defendant belonged to different communities, the Mixed Court to be established by the High Court of justice would hear the case.

The constitutional system of Cyprus as defined in the Zurich Agreement did not foresee a federal structure where the powers were distributed according to the division of the land. Still, the constitutional system of Cyprus established a special structure of state where federal principle was differently applied.

3. Restrictions on the Independence of the Republic of Cyprus

The Republic of Cyprus is a state established by international treaties. Several other states have also been established by treaties, such as the Irish Free State, which was established by a treaty of 6 December 1921; Vietnam, which was established by a treaty of 3 March 1946; and Indonesia, which was established by two treaties of 25 March 1947 and 2 November 1949. However, the Republic of Cyprus cannot be a fully independent state, from either an international law or a constitutional law point of view⁶⁰.

The restrictions on Cyprus' independence from an international law point of view are the following: first, Article 1, paragraph 2 of the Treaty of Guarantee imposes on the Republic of Cyprus the obligation not to participate, in whole or in part, in any political or economic union with any state whatsoever. The intent is to prohibit all activities tending to promote directly or indirectly either union or partition of the island. The second restriction is Article 23 of the Basic Structure of the Republic of Cyprus. According to this article, the Republic of Cyprus has to accord most-favoured nation treatment to Great Britain, Turkey and Greece for all agreements, whatever their nature.

VI. *The Claims of the Greek Cypriots as to the Illegality of the 1960 Treaties and their Evaluation*

1. Makarios' Proposals

The compromise that established a Cypriot-Greek-Turkish Republic was not given a fair chance, because the Greek Cypriot leaders continued

⁶⁰ Dimitri-Georges Lavroff, *Le Status du Chypre*, *Revue Générale de Droit International Public* 1961, 527-545 (530).

to regard Cyprus as a Greek island destined to be united with Greece. Thus they maintained (1) that the 1960 compromise was an unjust compromise, (2) that these agreements, though duly signed by them, could be rendered null and void in a variety of ways, and (3) if necessary, resort to violence was envisaged. Finally, in the case intervention by Turkey as a guarantor power to avert destruction of the independence, it was believed that the United Nations would stall such intervention or remove its effect in such a way that the original Greek Cypriot *fait accompli* destruction of the 1960 bi-national partnership and establishment of a purely Greek Cypriot government as the "final-but-one-step" to Enosis) would prevail.

President Makarios gave a project to Dr. Fazıl Küçük the Vice-President on 30 November 1963. This project concerned the modification of the constitution on 13 points. The modifications required were as follows:

1. The right of veto of the President and Vice-President was to be abandoned.
2. The Vice-president of the Republic was to deputise for the President in case of his temporary absence or incapacity to perform duties.
3. The Greek President of the House of Representatives and its Turkish Vice-President were to be elected by the House as a whole. Originally the President was elected by the Greek members of the House and the Vice-President by the Turkish members of the House.
4. The Vice-President of the House Representatives was to deputise for the President of the House in case his temporary absence incapacity to perform his duties.
5. The constitutional provisions regarding separate majorities for enactment of certain laws by the House of Representatives were to be abolished.
6. Unified municipalities were to be established.
7. The administration of justice was to be unified.
8. The division of the Security Forces into Police and Gendarmerie was to be abolished.
9. The numerical strength of the Security Forces and of the Defence Forces was to be determined by a law.

10. The proportion of Greek and Turkish Cypriots in the composition of the Public Service and the Forces of the Republic was to be modified to be in proportion to the ratio in the population of Greek and Turkish Cypriots.

11. The number of members of the Public Service Commission was to be reduced from ten to five.

12. All decisions of the Public Service Commission were to be made by a simple majority.

13. The Greek-Communal Chamber was to be abolished.

When Cyprus became independent in 1960, it was hoped that the Turkish Cypriots and the Greek Cypriots, as the two peoples of the island, would be able to live harmoniously side by side, sharing power conjointly in a bi-national Republic. But this was not to be. The Greek Cypriots and Greece, not content with independence, sought to bring about Enosis within the the short space of three years and destroyed the partnership State by use force against the Turkish Cypriots.

2. The "Akritas Plan" and the Turkish Pogroms

To dissolve the Republic of Cyprus in predetermined stages, and methods, and to bring about the union of Cyprus with Greece (Enosis), a plan of conspiracy called the "Akritas Plan" was prepared. The plan was drawn up by the Greek Cypriot leadership in collusion with Greek Army officers in 1963. It provided, among other things, for the creation of an underground army which, as explained by the plan, would suppress any resistance by the Turks most forcefully, and in the shortest possible time, and would make the Greek Cypriots masters of the situation "*within a day or two, before outside intervention would be possible, probable, or justifiable*"⁶¹. The Plan was signed by "the Chief Aktiras". It also explained the object of the 13 point proposal put forward by Archbishop Makarios for the revision of the Constitution.

This *top secret* document was first published by a local Greek newspaper, Patris, on 21 April 1966, with the professed intention of exposing the mishandling of the Greek Cypriot "national cause" by Archbishop Makar-

⁶¹ Zemon Stavrinides, *The Cyprus Conflict*, 1975, 135.

ios. In a series of articles published subsequently by the same paper, it was disclosed that Archbishop Makarios had assumed the responsibility for the implementation of the Plan, and that he had appointed Mr. Polycarpus Yorgadjis, who was the Minister of the Interior at the time, to be "the Chief, Akritas" together with other top-ranking Greek members of the Government as officers of the secret organization⁶².

"The organisation" for the direction of which this top secret plan was put on paper and distributed with instructions to "destroy it by burning in the presence of all (District) members within 10 days of its receipt" was composed of secret armies under party leaders and Greek Cypriot Police with Greek Cypriot personnel of the Cyprus Army under the Minister of Interior Mr. Polycarpus Yorgadjis. "Akritas" was the nom de plume of "the Chief" who is believed to be the Minister of Interior under direct control of Archbishop Makarios.

This then is the "Top Secret" document, as published in the Greek Cypriot *Patris* on 21 April 1966. Greek Cypriot leadership has never disputed the existence of this plan of conspiracy against the bi-national Republic of Cyprus⁶³.

AKRITAS PLAN

Top Secret

Headquarters

Recent public statements by Archbishop Makarios have shown the course which our national problem will take in the near future. As we have stressed in the past, national struggles cannot be concluded overnight; nor it is possible to fix definite chronological limits for the conclusion of the various stages of development in national causes. Our national problem must be viewed in the light of developments which take place and conditions that arise from time to time, and the measures to be taken, as well as their implementation and timing, must be in keeping with the internal and external political conditions. The whole process is difficult and must go through various stages because factors which will affect the final conclusion are numerous and different. It is sufficient for everyone to know, however, that every step taken constitutes the result of

⁶² Ibid.

⁶³ Rauf Denktaş - The Cyprus Problem (23 nd year) *Turkish Review Quarterly Digest Summer*, 1986 vol. 1 No. Number 4 - p. 9.

a study and that at the same time it form the basis of future measures. Also, it is sufficient to know that every measure now contemplated is a first step and only constitutes a stage towards the final and unalterable national objective which is the full and unconditional application of the right of self-determination.

As the final objective remains unchanged, what must be dweld upon is the method to be employed towards attaining that objective. This must, of necessity, be divided into internal and external (International) tactics because the methods of the presentation and the handling our case within and outside the country are different.

A. Method to be used outside

In the closing stages of the (EOKA) struggle, the Cyprus problem had been presented to world public opinion and to diplomatic circles as a demand of the people Cyprus to exercise the right of self-determination. But the question of the Turkish minority had been introduced in circumstances that are known, inter-communal clashes had taken place and it had been tried to make it accepted that it was impossible for the two communities to live together under a united administration. Finally the problem was solved, in the eyes of many international circles, by the London and Zurich agreements, which were shown as solving the problem following negotiations and agreements between the contending parties.

(a) Consequently our first aim has been to create the impression in the international field that the Cyprus problem has not been solved and that it has to be reviwed.

(b) The creation of the following impressions has been accepted as the primary objective:

(i) That the solution which has been found is not satisfactory and just;

(ii) That the agreement which has been reached is not result of the free will of contanding parties;

(iii) That the demand for the revision of the agreements is not because of any desire on the part of the Greeks to dishonour their signature, but an imperative necessity of survival for them;

(iv) That the co-existence of the two communities is possible, and

(v) That the Greek majority, and not the Turks, constitute that strong element on which foreigners must rely.

(c) Although it was most difficult to attain the above objectives, satisfactory results have been achieved. Many diplomatic missions have already come to believe strongly that the Agreements are neither just nor satisfactory, that they were signed as a result of pressures and intimidations without real negotiations, and that they were imposed after many threats. It has been an important trump card in our hands that the solution brought by the Agreements was not submitted to the approval of the people; acting wisely in this respect our leadership avoided holding a referendum. Otherwise, the people would have definitely approved the agreements in the atmosphere that prevailed in 1959. Generally speaking, it has been shown that so far the administration of Cyprus has been carried out by the Greeks and that the Turks played only a negative part acting as a brake.

(d) Having completed the first stage of our activities and objectives we must materialise the second stage on an international level. Our objective in this second stage is to show:

(i) That the aim of the Greeks is not to oppress the Turks but only to remove the unreasonable and unjust provisions of the administrative mechanism;

(ii) That it is necessary to remove these provisions right away because tomorrow may be too late;

(iii) (Omitted)

(iv) That this question of revision is a domestic issue for Cypriots and does not therefore give the right of intervention to anyone by force or otherwise, and

(v) That the proposed amendments are reasonable and just and safeguard the reasonable rights of the minority.

(e) Generally speaking, it is obvious that today the international opinion is against any form of oppression, and especially against oppression of minorities. The Turks have so far been able to convince world public opinion that the union of Cyprus with Greece will amount to their enslavement. Under these circumstances we stand a good chance of success in influencing world public opinion if we base our struggle not on EN-

OSIS but on self-determination. But in order to be able to exercise the right of self-determination full and without hindrance we must first get rid of the Agreements (e.g. the Treaty of Guarantee, the Treaty of Alliance, etc) and for these provisions of the Constitution which inhibit the free and unbridled expression of the will of the people and which carry dangers of external intervention. For this reason our first target has been the Treaty of Guarantee, which is the first Agreement to be cited as not being recognized by the Greek Cypriots.

When the Treaty of Guarantee is removed no legal or moral force will remain to obstruct us in determining our future through a plebiscite.

It will be understood from the above explanations that it is necessary to follow a chain of efforts and developments in order to ensure the success of our plan. If these efforts and developments failed to materialise our future actions would be legally unjustified and politically unattainable and we would be exposing Cyprus and its people to grave consequences. Actions to be taken are as follows:

(a) The amendment of the negative elements of the Agreements and consequent *de facto* nullification of the Treaties of Guarantee and Alliances. This step is essential because the necessity of amending the negative aspects of any Agreement is generally acceptable internationally and is considered reasonable (passage omitted) whereas an external intervention to prevent the amendment of such negative provision is held unjustified and inapplicable.

(b) Once this is achieved the Treaty of Guarantee (the right of intervention) will become legally and substantially inapplicable.

(c) Once those provisions of the Treaties of Guarantee and Alliance which restrict the exercise of the right of self-determination are removed, the people of Cyprus will be able, freely, to express and apply its will.

(d) It will be possible for the force of the State (the Police Force) and in addition, friendly military forces, to resist legitimately any intervention internally or from outside because we will then be completely independent.

It will be seen that it is necessary for actions from (a) to (d) to be carried out in the order indicated.

It is consequently evident if we ever hope to have chance of success in the international field, we cannot and should not reveal or proclaim any stage of the struggle before the previous stage is completed. For instance, it is accepted that the above four stages constitute the necessary course to be taken, then it is obvious that it would be senseless for us to speak of amendment (a) if stage (d) is revealed, because it would then be ridiculous for us to seek the amendment of the negative points with the excuse that these amendments are necessary for the functioning of the State and of the Agreements.

The above are the points regarding our targets and aims, and the procedure to be followed in the international field.»

Thus we see that the objective is to unite the island with Greece but first the Treaty of Guarantee has to be nullified.

To the world, unaware of the under current Byzantium policies of Archbishop Makarios the demand for the nullification of the Treaty of Guarantee was moulded in internationally accepted language: All that the Greek cypriots were trying to do was "to remove the shackles left over by the Colonial Administration, for achieving full independence". Not a word about the existence of a co-funder partner of the State, the Turkish cypriots, who had vested rights in Cyprus and who believed that if Turkey's guarantee was done away with the Republic would be devoured by Greece.

Now we come to the most satanically calculated part of the Akritas Plan under *Part B. THE INTERNAL ASPECT* this is what the "Organisation" is told by "the Chief".

«Our activities in the internal field will be regulated according to their repercussions and to interpretations to be given to them in the world and according to the effect of our actions on our national cause.

1. The only danger that can be described as insurmountable is the possibility of a forceful external intervention. This danger, which could be met partly or wholly by our forces is important because of the political damage that it could do rather than the materiel losses that it could entail. If intervention took place before stage (c), then such intervention would be legally tenable at least, if not entirely justifiable. This would be very much against us both internationally and at the United Nations. The history of many similar incidents in recent times shows us that in no case

of intervention, even if legally inexcusable, has the attacker been removed by either the United Nations or the other powers without significant concessions to the detriment of the attack on Suez by Israel, which was condemned by almost all members of the United Nations and for which Russia threatened intervention, the Israelis were removed but, as a concession, they continued to keep the port of Eliat in the Red Sea. There are, however, more serious dangers in the case of Cyprus.

If we do our work well and justify the attempt we shall make under stage (a) above, we will see, on the one hand, that intervention will not be justified and, on the other hand, we will have every support since, by the Treaty of Guarantee, intervention cannot take place before negotiations take place between the Guarantor powers, that is Britain, Greece and Turkey. It is at this stage, i.e., at the stage of contacts (before intervention) that we shall need international support. We shall obtain this support if the amendments proposed by us seem reasonable and justified. Therefore, we have to be extremely careful in selecting the amendments that we shall propose.

The first step, therefore, would be to get rid of intervention by proposing amendments in the first stage. Tactic to be followed: (Omitted)

2. It is evident that for intervention to be justified there must be a more serious reason and a more immediate danger than simple constitutional amendments. Such reason can be:

(a) The declaration of ENOSIS before actions (a) to (c).

(b) Serious intercommunal unrest which may be shown as a massacre of Turks.

The first reason is removed as a result of the Plan drawn up for the first stage and consequently what remains, is the danger of intercommunal strife. We do not intend to engage, without provocation, in massacre or attack against the Turks. Therefore, (section omitted) the Turks can react strongly and incite incidents and strife, or falsely stage massacres, clashes or bomb explosions in order to create the impression that the Greeks attacked the Turks and that intervention is imperative for their protection. Tactic to be employed. Our actions for amending the Constitution will not be secret; we would always appear to be ready for peaceful talks and our actions would not take any provocative and violent form.

Any incidents that may take will be met, at the beginning, in a legal fashion by the legal security forces, according to a plan. Our actions will have a legal from.

3. (Omitted)

4. It is, however, naive to believe that it is possible for us to proceed substantial actions for amending the Constitution, as a first step towards our more general plan as described above, without expecting the Turks to create or stage incidents and clashes. For this reason the existence the strengthening of our Organisation is imperative because:

(a) If, in case of spontaneous resistance by the Turks, our counter attack is not immediate, we run the risk of having a panic created among Greeks, in towns in particular. We will then be in danger of losing vast areas of vital importance to the Turks, while if we show our strength to the Turks, immediately and forcefully, then they will probably be brought to their senses and restrict their activities to insignificant, isolated incidents.

(b) In case of a planned or unplanned attack by the Turks, whether this be staged or not, it is necessary to suppress this forcefully in the shortest possible time, since, if we manage to become the masters of the situation within a day or two outside intervention would not be possible, probable or justifiable.

(c) The forceful and decisive suppressing of any Turkish effort will greatly facilitate our subsequent actions for further Constitutional amendments, and it should then be possible to apply these without the Turks being able to show any recation. Because they will learn that it is impossible for them to show any reaction without serious consequences for their community.

(d) In case of the clashes becoming widespread, we must be ready to proceed immediately to proceed immediately through actions (a) to (d), including the immediate declaration of ENOSIS, because, there will be no need to wait or to engage in diplomatic activity⁶⁴.

Greek Cypriot para-military irregular groups of EOKA began around Christmas 1963 to carry out Turkish pogroms all over Cyprus in compre-

⁶⁴ Ibid.

hensive, carefully-planned operations, the organization of which had been completed long in advance, and in which dozens (meanwhile hundreds) of their Turkish compatriots, including women, old people, children and cripples, were slaughtered. The Turkish Cypriots entered the fight and defended themselves for months with the courage of desperation⁶⁵.

The events which followed and the intercommunal fighting which ensued had all been anticipated and foreseen by the Greek Cypriot leaders, and accepted by them as the natural outcome of their planned approach to be solution of the problem, namely, that of establishing a Hellenic government on Cyprus, in complete disregard of Turkish objections. The Turkish Cypriot resistance to the implementation of this plan prolonged the issue, but the original aim never changed. As a part of this plan, Cyprus was occupied by 20,000 Greek mainland troops as early as 1964, and just before the coup of 1964, Archbishop Makarios was on the record as having said that he had established the nearest thing to Enosis by keeping the Turks out of the administration.

On 13 December 1963, Makarios declared that the Governments of Ankara, Athens and London had been notified of the proposed changes. The Turkish government, on 16 December 1963, informed Nicosia that it was against the revisions. The Cyprus government wanted the Zurich and London Agreements to be declared null and void, and the Treaties of Alliance and Guarantee based on the Zurich and London Agreements to be denounced through the mediation of the United Nations. On 19 February 1964, Adlai Stevenson, the United States Representative in the United Nations, in the Security Council blamed Makarios of obstructing every effort to establish order on the island and rejected the one-sided abolition of the London and Zurich Agreements.

When Cyprus became independent in 1960, it was hoped that the Turkish Cypriots and the Greek Cypriots, as the two peoples of the island, would be able to live harmoniously side by side, sharing power conjointly in a bi-national Republic. But this was not to be. The Greek Cypriots and Greece, not content with independence, sought to bring about Enosis within the short space of three years and destroyed the partnership State by use of force against the Turkish Cypriots.

⁶⁵ Heinze (n. 2), p. 21.

The Turkish Cypriot People, for whom Enosis meant subjugation by a foreign State, vigorously resisted all attempts to put an end to the independence of Cyprus and destroy their political status, their legitimate rights, their existence, identity and culture^{65a}.

VII. *The Legal Arguments Brought Forward by the Greek Cypriots as to the Illegality of the 1960 the 1960 Treaties and their Evaluation*

“A stagnation of Western diplomacy with regard to the Cypriot constitutional situation must be noted between 1960 and 1963. Wherever, on the other hand, the constitution was put into application, despite the anti-constitutional strivings of 1960 to 1963, it stood the test. This is evidenced by the four volumes of the collection of decisions of the Supreme Constitutional Court of the Republic of Cyprus”⁶⁶.

This statement is by Dr. Christian Heinze, who was the assistant to the President of the Supreme Constitutional Court of Cyprus, which position was then held by the world-famous Heidelberg professor, Dr. Ernst Forsthoff. Makarios and the Greek Cypriot side claimed that the Constitution was unworkable, but two constitutional law experts, the President of the Supreme Constitutional Court Prof. Forsthoff and his assistant, Dr. Heinze, claimed that it was workable. Prof. Forsthoff said:

“Every constitution can have its peculiar problems. There is no constitution in the world which has not got its problems and difficulties. This is primarily a question of good will. If there is good will, a constitution can be implemented, and the Constitution of Cyprus is capable of being implemented”⁶⁷.

Another observer remarked also:

“Whatever its defects, the Constitution did correspond to the actual state of affairs on the island where each ethnic community lived separately within the major towns, worked in separate enterprises, and conducted its daily life within the confines of its own group”⁶⁸.

The Constitution of the Republic of Cyprus had basic immutable articles which had been internationalized by the Treaty of Guarantee. The

^{65a} Ertekün (Wilton park paper, op. cit. p. 5).

⁶⁶ Heinze p. 26.

⁶⁷ Stavrinides (n. 19), 54; Ertekün (n. 13), 53.

⁶⁸ Linda B. Miller, Cyprus, *The Law and Politics of Civil Strife*, 1968, 5.

Greek Cypriot side wanted to abrogate the treaties of 16 August 1960 which were limiting its sphere of action. The Greek Cypriot side wanted to show first that the Constitution was unworkable. Then, knowing in advance its inadmissibility, the Greek Cypriots would propose the amendment of the basic immutable articles of the Constitution. To prove that the Constitution was unworkable, the Greek Cypriots started and supported the violence and armed attacks. This way, they thought Turkey would be forced "to act" according to the Treaty of Guarantee, and the Greek Cypriots, claiming that international peace and security was in danger, would apply to the United Nations, where the legality of the treaties establishing the Republic of Cyprus would be question, and they would finally obtain a decision in their favour⁶⁹.

Makarios, in spite of the fact that he had "returned to Cyprus to declare to a delirious Greek people: 'We have won'⁷⁰ claimed for the first time in his speech of 30 November 1963 that he had been forced to sign the treaties, the other alternative being to refuse to sign, which would have meant acceptance of all terrible consequences⁷¹.

1. The Claim that the Treaties are "Unequal Treaties"

On 19 February 1964, the Representative of the Soviet Union at the United Nations claimed that these treaties, which permitted the establishment of British bases and the stationing of troops belonging to the states-members of NATO on Cyprus, were "unequal treaties". Makarios had given some concessions when he agreed to sign the treaties, but all High Contracting Parties, including the Turkish Cypriots, had given concessions. For Makarios, signing was not an obligation but a choice, because the Turkish Cypriots were asking for division of the island between the two communities.

The doctrine of "unequal treaties" is a political doctrine and not a legal doctrine. At the discussions in the U.N. Security Council, only the Representative of Turkey objected to the discussion of the system of the 1960 treaties, the "unequal treaties" doctrine referring to the speech of Makarios on 19 February 1959.

⁶⁹ Toluner (n. 17), 128.

⁷⁰ Stavrinides (n. 19), 36.

⁷¹ S. Tenga, *The United Nations Force in Cyprus*, 1968, 57-66 (60).

The Republic of Cyprus was not properly a Contracting party, as American lawyer Henkin pointed out; "she was rather a child of these treaties"⁷². The "unequal treaty" doctrine can be claimed between two states-parties to a treaty; in the case of Cyprus, she was not a party to these treaties. The "unequal treaty" doctrine is not advanced anymore by the Greek Cypriots. If these treaties were accepted as not binding, being unequal, then legally, Great Britain would be still sovereign on the island.

2. The claim that the Treaty of Guarantee was Terminated by "Serious Breach by Turkey"

Turkish troops, which were on Cyprus under the Treaty of Alliance, left their camp upon the bloody events and Turkish pogroms, and took up positions on the road to Girne on 25 December 1963, in order to protect Turkish Cypriots. The Greek Cypriot administration, by a note dated 31 March 1964, asked the return of the Turkish force to its camp as the United Nations Cyprus Peace Force was established. The Turkish government answered that peace and order had not yet been reestablished, and that the force could not yet return. Upon this refusal, the Greek Cypriot government, by a note to Turkey dated April 1964, denounced the Treaty of Alliance from the point of view of relations with Turkey. The Turkish government, by a note dated 6 April 1964, made it clear that it was continuing to use the rights under the Treaty of Alliance, and if the use of these rights were to be obstructed, it would take all necessary precautions to enforce them. Turkey, by a note dated 7 April 1964, informed the Greek government that any attack on the Turkish force in Cyprus would be considered as an attack on Turkey.

The operations of the Turkish force were realized according to Turkey's demand of application of the Treaty of Guarantee. This demand was in conformity with and legal under the Treaty of Guarantee. If it were legal under the Treaty of Guarantee, it is unclear how it could be illegal under the Treaty of Alliance, which is noting but one of the treaties establishing international status accepted for the Republic of Cyprus. Furthermore, the Treaty of Alliance was a multilateral treaty. Under Article 60 of the Vienna Convention on Treaties, a multilateral treaty is terminated only by the unanimity of all contracting parties to it, with the ex-

⁷² T. Erlicht, *International Crisis and the Role of Law, Cyprus, 1958-1967, 1974*, 128.

ception of the party at fault. The Makarios government could not have terminated the Treaty of Alliance alone, without the consent of Greece.

3. The Claim that the Turkish Intervention and the Use of Force Would Be Against the United Nations Charter

According to article 21 of the Basic Structure and Article 51 of the Constitution of the Republic of Cyprus, the Treaty of Guaranteeing the independence, the territorial integrity and the *Constitution* of the Republic of Cyprus, is a condition *sine qua non* of the status of the Republic of Cyprus. Any measure within the Treaty of Guarantee, even the use of armed force, to protect the Constitution cannot be considered against the U.N. charter⁷³. The use of force by the states which have this right "to affirm a right which had been unjustly denied"⁷⁴ was not considered to be against the prohibition of the use of force in Article 2/4 of the U.N. Charter in the Corfu Channel Case (1949) by the International Court of Justice.

VIII. *The Events of 1965—1967 and the Establishment of the Provisional Turkish Administration*

1. The Security Council Debates

The Security Council met on 27 December 1963 for a discussion of the Cyprus issue. U Thant, the Secretary-General, appointed Gyani, the Indian General to Cyprus, as his special envoy. The Turkish Representative, Mr. A. Kural, informed the Security Council that Greek Cypriots, after a two year campaign in violation the rights of the Turkish community, had undertaken a terrible action on the days of 21-22 December 1963, to attempt to bring about the complete annihilation of the Turkish community by slaughtering them.

In the Security Council, Cyprus, Greece and the U.S.S.R. claimed the Treaty of Guarantee was in conflict with the governing rule of international law *jus cogens*, and with the rules of the United Nations Charter, which prohibits recourse to the threat and use of force. Turkey, the United States, Great Britain, France and other Western nations stated that the

⁷³ Murat Sarica, Erdoğan Teziç, Özer Eskiyyurt, *Kıbrıs Sorunu*, 1975, 45.

⁷⁴ J. J. G. Syatauw, *Decisions of the International Court of Justice*, 1962, 27.

Treaty of Guarantee on Cyprus was a document which had been signed and approved by the parties concerned, and should be treated according to the *pacta sunt servanda* norm of international law.

Brazil, Bolivia, the Ivory Coast, Morocco and Norway together proposed a scheme for sending a United Nations Force to Cyprus and for appointing a mediator. The Security Council made a decision on 4 March 1964 for the formation of the United Nations Cyprus Peace Force (UNFICYP). The U.S.S.R., France and Czechoslovakia abstained from voting on the fourth paragraph of the eighth article of the Security Council resolution to send a United Nations Peace Force to Cyprus, while the other articles were accepted unanimously.

In accordance with the resolution of 4 March 1964, two Indian Generals, first General Gyani, then General Thimayya, were appointed as Commander of the Peace Force in Cyprus. The United Nations mediator was Mr. Sakari Tuomoja of Finland.

On 28 July 1964, President Makarios demanded the complete independence of Cyprus. This meant the abolition of the treaties and the agreements which had founded Cyprus. President Makarios went to the United Nations to modify the agreements, but the United Nations does not have the power to modify any agreement signed by the member-states. It was only the League of Nations that had had this power. Indeed, the nineteenth Article of the Convention of the League of Nations states that "The League of Nations from time to time invites members to discuss the agreements which have become non-applicable." Since the revision of the agreements was not possible in the United Nations, it would have to be carried out among the parties concerned.

While Makarios demanded the complete independence of Cyprus on 28 July 1964, he defended Enosis on 27 August and 20 September of the same year. On the other hand, Archbishop Makarios had sworn to the Constitution, which forbids Enosis and the division of the island.

Mr. Tuomoja, the United Nations mediator who came to Cyprus in April 1964, had died on 9 September 1964 and was replaced on 16 September by the ex-President of Ecuador, Galo Plaza. Mr. Plaza, in his report dated 26 March 1965, pointed out the necessity of Cyprus' remaining linked to the states which guaranteed its independence.

United States Foreign Secretary Dean Acheson made the proposal, first to Athens and then to Ankara, that without instituting a referendum, there should be the union of Cyprus with Greece, the transfer of the Greek island of Meis to Turkey, the establishment of a Turkish military base on Cyprus, the foundation of two Turkish cantons which were to be ruled by Turkish governors, and the payment of compensation to those Turks who preferred to leave the island. However, this scheme was rejected by all sides concerned.

2. The 1967 Crisis

On 17 November 1967, fighting broke out on Cyprus in Ayios Theodoros between the Greeks and the Turks. When the United Nations troops arrived on the scene, they were disarmed by some of Grivas's bandits. After the interference of Kakarios, the National Guards left their places to the blue helmets of the United Nations Peace Force⁷⁵.

It was in reliance on their usurped authority and the active backing of the Greek mainland forces with full armour and sophisticated arms that the Greek Cypriot side had launched their attack on the two villages (Koophinou and Ayios Theodoros) with combined Greek Cypriot and greek Mainland Forces. Turkey, in order to stop the massacre of Turkish Cypriots, demanded under its treaty right as a guarantor power, the immediate cessation of the onslaught and the withdrawal of all Greek Mainland Forces from Cyprus. As a result, the Greek Cypriot leaders condescended to begin unofficial exploratory talks with the Turkish Cypriot side with a view to finding a solution to the Cyprus problem while the unconstitutional Greek Cypriot Army, known as the National Guard, continued (and continues to this day) to be commanded throughout by officers from Greece.

Due to the possibility of war in the area, the United Nations sent their mediator, Mr. Osorio Tafall, NATO sent its Secretary-General, Manlio Brosio, and President Johnson of the U.S.A. sent his special envoy, R.Cyrus Vance, to Cyprus. The common call of the U.S.A, England and Canada was helpful and the tension eased. With the decision of 22 December 1967, the Security Council invited the sides concerned to accept the mediation of the Secretary-General. The special envoy of the Pre-

⁷⁵ Subreman (n. 8), 47.

sident of the United States offered the following plan, first to Ankara and then to Athens:

1. Grivas, who did not share the views of Makarios and was said to have acted without the approval of Makarios, was to be dismissed.
2. The number of troops in the Greek and Turkish contingents was to be reduced. Turkey would promise not to invade Cyprus and Greece would pay compensation to the Turkish victims of the 15 November incidents.
3. Cyprus was to disband all her Greek National Guards and was to keep a force of 2000 troops only.
4. The Turkish Cypriots were to possess their own administration and police force.
5. The powers of the Peace Force were to be increased.

Makarios rejected this plan because he thought of it as a return to the Zurich and London Agreements. The efforts of Osorio Tafall, the special envoy of the United Nations Secretary-General, in organizing meetings between the two communities were successful. Rauf Denktaş, on behalf of the Turkish community, and Glafkos Clerides, on behalf of the Greek community, made their contacts in Beirut from 2 to 5 June 1968. After the meeting, Denktaş pointed out that if the two sides reached an agreement, then the Turkish community might see the possibility of changing the Zurich and London Agreements in part or as a whole. Following this, Denktaş proposed that there should be a conference between the two communities, Greece, Turkey and England.

On Cyprus, there were signs indicating that things had become milder and that there was the possibility of a reconciliation.

These negotiations, which lasted from 1968 to 1972 (and thereafter continued in an expanded form with the participation of Turkish and Greek constitutional experts until the coup) brought no results because the Greek Cypriot side would not abandon its pretailored plan of solution which, if accepted, would render the Turkish Cypriot community true political hostages on a Greek island with the way wide open to Enosis. The Turkish Cypriot side continued to cherish and guard its partnership

rights in the independence of Cyprus with great human and economic sacrifices while Turkey, as a guarantor power, indicated that she would never agree to the dissolution of the bi-national Republic by uniting the island with Greece.

In Athens in April 1967, after a military coup, the colonels took the power into their own hands. Makarios, who once said that the call for Enosis should come from Cyprus, was playing the game slowly. But the right wing Greeks, Grivas and the colonels were becoming impatient: they tried to kill Makarios in March 1970 through the efforts of a secret organization called the National Front, which had been founded in 1969. Polycarpus Jeordiadis, who was one of the leaders of the National Front, was murdered.

During 1963-1974, the Greek Cypriots, with military assistance, raided isolated Turkish Cypriot villages and attacked the Turkish Cypriot quarters of the towns, pushing the Turkish Cypriots into ever densely populated enclaves and forcing them to survive on their own meager economic resources. 103 Turkish Cypriot villages were destroyed and nearly 30,000 Turkish Cypriots (one fourth of the total Turkish Cypriot population), who took refuge in safer Turkish Cypriot areas, became refugees.

IX. *The Coup of 15 July 1974 by the Greek Officers and the Subsequent Turkish Intervention*

1. The Coup

The 650 Greek officers who had been loaned to Cyprus by Greece to train the troops of the Cyprus National Guard, staged a coup d'état on 15 July 1974. All observers are in agreement on the fact that this coup was intigated by the colonels in Athens⁷⁶.

Nicos Sampson, author of "extermination plans", and a criminal who, at the time, had boasted of having killed one person for every year of his life was proclaimed by the Greek military junta organizing the coup as "president" of the Republic.

⁷⁶ Jean J. A. SALMON, Chypre et L'impuissance, *Le Monde diplomatique*, Octobre 1974,

Following the coup, Makarios fled the island. In his statements made in London and New York, he confirmed that the Coup was an attack directed against the independence of Cyprus and he also pointed out that the Turks were in great danger⁷⁷. In the meantime, Greek Cypriots had started massacres once again. Sixteen thousand more Turks had to abandon 38 more villages. In Famagusta, 10,000 Turks faced the danger starvation while, 4,000 flocked to Knodhara surrounded by the Greek National Guard.

2. Turkish Intervention

After five days, on 20 July 1974, the Security Council was able to make Decision No. 353 (1974) for the foreign troops to evacuate Cyprus. But a few hours before, Turkey had begun landing troops on Cyprus, using her rights of intervention according to the Treaty of Guarantee, after England abstained from using her rights of joint intervention on Cyprus. It took the Security Council five long days to blame a member-state, without naming Greece, of interference in the internal affairs of another member-state.

The fourth article of the Treaty of Gurantee gives the power to act alone if Turkey, Greece and United Kingdom fail to act together. The Turks have always insisted, since the beginning of the discussions, on understanding the intervention article in the Guarantee Agreement "as the right to take military action when the independence status quo is destroyed"⁷⁸.

What would have happened if the Turkish intervention had not taken place? Nicos Sampson answered this question in his own newspaper: he said that he would have declared Enosis if the Turkish intervention had not taken place⁷⁹. The atrocities committed at Aloa, Sandallaris and Martha villages and the massacre of the Turkish youths who were picked up from Takhini, Zyvi and Mari, lined up and shot⁸⁰ were glaring examples of what lay in store for the Turkish Cypriot community had not the Turkish intervention taken place.

⁷⁷ Address made by Makarios before the U.N. Security Council on 19 th July 1974.

⁷⁸ T. W. Adams, Cyprus, *Reluctant Republic*, *The Middle East Journal*, Winter 1976.

⁷⁹ The Cyprus Mail of 17 July 1975.

⁸⁰ The Interview of German tourist Mrs. Ingrid Hebil by the Voice of Germany on 30 July 1974.

X. *Inter—Communal Talks*

1. JUNE 1968 — SUMMER 1974

Inter-Communal talks between Mr. Rauf Denktaş and Mr. Glafkos Clerides had commenced in June 1968 and continued, off and on, until summer 1974.

In 1972, the talks, which had stalled, were reactivated and enlarged on the suggestion of the Secretary-General of the United Nations, by participation in the talk of the Secretary-General's Special Representative to Cyprus and of two constitutional experts, one from Turkey one from Greece. What was essentially being negotiated in these talks was the question of local autonomy. It became apparent during these negotiations that the Greek side would not agree to a settlement that would close the door to Enosis.

2. FIVE ROUNDS (1975 — 1976)

After Turkey intervened on 20 July, 1974, it was agreed by the parties concerned that fresh attempts should be made to solve the Cyprus problem by means of a new series of talks between the two communities on an equal footing, under the auspices of the U.N. Secretary-General.

Turkey, Greece and the United Kingdom, as the three guarantor States, noted at the First Geneva Conference on Cyprus on 30 July 1974 the existence in Cyprus of two autonomous administrations representing the Turkish Cypriots and the Greek Cypriots, respectively. They agreed that negotiations should be carried out to secure the re-establishment of constitutional government in Cyprus and a return to constitutional legitimacy.

The first round of these talks took place in Vienna from 28 April to 3 May 1975, and was followed by two other rounds in Vienna from 5 to 7 June 1975 and from 31 July to 2 August 1975. A short fourth round was held in New York from 8 to 10 September 1975 and a fifth round took place in Vienna between 17 and 21 February 1976⁸¹.

An account of these talks is given very ably in Mr. M. Necati Münir Ertekün's work *Inter-Communal Talks and the Cyprus Problem*:

⁸¹ Ertekun (n. 13), 18.

“During the course of these talks, each time the interlocutors came close to an agreement the *rapprochement* achieved was sabotaged by the Greek Cypriot leadership. At the 3rd round of the inter-communal talks a Vienna, for example, there was wide understanding on bi-zonality, a loose federation, as well as agreement for the exchange of maps on the territorial aspects. It was also at the 3rd round of the talks that agreement was reached for an exchange of populations as a first step towards the establishment of a bi-zonal federal Republic. It had seemed at the time that there was a real possibility of an early settlement, but all hopes were completely dashed as the result of the refusal of the Greek Cypriot leadership to accept and implement the agreements made by their representative at the talks. Indeed, following the 3rd round of the talks, Mr. Clerides, the then Greek Cypriot interlocutor, was so fiercely attacked by the Greek Cypriot press, even before he had returned to Nicosia that he had to deny that any agreement, in principle or otherwise, had been reached and to state that he had no map to submit on territory. The negative attitude adopted by the Greek Cypriot leadership also led to the failure of the 4th round of the intercommunal talks held between the 8th and 10th September 1975, in New York.

It was not until months after the deadlock in New York that new hopes appeared for the resumption of the intercommunal talks following the Brussels Accord between the Foreign Ministers of Turkey and Greece on the 12th December 1975.

At the 5th round of the inter-communal talks agreement was reached, within the framework of the Brussels Accord, for an exchange of proposals and the setting up of expert committees to tackle the constitutional as well as the territorial aspects of the Cyprus problem. The Greek Cypriot side, however, failed to implement the agreement reached at the 5th round whereby they had to submit proposals on all aspects of the Cyprus problem and allow the Turkish Cypriot side to examine the proposals and to submit counter-proposals before the expiration of the agreed dead-line. Certain factions of the Greek Cypriot side, who were determined to undermine the talks and to block any progress towards a solution, initiated the creation of a crisis

which led to the resignation of Mr. Glafcos Clerides as the Greek Cypriot interlocutor and subsequently to his complete ousting from the political scene.

Throughout this period, while the Greek Cypriot side persistently failed to make concrete proposals regarding the solution of the Cyprus problem, and in particular regarding the solution of the Cyprus problem, and in particular never made their position clear regarding bi-zonality and the renunciation of Enosis, the Turkish Cypriot side consistently made its position clear regarding the solution of the problem, namely the establishment of a bi-communal, bi-zonal federal Republic, initially with a weak Central Government and specific criteria were given with regard to the size of the area to be administered by each Community. The Turkish Cypriot stand has also been clearly set out in the Resolution of the Legislative Assembly of the Turkish Federated State of Cyprus which was unanimously passed on the 5th November 1976.

The Turkish Cypriot side also proposed, originally on the 18th July, 1975 the establishment of a Transitional Joint Government with a view to putting an end to the further alienation and separation of the two Communities and to inaugurating without delay a degree of co-operation between them. This constructive offer of the Turkish Cypriot side was unfortunately turned down out of hand by the Greek Cypriot side. The offer has always remained open and was last repeated by the Turkish Cypriot interlocutor at the 6th round of the intercommunal talks.”

3. Sixth Round, 31 March — 7 April 1977

The inter-communal talks, which had stalled after the end of the fifth Vienna round due to the persistent refusal of the Greek Cypriot side to sit at the negotiating table, were interrupted for over a year. It was only on the initiative of President Denktas, who addressed a letter to Archbishop Makarios on 9 January 1977⁸², expressing his readiness to meet the Archbishop in the presence of the special representative of the Secretary-Gen-

⁸² Ibid., 18.

eral, in the hope that some understanding could be reached on the respective positions of both sides, that the talks were resumed. As a result of this initiative of President Denktaş, Archbishop Makarios, who had up to that time spurned any such meeting, agreed to meet President Denktaş at the first summit meeting, which took place on 27 January 1977 in the presence of the special representative. A second summit meeting, this time in the presence of the U.N. Secretary-General Dr. Kurt Waldheim, took place on 12 February 1977. The following communique was issued at the end of this meeting:

“During our talks, which lasted for four hours, instructions have been worked out for the representatives in the intercommunal talks as the basis for future negotiations.”

It has also been agreed to reconvene the Cyrus talks in Vienna under the auspices of the Secretary-General at the end of March.

The text of the agreed instructions (guidelines) referred to in the above communiqué reads as follows:

1. We are seeking an independent, non-aligned, bicommunal Federal Republic.
2. The territory under the administration of each community should be discussed in the light of economic viability or productivity and land ownership.
3. Questions of principles like freedom of movement, freedom of settlement, the right of property, and other specific matters are open for discussion taking into consideration the fundamental basis of a bicommunal federal system and certain practical difficulties which may arise for the Turkish Cypriot Community.
4. The powers and functions of the Central Federal Government will be such as to safeguard the unity of the country, having regard to the bicommunal character of the State⁸³.

It seems that Archbishop Makarios retracted from the above stated principles soon after they were formulated.

An article by Mr. Likavgi in Greek Cypriot daily “Fileleftheros” on 6 August 1977 said: “On Sunday at the end of last

⁸³ Ibid.

June Archbishop Makarios received us. He spoke very clearly, he said: "The signature in red ink, will never be put under an agreement that will give even a piece of stone to the Turks". Having said this he stood up waked to the window, held out his hand and said: "Even if I wanted to, he does not allow me to put my signature in red ink. Makarios was pointing at the statue of national hero Archbishop Kyprianou."

As the head of the autocephalus Greek Cypriot Ortodoxe Church Arschbishop Makarios used to sing in red ink.

In accordance with the agreement reached by the two leaders at the summit meeting of 12 February 1977 "to reconvene the Cyprus talks in Vienna under the auspices of the Secretary-General at the end of March," a further or sixth round of talks (which had been hoped would be the "first round of a new series of talks", took place in Vienna, under the auspices of te U.N. Secretary-General, between the 31 March and 7 April 1977.

Upon the resignation of the Greek Cypriot negotiator, Mr. Glafcos Clerides, in 1976 after the fifth round of "Vienna talks", Mr. Tassos Papadopoulos, a close associate of Makarios during the EOKA period and a former Greek Cypriot Minister of Labour, was appointed to succeed him. This change in the level of representation of the Greek Cypriot side was followed by the appmintment of Mr. Ümit Süleyman Onan, a leading Turkish Cypriot lawyer and a Parliamentarian of many years standing, to succeed President Denктаş as the Turkish Cypriot negotiator. Thus, the renewed round of talks in Vienna was attended for the first time by the two new negotiators, who were assisted by two advisers each⁸⁴.

At the sixth round for the first time, the Greek Cypriot side presented a specific territorial proposal with a map⁸⁵ and formally conceded that the proposed bi-communal Federal Republic of Cyprus should also be bi-zonal.

The Turkish Cypriot side submitted specific, constitutional proposals calling for a partnership in power between two equal political entities joining their resources in a federal administration on a basis of equality,

⁸⁴ Necati Münir Erteğün - In Search of A Negotiated Cyprus Settlement, 1981, Lefkoşa (Nicosia) p. 51.

⁸⁵ Ibid p. 53. The said map is annexe I of this article.

working together at first in a comparatively limited field. The functions proposed for the federal government would be expected to grow in proportion to the growth of mutual trust and confidence between the two partner communities, a process process which may be described as "federation by evolution".

At the end of the last session of the Sixth Round on 7 April 1977 a communique was issued announcing that it was agreed that the talks would resume in Nicosia about the middle of May 1977, under the auspices of the Special Representative of the Secretary-General, in preparation for a further round in Vienna⁸⁶.

The Sixth Round of the Vienna talks, one of the longest of the Vienna talks and the substantive aspects of the Cyprus problem were discussed at some length. For the first time, the Greek Cypriot side submitted a specific territorial proposal together with a map and formally conceded that the proposed bi-communal Federal Republic of Cyprus should also be bi-zonal.

The U.N. Secretary-General, describes and sums up this Sixth Round in paragraphs 8-10 of his report. S/12323 of 30 April 1977 as follows,

8. The first round of the new series of talks, concluded on 7 April, was the longest of all the sessions held under my auspices since the adoption of resolution 367 (1975), and the substantive aspects of the Cyprus problem were discussed at some length.

9. For the first time, the Greek Cypriot side submitted a specific territorial proposal together with a map embodying its conception of a bicomunal arrangement. The proposal was made subject to certain principles, including the preservation of the sovereignty and unity of the Republic and of the rights of the freedom of movement, residence, work and property of all citizens.

10. For its part the Turkish Cypriot side submitted a constitutional proposal (Annex D) (7) calling for a partnership in power between two equal political entities joining their resources in a federal administration on a basis of equality, working together at first in a comparatively limited field. The functions proposed

⁸⁶ Ibid.

for the Federal Government would be expected to grow, a process described by the Turkish Cypriot representative as "federation by evolution".

Between 20 and 26 May and 3 June 1977 three meetings were held in Nicosia as agreed between the parties at the end of the Sixth Round in Vienna. The talks aim was the preparation for a further round in Vienna.

The death of Archbishop Makarios on 3 August 1977 caused the collapse of the intercommunal talks. Mr. Kyprianou was nominated to presidency on 26 January 1978. The sameday Mr. Rauf Denктаş the President of the Turkish Federated State of Cyprus declared that the Turkish Cypriot Community views Mr. Kyprianou as somebody with no right of say over North Cyprus and a person with no connection whatsoever with the Turkish Cypriot Community. Mr. Kyprianou is the leader of the Greek Cypriot Community living in South Cyprus. Nobody can be the president of the whole of Cyprus before the two communities establish an agreed partnership government. The next day the Turkish Foreign Minister also announced that Mr. Kyprianou was only the Head of the autonomous Greek Cypriot administration.

Mr. Kyprianou was elected by the Greek Cypriot House of Representative on 28 February 1978 after taking office he appointed eleven Greek Cypriot Ministers where as according article 46 of the 1960 constitution Greek and 3 Turkish Ministers had to be appointed. The intercommunal talks were stopped on June 1977 the Greek Cypriot side claimed that the Turkish Cypriot side had not hitherto submitted concrete proposals but at the last sixth Round of talks in Vienna during March-April 1977 only the basic principles of the constitutional proposals and not a draft constitution was submitted by the Turkish Cypriot side. This was to discredit the arguments of the Turkish Cypriot Side. Also to influence Amircan Congress which was discussing the lifting of the American arms embargo.

On the other hand the Greek Cypriot were able to obtain some anti-Turkish Cypriot resolutions from the United Nations such as UN Security Council Resolution 414 (1977) of 15 September 1977 and UN General Assembly Resolution 35/15 of 9 November 1977.

U.N. Secretary-General Dr. Kurt Waldheim in pursuance of the U.N. Secretary-General good offices visited Ankara on 8-9 January 1978 followed by visits to Greece and Cyprus.

In January 1978 the U.N. Secretary-General Dr. Kurt Waldheim made a three day visit to Cyprus and during his stay met Mr. Kyprianou as well as Mr. Denktaş. The most important achievement of the U.N. Secretary-General was his success in arranging a meeting between the leaders of the Greek Cypriot and Turkish Cypriot Communities on 14 January. At a press conference before his departure on 15 January, Dr. Waldheim said that he had found the opportunity to have extensive talks about the situation and especially the negotiating process in the light of new developments. He expressed gratification about the meeting between Mr. Denktash and Mr. Kyprianou. On the procedure to be followed, Dr. Waldheim said it was agreed that the proposals which would be put forward, should first be given to the Secretary-General of the U.N., who would then consult with the parties concerned in order to clarify the situation and to decide, in consultation with the parties on the further procedure, especially the date of the resumption of the intercommunal talks, which could take place in the not distant future⁸⁷. On 10 and 11 March 1978 the Turkish and Greek prime ministers met at Montreux to discuss the Cyprus question.

It was in accordance with the above procedure suggested by the U.N. Secretary-General that the Turkish Cypriot side put forward comprehensive proposals for the settlement of the Cyprus problem which were presented to the Secretary-General in Vienna on 13 April 1978, which the Secretary-General found to be "concrete and substantial"⁸⁸. However, the Greek Cypriot side thought fit to reject the same proposals, out of hand. One reason for rejecting the Turkish Cypriot proposals with such haste, without examining the merits, seems to be the obsession and fear that any visible progress in the intercommunal negotiations, such as the acceptance to examine and discuss the Turkish Cypriot proposals, might help towards the lifting of the American arms embargo on Turkey, which issue was about to be considered by the U.S. Congress at the time.

The ensuing deadlock was eventually broken by the second summit meeting which was held between Mr. R.Denktash and Mr. Kyprianou in

⁸⁷ Nedjatigil *op. cit* p. 55

⁸⁸ "The Turkish Cypriot proposals deal with the Constitutional and territorial aspects of the Cyprus problem in a concrete and substantial way" statement of UN Secretary-General on April 1978, in Ertekün, *op. cit Negotiated Cyprus Settlement* p. 58.

the presence of the U.N. Secretary-General on 18 and 19 May 1979 at which the following 10 point Agreement was concluded:

- “1. It was agreed to resume the intercommunal talks on 15 June 1979
2. The basis for the talks will be the Makarios-Denktaş guidelines of 12 February 1977 and the U.N. resolutions relevant to the Cyprus question.
3. There should be respect for human rights and fundamental freedoms of all citizens of the Republic.
4. The talks will deal with all territorial and constitutional aspects.
5. Priority will be given to reaching agreement on the resettlement of Varosha under U.N. auspices simultaneously with the beginning of the consideration by the interlocutors of the constitutional and territorial aspects of a comprehensive settlement. After agreement on Varosha has been reached it will be implemented without awaiting the outcome of the discussion on other aspects of the Cyprus problem.
6. It was agreed to abstain from any action which might jeopardize the outcome of talks, and special importance will be given to initial practical measures by both sides to promote good will, mutual confidence and the return to normal conditions.
7. The demilitarization of the Republic of Cyprus is envisaged, all matters relating thereto will be discussed.
8. The independence, sovereignty, territorial integrity and non alignment of the Republic should be adequately guaranteed against union in whole or in part with any other country and against any form of partition or secession.
9. The intercommunal talks will be carried out in a continuing and sustained manner, avoiding any delay.
10. The intercommunal talks will take place in Nicosia”⁸⁹.

The intercommunal talks started again in Nicosia on 15, 18, 20 and 22 June upon the 10 point framework Agreement of 19 May 1979. The Greek Cypriot side did not accept the basic principles relating to the con-

⁸⁹ Nedjatigil *cit.* p. 56.

stitutional and territorial aspects of the Cyprus question, for example the principle of bi-zonality of the federation: and again talks stopped.

On 9 August 1980 the talks were resumed with inaugural address by the U.N. Secretary General Dr. Waldheim and adjourned again until 15 September.

As from this date it was agreed that the interlocutors would meet every week at the United Nations Conference room on the Green Line of Nicosia to discuss in rotation the following items on their agenda: (1) Varosha (2) Abstention from any action which might jeopardise the outcome of the talks and attachment of special importance to initial practical measures by both sides to promote good will, mutual confidence and the return of normal conditions (3) Constitutional aspects, and (4) Territory⁹⁰.

As agreed at the meeting held on 9 August 1980 and pursuant to established procedure, consideration of the first point on the agenda: "Reaching agreement on the resettlement of Varosha under United Nations auspices, in accordance with the provisions of the point 5 of the 19 May agreement" was taken up at the first session of the talks held on 16 September.

At their meeting on 24 September the interlocutors considered the second point on the agenda, namely "Initial practical measures by both sides to promote goodwill, mutual confidence and the return of normal conditions, in accordance with the provisions of point 6 of the 19 May agreement", which states that special importance will be given to this matter⁹¹.

At the third session of the talks held on 1 October, the interlocutors dealt with the third item on the agenda, i.e. the constitutional aspects. During this meeting both sides tabled their proposals on the constitutional aspects of the problem and indicated that they would carefully study them in depth at the meeting when constitutional aspects would next be taken up. At the next meeting held on 8 October, the fourth item on the agenda, i.e. territorial aspects was taken up. This marked the conclusion of the first round of the which was exploratory in character.

⁹⁰ Nedjatigil, *op. cit.* p. 60.

⁹¹ *Ibid.* 60-61.

At the second round of the talks, consideration of the first item on the agenda was again taken up on 15 October, the second item on 31 October, the third item on 5 November and the last item on 12 November, respectively.

At the third round of the talks the first item on the agenda was taken up on 19 November, the second on November, the third on 3 December and the last on 8 December. On the conclusion of the third round, Mr. Gobbi, the Special Representative in Cyprus of the U.N. Secretary-General said: "It is gratifying at this juncture to maintain a continued and consistent dialogue." He added that during these first three rounds of talks the two sides had been able to "identify some limited areas of agreement"⁹².

The recent developments and actual situation is very ably presented to 292 Wilton Park conference held between 12-16 May 1986 by Mr. Justice M. Necati Ertekün, OBE, QC. who is a distinguished statesman. "The numerous unsuccessful attempts were at finding a solution during the many series of intercommunal talks which took place, off and on, between 1968-1983. The Turkish Cypriot people eventually had no alternative but to exercise their right of self-determination in favour of declaring an independent Turkish Republic in Northern Cyprus with the hope that, all else having failed, this act would facilitate, encourage and lead to, the establishment of a federal Republic, as agreed to at the summit meeting of 12 February 1977, and as confirmed at the summit meeting of 19 May 1979. The very cogent reasons for this historic step, are fully set out in the Declaration of Independence of 15 November 1983"⁹³.

"Swiftly moving on now to more recent and current developments, it will be recalled that the UN Secretary-General initiated his current new initiative in August 1984 with his "Vienna Working Points", which I like to think, was encouraged by the "Package of Good-will proposals and Ideas" which our side had presented to him in New York the previous June. The "Vienna Working Points" resulted in three rounds of toplevel "proximity talks" in New York in September, October and November-December, 1984, which in turn led to the Summit Meeting of 17-20 January 1985"⁹⁴.

⁹² Ibid.

⁹³ Ertekün (Wilton park paper op. cit. p. 7).

⁹⁴ Ibid.

U.N. Secretary General Mr. Perez de Cuellar, in exercise of his good-offices mission, invited the representatives of the two sides for separate talks in Vienna, on 6 and 7 August 1984.

The Secretary General put to each side his views on a package settlement of the Cyprus problem. These views, which later were called "The Working Points", represented, in the eyes of the Secretary General, an indivisible whole.

During the first and second rounds of Proximity Talks held at the U.N. Headquarters in September and October respectively, the Turkish Cypriot side gave the Secretary General full support in his efforts to bring about a just and permanent peace within the framework of the "Vienna Working Points".

At the end of the second round of the "Proximity Talks", the U.N. Secretary General made a public statement in which he said "we have agreed to hold a final round of high-level Proximity Talks, beginning on 26 November 1984. I consider it essential to undertake this further effort before I report to the Security Council in pursuance of the good offices mission that the council has entrusted to the Secretary-General."

During the preparations for the third round of Proximity Talks, the parties were requested to come to this final round not with their bargaining positions, but with their final positions in order to take major political decisions. The Turkish Cypriot side complied with this request and indeed took crucial political decisions by accepting the draft agreement put Forward by the Secretary-General.

The Secretary General, in paragraphs 50 and 51 of his report of 12 December 1984 to the Security Council, summarized the important developments in this final round in the following terms:

"50- The final round of proximity talks took place in New York between 26 November and 12 December 1984. I presented to the parties and discussed with them as an integrated whole a preliminary draft for a joint high-level agreement. The package contained elements taken from different positions which I thought could help in bridging the gap which still existed. The discussions moved quickly to the central issues of what could be called the core of a comprehensive solution of the Cyprus problem. The Turkish Cypriot side conveyed to me its favourable reaction to all elements of my presentation. In the light of the crucial stage of the negotiations, I suggested at that time a moment of reflection. President Kyprianou then left New

York for Nicosia, to return within 10 days. Upon his return from Cyprus, the Greek Cypriot delegation conveyed to me its position with regard to all elements of my presentation. As the gap was not yet fully closed, I had further discussions with both sides, in the course of which I sought and received from the Turkish Cypriot delegation understandings that were helpful in further narrowing the gap. By 12 December it was my assessment that the documentation for a draft agreement could now be submitted to the joint high-level meeting. I expect that the interlocutors will, at the high-level meeting, conclude an agreement containing the necessary elements for a comprehensive solution of the problem, aimed at establishing a Federal Republic of Cyprus.

51- Accordingly, I announced on 12 December that the parties had agreed to hold a joint high-level meeting under my auspices, at a place to be decided, beginning on 17 January 1985." (U.N. Document, S/16/858 of 12 December 1984).

President, Rauf Denktaş, speaking at the 2565 th Meeting of UN Security Council, on 14 December 1984, stated in the clearest term his stand vis-a-vis the Secretary-General "Package":

"We attended all three stages with good will and with an ardent desire to see the end of the artificially created Cyprus problem, which has threatened my people for two decades and which continues to threaten them. We helped the Secretary-General at all stages, and accepted his draft agreement for a comprehensive settlement of the Cyprus problem..."

As the Secretary-General underlined on many occasions and as has also been explicitly and clearly specified and stipulated in the text itself, the draft agreement constitutes, with all its components, an integrated whole. By its nature, this draft agreement is not open and does not allow for the introduction of reservations of any kind. With goodwill, I am sure the draft agreement can be concluded, can be sent to the working groups and can work for the peace of Cyprus." (UN Document, S/PV 2565, 14 December 1984).

Finally, the long-awaited moment came and the two leaders, Mr. Rauf Denktaş and Mr. Spiros Kyprianou, hosted by U.N. Secretary General Mr. Perez de Cuellar, met and shook hands while about a hundred journalists, press photographers, TV cameramen recorded the event. Mr. Perez de Cuellar told the two leaders the meeting was to "conclude an agreement containing elements necessary for a comprehensive solution of the problem, aimed at establishing a Federal Republic of Cyprus" (Associated Press, 17 January 1985).

The Secretary General, in his opening statement, reaffirmed that the objective remained as stated in his report to the Security Council of 12 th December 1984, in which he had expressed his expectation that the parties would, at this joint high-level meeting, conclude an agreement containing elements necessary for a comprehensive solution of the problem, aimed at establishing a Federal Republic of Cyprus.

President Denktaş, for his part, voiced the conviction that it was perfectly possible for the Turkish Cypriots and Greek Cypriots to live in freedom and security under their own democratic federated states and to administer their joint Republic, as co-founders, under the roof of a federation. He stated that, as the leaders of the two national communities, their historical task was to give from here, to the two peoples of the island, the good news that a major step on the path to a peaceful solution had been taken. Referring to this "historic opportunity", president Denktaş said, "I believe that this opportunity which Mr. Perez de Cuellar, the Secretary General, has brought about is of a historical magnitude. It is our duty not to let this opportunity slip away. I consider this to be the best chance which we have had as yet."

After stating that the high-level draft agreement which had been prepared after months of hard work was an enormous leap forward in the search for a negotiated settlement, president Denktaş concluded: "Its adoption today by us will mark the beginning of a new era in the relations between our two peoples and we wholeheartedly hope it will lead to the early establishment of the Federal Republic of Cyprus, which will be legacy to leave to future generations of Turkish and Greek Cypriots."

These momentous developments were also hailed by the world media which praised the decisive role and contribution of the Turkish Cypriot side in this achievement. The London Times, for example, in its issue of 1 December under the title "Cyprus Turks offer breakthrough hope", declared:

"In a dramatic move which could break the diplomatic impasse on efforts to end the division of Cyprus, the Turkish Cypriot Community has offered important concessions and effectively left the ball in the Greek Cypriot court."

Mr. Rauf Denktaş, the leader of the Turkish Cypriots announced on Thursday that his side was in complete agreement with the peace plan put forward by senior Javier Perez de Cuellar, the United Nations Secretary-General". (The Times, 1 December 1984).

The European Agency Bulletin (Brussels) reported:

"The Head of the Turkish Cypriot Community has accepted all the proposals made by the UN Secretary-General as part of the talks..." (1 December 1984).

Frankfurter Allgemeine Zeitung of 3 December 1984 and Kölner Stadt-Anzeiger of 5 December 1984 also commented that, a breakthrough was now in sight following the acceptance of the UN proposals by President Rauf Denktaş. Christian Science Monitor of 3 December 1984 described the developments of the third and final round of the proximity talks as follows:

"Indirect negotiations here between Turkish Cypriot and Greek Cypriot leaders over the future of the divided nation have been marked by an unusual flexibility on the Turkish Cypriot side, diplomats say."

The Wall Street Journal of 7 December 1984, under the headline: "New U.N. peace program for Cyprus wins acceptance of Turkish Cypriot leader", reported the developments of the final round of negotiations in the following way:

"A United Nations effort to resolve the decade-old Cyprus problem has reached a crucial stage, following acceptance by the Turkish Cypriot leader Rauf Denktash of a new U.N. peace formula."

"If both sides accept the U.N. proposal, it will open the way for a face-to-face meeting between Mr. Denktash and Mr. Kyprianou, the first since 1979."

The Economist said:

"On November 29th, Mr. Denktash announced that he fully agreed with Mr. Perez de Cuellar's peace proposals... Mr. Denktash is seen as having got into a "no lose" position, whereas many observers think that Mr. Kyprianou will never get as good an offer if he rejects this one." (8 December 1984).

After the U.N. Secretary General's announcement that agreement had been reached to hold a summit between the Turkish Cypriot and Greek Cypriot leaders, the international press continued to praise the Turkish Cypriot side for its contribution and constructiveness in bringing about this positive outcome.

Even the Prime Minister of Greece, Mr. Andreas Papandreou, known for his erratic stunts and for his systematic opposition to peaceful negotiations, could not deny the constructive approach of President Denktaş.

This is how "Athens News Agency" reported Papandreu's statement, on 2 January 1985:

"Premier Andreas Papandreu said in Greek radio and television (ERT) interview today that the Turkish Cypriot side had undoubtedly made significant just settlement of the Cyprus problem."

Mr. Kyprianou, however, as of the very first meeting in the morning of 17 January, raised fundamental objections to each and every paragraph of the draft agreement. Moreover, he denied even the existence of such an agreement. He questioned basic established concepts such as the "equal political status" of the two communities and "bi-zonality" which were already included in the "Vienna Working Points". He was not prepared to fill in the blank dates and agree to the establishment of working groups. On the question of guarantees and the withdrawal of non-Cypriot forces, he put forward demands and views which were totally incompatible with the relevant provisions of the draft agreement. He also opposed the establishment of a transitional federal government.

At one point, he even attempted to deny any knowledge of the very text on which he had based his objections.

When confronted with the truth, Mr. Kyprianou chose to argue that he had misunderstood the whole exercise and proceeded to end the high-level meeting without accepting the draft agreement. These tactics were naturally unacceptable, because they were obviously designed to keep the Turkish Cypriot side committed to the draft agreement, while the Greek Cypriot side would be free to press to extract further sacrifices, from each and every element in the document.

He claimed, throughout the summit that there was no document or "draft agreement". When pressed by reporters on the subject, he went as far as using the term "ghost document" to allege that the whole exercise of three rounds of Proximity Talks had produced nothing.

This claim shocked and surprised reporters covering the summit meeting.

The U.N. Secretary General, in his report to the U.N. Security Council was very specific on this point.

"By 12 December it was my assessment that THE DOCUMENTATION for a draft agreement could now be submitted to the joint high-level meeting." (U.N. Document, S/16858).

The Greek Cypriot spokesman's attempt to deny the existence of a "Draft Agreement" was later criticized by the international and Greek Cypriot press which published it in full text.

In this connection, Mr. Kyprianou's former Foreign Minister Mr. Rolandis, in an open letter published in Greek Cypriot daily FILELEF-THEROS of 25 January, said:

"In New York, Mr. Christophides spoke of a "ghost agreement". I happen to have a copy of that "ghost document" of the Secretary General, just like you do. So, the document ACTUALLY EXISTS. Why, therefore, has the government spokesman not spoken the truth?"

The Turkish Cypriot and Greek Cypriot peoples entered the new year with great hopes.

Three rounds of indirect talks ("proximity talks") between the leaders of the two peoples of Cyprus, held under the auspices of U.N. Secretary General Mr. Perez de Cuellar, had produced a draft agreement containing the elements for an overall solution of the Cyprus problem. The third round of "proximity talks" had been termed by U.N. Secretary General himself, as the "Final round of negotiations". The Summit meeting of 17 January 1985 between the Turkish Cypriot and Greek Cypriot leaders was held in order to conclude and sign what had already been negotiated and agreed.

The draft agreement, prepared after months of arduous efforts and negotiations and presented by U.N. Secretary General Mr. Cuellar to the two leaders at the third round of the proximity talks, envisaged the establishment of a bi-zonal federation by the two peoples of the island. The Turkish Cypriot and Greek Cypriot peoples would run their own federated states in their respective zones and the central Federal government would perform the functions assigned to it by common consent of the two sides. The text of the draft agreement referred to the principle of "equal political status" which is a prerequisite in any federation. It contained provisions aiming to ensure peace and security to both peoples, as well as effective cooperation between the two co-founders of the future Federal Republic.

This hopeful breakthrough had been made possible by the statesman-like and very constructive attitude of the Turkish Cypriot President, Mr. Denktas, who had accepted U.N. Secretary General's proposals in its entirety and without reservations.

At the end of the third and final round of "proximity talks", the U.N. Secretary General had expressed the view that the convening of the high-level meeting was "a piece of news which will be considered a very constructive step forward, leading to the overwhelming, comprehensive solution of the Cyprus problem." Asked how long he thought the meeting would last, Mr. Perez de Cuellar replied that for him "one hour would be enough", but that he would be at the disposal of the two sides for two or three days (Press Briefing by Secretary General, 12 December 1984).

The optimism was shared both in Cyprus and abroad. Yet, the summit of 17 January 1985 collapsed in great disappointment.

The international press, diplomats and world public opinion were unanimous in blaming the greek Cypriots for the failure of the high-level meeting. Mr. Kyprianou destroyed all hopes attached to this meeting by rejecting the draft agreement in its entirety. He even questioned the basic tenets and principles of the existing documents, including the concepts of "bi-zonality" and "equal political status".

The concept of bi-zonality had been accepted by both parties as far back as 1977, during the summit meeting between President Denktaş and Archbishop Makarios. This principle was clearly mentioned in U.N. Secretary-General's Opening Statement of 9 August 1980 (U.N. Document A/35/385 and S/14100 of 11 August 1980).

The principles of "bi-zonality" and "equal political status" were the very basis of the draft agreement accepted during the third round of proximity talks. These principles were clearly mentioned also in the "Vienna Working Points" which constituted the framework and the starting point of the talks.

Here are some newspaper reports concerning the collapse of the high-level meeting:

"U.N. officials said the tone of the meeting turned sour at the outset when Kyprianou presented a position paper that broadly challenged what Perez de Cuellar had assumed was common ground already established between the two sides through his mediation last fall" (Washington Post, 21 January 1985).

"U.N. officials said President Kyprianou even questioned the basic tenets and principles of an accommodation with the Turkish Cypriots, including the concept of

"bizonality" and equal political status for the communities" (The Times, 22.1.1985).

"Greek Cypriot leader blamed for breakdown of U.N. Talks" (Headline of the Washington Times 22.1.1985).

What is more striking and significant is that even Greek Cypriot newspapers and political leaders (including Kyprianou's former Foreign Minister), and the Greek Cypriot House of Representatives reached the same verdict.

They all accused the Greek Cypriot leader Mr. Kyprianou of having, once again, destroyed a golden opportunity for a negotiated and lasting solution in Cyprus.

Some of the headlines in Greek Cypriot newspapers were very clear in their assessment:

"As long as Kyprianou is in office, no solution is possible." (Alithia, 20 February 1985).

"Kyprianou is against any federal solution." (Haravgi, 18 February 1985).

The leaders of the two main Greek Cypriot political parties, representing 67 % of the Greek Cypriot electorate, were also very explicit with their opinions:

Mr. Clerides, leader of DISI, the Conservative Democratic Rally Party declared:

"The Democratic Unity party (DISI) does not approve but condemns President Kyprianou's attempt to re-negotiate everything at the high-level meeting in New York" (Alithia, 3 February 1985).

Mr. Papaioannou, leader of AKEL (the leftist Greek Cypriot party) stated:

"The Cuellar document could have been rejected only by those who oppose a federal solution to the Cyprus problem. But they too must not forget that under the 1977 and 1979 Agreements federal solution was accepted."

"Vienna Working Points" resulted in three rounds of toplevel "proximity talks" in New York in September, October and November-December, 1984, which in turn led to the Summit Meeting of 17-20 January 1985. The negative attitude of Mr. Kyprianou at this Summit Meeting

which resulted in its failure, much to the disappointment of all concerned, is too well known to require any repetition here.

Despite the failure of the 1985 Summit, the U.N. Secretary-General patiently persevered with his current initiative and, eventually, after two rounds of intensive technical talks held separately with both sides at lower-level in November-December, 1985 and February-March 1986, the Secretary-General on 29 March 1986 presented the two sides with a new "Draft Framework Agreement" and expressed the hope that the two sides would be able to advise him "soon of their acceptance of the draft framework agreement".

The Turkish Cypriot side, after careful consideration of the draft by its democratically elected organs, namely, by the President, the Legislative Assembly and the Government, of the Turkish Republic of Northern Cyprus, dully conveyed its positive and affirmative reply in writing by letter dated 21 April 1986 to U.N. Secretary-General's Special Representative in Cyprus, as requested by the Secretary-General.

The Greek Cypriot side, on the other hand, after three hurried visits to Athens by Mr. Kyprianou (on the third occasion accompanied by Greek Cypriot political party leaders) did not, accept the U.N. "Draft Framework Agreement", but (despite constant contacts with the U.N. Secretary-General since the failure of the last Summit in January 1985, its much publicized "acceptance" of the 12 April 1986 U.N. so-called "consolidation" and two rounds of "technical talks at lower-level" between November 1985 and March 1986) chose to make new counter-proposals at the eleventh hour. The gist of these counter proposals, which were communicated to the U.N. Secretary-General by letter dated 20 April 1986, as leaked in the Greek Cypriot press, might be summarized as follows:

(1) The two issues of "withdrawal of troops" (and so-called settlers) and "guarantees" should be taken up at an *international conference*.

(2) If such an international conference cannot be held then the above two issues, *plus* the question of the application of the so-called "three freedoms" ("freedom of movement", "freedom of settlement" and the "right to property"), should be taken up at a specially convened Summit Meeting with this special agenda.

The Greek Cypriot side, in order to "cover up" its nonacceptance of the 29 March proposals of the U.N. Secretary-General, immediately pro-

ceeded to launch a "propaganda offensive" on a big scale and to try to present Turkish constructive and clear acceptance as a "conditional" reply and to put it on the same footing as their negative and unconstructive "counter-proposals". In the light of this very thinly-veiled "offensive" President Denktaş thought it necessary to "nip it in the bud" by writing a second letter to the U.N. Secretary-General on 27 April confirming that he was "prepared to sign the 'Draft Framework Agreement' *as it is* when the draft has been completed by filling in the blank dates". Thus, the Greek Cypriots and others concerned were saved any further trouble of trying to interpret whether the 21 April letter of the President Denktaş was an acceptance or not! They now got the interpretation "straight from the horses mouth" by the very author of the letter of 21 April which the Greek Cypriots were trying to interpret in an unfavourable light.

"I need hardly point out that an international conference on Cyprus would only further complicate an already complicated and complex problem, by inviting others to "fish in troubled waters" in the self-interests of the "fishermen"!

As for a summit Meeting with a special, specific "mini-agenda", this would be contrary to the "integrated whole" or "package deal" principle, which all, including the Greek Cypriots: had accepted since the "Vienna Working Points" of August 1986. The "Draft Framework Agreement" itself stipulates how and when summit meeting should be held "after adequate preparation".

While evaluating the Greek Cypriot reply of 20 April 1986, to the U.N. Secretary-General's "Draft Framework Agreement" of 29 March 1986, which clearly *does not accept* (and, therefore, rejects) the draft framework agreement and, which Mr. Papandreou and the Greek Cypriot media have rightly described as "counter-proposals" (see Cyprus Mail of 22 April 1986), one should not lose sight, *inter alia*, of the following important, though obvious, and pertinent considerations:

(1) The current violent phase of the Cyprus problem began *not in 1974*, but in *1963* (leaving aside for the moment 1821, 1931, 1955 etc.). Therefore, a solution must lie not merely in changing the situation created in 1974 (which was the consequence of the chain of events commencing with the events of 1963) but in removing the causes and consequences of the 1963 Greek Cypriot armed coup against the 1960 Treaties and settlement.

(2) The question of "Guarantees" must be taken up, in point of time, *after* a framework agreement has been reached. We must know beforehand the outlines of the settlement to be guaranteed.

(3) The U.N. "Draft Framework Agreement" is an "*integrated whole*", as also *twice* emphasized in the text of the draft itself (see second paragraph of the preamble and the first sentence of paragraph 14.1). This principle of "integrated whole" has been observed in the "Vienna Working Points" of August 1984 and ever since.

(4) The U.N. Secretary-General has constantly emphasized that any summit meeting must only be *after adequate preparation*", as again underlined more recently in the last sentence of paragraph 14.1 of the "Draft Framework Agreement" of the 29 March 1986.

(5) It should be recalled that throughout the lower-level "technical talks" in London, Geneva and Nicosia, the U.N. Secretary-General's representatives had consistently stressed, and had insisted upon, the need for "*formal and unconditional acceptance*" of the draft framework agreement *before* any summit meeting.

(6) Greece and the Greek Cypriots, who wish to kill the U.N. Secretary-General's current initiative and any prospects of intercommunal dialogue and who are not interested in peace or a partnership federation, appear to wish to take a short-cut to *creating a deadlock speedily* (i.e. without waiting for the establishment of working groups) and issues which they mistakenly consider to be most favourable to themselves from the point of view of public relations propaganda (i.e. on issues such as "the withdrawal of non Cypriot military troops", "Turkey's guarantee", "three freedoms" etc.).

The insincere and purely tactical Greek/Greek Cypriot counter-proposals are contrary to all the above material points, both as regards substance and procedure.

The fact that the Greek Cypriot reply is a rejection of the Secretary-General's proposals is further confirmed by the Greek Premier Mr. Papandreou himself in his address to the Greek Parliament on 23 April 1986. Mr. Papandreou in that speech went even further than the Greek Cypriot counterproposals and also, in addition to the three specific points ("guarantees", "withdrawal of non-Cypriot military troops", "three freedoms"),

he rejects the "Draft Framework Agreement" on three additional grounds, namely, constitutional safeguards for Turkish Cypriots, territorial adjustments and so-called "security needs of the Greek Cypriots". Mr. Papandreou is trying to justify their rejection on the basis of these six points.

Furthermore, new light is thrown on the Greek/Greek Cypriot *rejection* in a leading article on the front page of the Cyprus Mail of 29 April where Mr. Papandreou is reported as saying that "Cyprus is not alone in rejecting the proposal".

The above facts speak for themselves and leave no doubt as to the true nature of, and the reasons for, the Greek/Greek Cypriot rejection.

Greeks and the Greek Cypriots are not at peace among themselves. Their failure is not only political, but also moral. As long as they refuse even to recognise that during the 1963-1974 period they carried out large-scale, brutal and totally unprovoked attacks upon the Turkish Cypriots and deprived them of their most basic human rights, they will never understand the profound concern of the Turkish Cypriot People for their own security and their complete distrust of the Greek Cypriot leadership. Consequently, unless the Greek Cypriots have a change of heart, they will never be able to negotiate on a realistic basis with the Turkish Cypriots.

Unfortunately the fundamental gap between the two sides is still as wide as ever. As will have been seen from the background to the Cyprus problem, the fundamental difference between the two sides is one of approach and ultimate aspiration. On the one hand, the Turkish Cypriots wish to live in their own homeland, as an equal people with the Greek Cypriots, in peace, freedom and security, free from fear of Greek Cypriot domination or of colonisation by Greece. The Greek Cypriots on the other hand, relying purely on their greater numbers, wish to turn the whole of Cyprus into a "Greek Island", completely dominated by them, with the door always left open to some form of union or association with Greece, as and when the opportunity arises, and in which the numerically smaller Turkish Cypriot people would only be tolerated by them as a mere "minority".

Some of the main issues which still constitute fundamental and basic differences between the two sides and which have been the reason for the Greek Cypriot rejection of the "Draft Framework Agreement" are:

(1) Clearly there can be no federation unless the principle of the *equal political status* of the two units which will make up the federation are un-

equivocally accepted. Obviously there cannot be a federation, in any sense of the term, between a "majority" and a "minority", which is certainly *not* the relationship between the two co-founder peoples of the bi-national 1960 Republic of Cyprus.

(2) The Turkish Cypriot side cannot feel secure about its future or its very survival without the effective, and practically enforceable, *guarantee of Turkey*. This is something on which the Turkish Cypriots, for obvious reasons, cannot compromise. The false devise of watering down Turkey's guarantee by the addition of so many other guarantors (such as all, or some, members of the UN Security Council or some of the so-called "Non-Aligned Countries") as to nullify Turkey's guarantee and make it ineffective or inoperable in practice, certainly cannot be accepted by us. In connection with this vital issue of Turkey's guarantee, I would simply like to ask the Greek and Greek Cypriot side this straightforward question: "If they do not intend to destroy subsequently the proposed new federation; if they will not look upon the new federation merely as a means to an end (like 1960 Zurich and London settlement) and just as a means of securing the withdrawal of Turkish troops; and if they are prepared to accept the proposed new federation as an end in itself, then what have they got to fear from Turkey's guarantee, which, in any event, would, and could, never be implemented if Greece and Greek Cypriots did not act in violation of the new settlement?" After all, Turkey did not intervene, even during the 1963-1974 period, until it was left with no other alternative when Enosis was imminent.

(3) The Turkish Cypriot side would never accept the *withdrawal of Turkish troops* (as insisted upon by the Greek Cypriot side) *before* the proposed transitional federal government is established. Any agreed timetable for such withdrawal (other than the agreed number to be retained under the Treaty of Guarantee and Treaty of Alliance) should only be implemented *after* the establishment of the proposed transitional federal government. For the Turkish Cypriots to give in to this demand would, for obvious reasons, jeopardize Turkish Cypriot security. (We do not wish to have a repetition of the massacres which took place in Beirut in the summer of 1982, when the Christian Lebanese (encouraged by Israel) attacked the Muslim Lebanese after the premature withdrawal of the "multi-national force" from Beirut).

(4) The so-called "*Three Freedoms*", i.e. the freedom of movement, the freedom of settlement and the right to property, cannot be implemented in such a way as to nullify the criteria already agreed to in Guideline 3 of the Denktaş-Makarios "Four Guideline", namely, "the fundamental basis of a bi-communal federal system" and the security of the Turkish Cypriots. I need hardly point out that these "Three Freedoms" are certainly not more vital than the more fundamental human rights to life, liberty, security, etc. The Turkish Cypriots do not wish the lesser so-called "Three Freedoms" to be implemented in such a way as to put at risk the human right to life and corporeal integrity. The Turkish Cypriot People, who have suffered so bitterly and for so many long years in the field of human rights, are in a better position to appreciate the necessity for safeguarding and protecting human rights in the proposed Federal Republic. It is the Turkish Cypriot view that while all fundamental rights and liberties will, of course, be respected throughout the Federal Republic, it is obvious that, in view of the root causes of the conflict and past events, certain rights and liberties, such as the freedom of movement, freedom of settlement and the right to property (which are the three always singled out for special mention by Greek Cypriot propaganda) cannot be implemented initially without caution or regulation. The existence of difficulties in this respect is clearly recognized in Guideline 3 of the "Four Guidelines" of 1977.

Before concluding I would like to stress that the all-Greek Cypriot State, which was created in 1963-64, after the Greek Cypriot armed coup against the Zurich and London compromise settlement of 1959-60, should not be confused with the bi-national partnership Republic of Cyprus which was established in 1960. The Greek Cypriot Republic in Southern Cyprus is certainly *not*, in law or in fact, the 1960 bi-national partnership Republic of Cyprus, to which Britain had transferred sovereignty and which Britain, along with Turkey and Greece, had guaranteed. The Greek Cypriot Government in Southern Cyprus, to which Turkish Cypriots do not, and have never, owed allegiance, has no jurisdiction, in law or in fact, over the territory of the Turkish Republic of Northern Cyprus⁹⁵.

The UNSG is entrusted with the mission of good offices under Security Council Resolution 367/1975. Within this mission, he has produced two Draft Agreements, respectively in January 1985 and on 29 March

⁹⁵ Ibid.

1986, following comprehensive talks with Turkish and Greek Cypriot sides.

At the cost of painful concessions, the Turkish Cypriot side accepted both of the documents. However, under active encouragement from Athens, the Greek Cypriot side rejected both of the Draft Agreements. Thus it became evident for the international public opinion that it was the Turkish Cypriot party which wanted a peaceful settlement of the Cyprus question whereas the Greek Cypriots were not ready for compromise and reconciliation.

In order to divert attention from their negative attitude, the Greek Cypriots engaged themselves in extensive efforts of propaganda, hence, artificial and insubstantial allegations regarding "Varosha", "Turkish military presence in the island", "missing persons" etc.

Parallel to this, special efforts were exerted to internationalize the question of Cyprus. This was yet another proof of Greek Cypriot preference to seek one sided resolutions in international fora in the absence of the Turkish Cypriot side rather than to engage in meaningful negotiations for finding a peaceful solution.

The main purpose of the Greek Cypriot side in internationalizing the question and raising artificial issues was to undermine the UNSG's mission of good offices and to do away his Draft Framework Agreement of 29 March 1987.

It was with these motives that the Greek Cypriots requested a debate on the question of Cyprus during the 42 nd session of the UNGA (United Nations General Assembly).

Consultations in New York revealed that a strong majority of the UN membership did not support the Greek Cypriot request for such a debate. This majority clearly showed its preference for the Secretary General's efforts and a negotiated solution on the basis of his March 29, 1986 document. Consequently the Greek Cypriot side felt obliged to withdraw its request for a debate during the 42 nd UN General Assembly.

These developments indicate that the international community realizes more and more the facts concerning the Cyprus issue. They should, in our view, constitute also a clear and constructive message to the Greek Cypriot side: a message of disapproval for Greek Cypriot course of action

and a message of strong support for UNSG's efforts and a peaceful settlement through negotiations under his mission of good offices.

We believe that the present circumstance offer to all genuinely interested in the question of Cyprus a real opportunity to break the present stalemate and to press for progress in search for a final solution.⁹⁶

The Turkish Cypriots believe that a just and lasting solution in Cyprus is possible through the establishment of a bi-national, bi-zonal federal state. Imbued by this belief, the Turkish Cypriot side expressed its full support to the UNSG's mission and accepted its concrete and comprehensive outcome, the Draft Framework Agreement, which is still on the table as constantly emphasized by the UNSG.

Given the recent developments and the prevalent circumstances, what is to be done by the international community at this juncture is to insist on the Greek Cypriot acceptance of the document so tha further steps could be taken in the direction of an early negotiated solution.

XI. *Conclusion*

The Turkish Cypriot proposals for a bi-zonal re-establishment of the partnership-independence are seen as the only way for putting bridges of cooperation between the two totally separate communities which have lived in a state of war or semi-war for the last fourteen years. The ultimate objectives of peace, cooperation and co-existence have a fair change under this system which will bring a sense of security and equality to both sides.

The Greek Cypriot allegation that a weak central government will pave the way to the disintegration of the state is gross exaggeration. The preventative remedy for such an eventuality lies in the continuation of the national guarantees, but for which Greek Cypriot leaders would have long ago achived the complete dissolution of the state by uniting the island with Greece. The Turkish Cypriot side cannot therefore, accept the proposition that, while seeking ways and means of protection of the bi-national state, it should give the Greek Cypriot side the same rights which it used exactly for the purpose of dissolving the state.

⁹⁶ This paper was prepared and submitted to Belleten before the new nound of talks stanted betfeen President Denktaş and the Greek Cypriot leader Vasilou.

In the search for a fair settlement, it is the view of the Turkish Cypriot community that the balance should not be tilted against the Turkish Cypriot community under the guise of preserving the state, because the Turkish Cypriot community (and its political and administrative re-establishment under a federal state in its own federated land) is a fundamental factor in the preservation of the bi-national state.

Since the Turkish peace operation, Cyprus has found peace and the Turkish Cypriots community has enjoyed full security for the first time in its own land. A bi-zonal set-up has eliminated all friction and day-to-day conflict which was engineered by those who wished to endanger peace on Cyprus in order to unite island with Greece.

The Turkish Cypriot side believes that if goodwill exists and a federal system is the aim of both sides, then an agreement for the establishment of a bi-communal transitional government while the peace talks continue, will enhance the chances of success and will stop the process of continuing separation between the two communities.

The Turkish Cypriot side reiterates that it stands for permanent independence within the context of bi-zonal federal system, non-alignment and full cooperation with the Greek Cypriot community on the basis of equality.

The population of Cyprus is made up of two national Communities which are the co-founders of the Republic of Cyprus. According to international Agreements and Treaties which have established this bi-communal Republic, each of the two Communities has always elected its own deputies on the basis of separate electoral registers.

The bi-communal structure necessitates the participation of the two peoples of Cyprus (The Greeks and the Turks) in the Executive, the Parliament, the Judiciary, the Civil Service. But this partnership Republic has been destroyed in 1963-1964 and since then all the organs of the state have been monopolized by the Greek Cypriot Community.

The armed attacks of 1963-1964 led to the collapse of the partnership. The fact is that the monopolization of all the organs and machinery of the state by Greek Cypriots since 1964 has resulted in:

1. The non-existence of a joint, democratic, national Parliament elected by the entire population of Cyprus and capable of representing this population.

2. In an inadmissible discrimination based on race, belief and language against one of the two co-founder national communities of Cyprus.

The so-called "House of Representatives" has become in fact a "Greek Cypriot Communal Chamber." This is illustrated by the fact that the "Greek Cypriot Communal Chamber" established according to international Treaties has been abolished and the powers of this exclusively Greek-Cypriot Chamber have been transferred -by an ordinary "law"- to the "House of Representatives".

Since 1964, this "House" is composed exclusively of Greek-Cypriot deputies, elected solely by the Greek Cypriot Community.

The bi-national Republic of Cyprus established jointly by the two co-founder peoples of Cyprus had two official languages. But since 1964, all provisions concerning the bi-national character of the State have been ignored or illegitimately abolished. The exclusive use of Greek and the publication of all so-called "laws" in Greek only constitutes another evidence proving that the "common" Parliament of Cyprus has ceased to exist since 1964.

The Parliamentary Assembly of the Council of Europe has always been and has to continue to be the foremost defender of democratic principles, of human rights and of the rule of law.

From 1964 to 1983, the "Greek Cypriot Parliament" composed exclusively of and elected solely by the Greek Cypriots has not been considered by the Parliamentary Assembly of the Council of Europe as a national and democratic parliament representing the entire population of Cyprus. It was repeatedly decided and stressed:

a) that a unilateral representation not including members of the two co-founder communities "is incompatible with the statutory provisions of the Council of Europe";

b) that the Parliamentary Assembly can not tolerate a situation "which is not compatible with the supremacy of law referred to in the statute of the Council of Europe";

c) that "the fact that the Cypriot delegation includes no Turkish member invalidates the country's whole representation";

d) that "this is a matter which deals not only with the Constitution of Cyprus, but with the Statute of the Council of Europe";

e) that a partial and unilateral "Cyprus delegation without any Turkish Cypriot representatives... is definitely untenable";

f) that "a country is only properly represented if the nature of its delegation, the manner of selection of the delegates who represent it, are compatible with the wording and spirit of our Statute". The representation of Cyprus by members belonging to only one of its two peoples "is incompatible with democracy and human rights."

g) As has been underlined in an official letter of Mr. Carl Czernetz the late President of the Parliamentary Assembly, one has to admit that:

"The criteria on which relations between governments are based are not necessarily the same as those governing relations between Parliaments... For the moment, there is no parliament representing the whole population" Mr. Czernetz rejected to send an invitation to the President of the Greek-Cypriot House of Representatives underlining that the "unswerving policy of the Assembly was based solely on the principle that Parliamentary institutions must be representative - a principle to which we have at all times remained entirely loyal, since it is the very foundation of the Parliamentary Assembly and the inspiration for the whole of its activity in the international sphere": (Letter of C.Czernetz, dated 10 January 1977, Document CM/Del/Concl. 77/264).

It is juridically erroneous to admit a unilateral, partial, discriminatory representation, in contravention of all democratic principles constituting the very foundation of the Council of Europe. Such a partial, unilateral, discriminatory representation is not compatible with the "supremacy of law" and with the wording and spirit of the statute of the Council of Europe.

No pretext can be invoked to justify a violation of the "rule of law" and a unilateral representation resulting in an unlawful discrimination. Even those who, in the past, reluctantly tolerated a unilateral or partial representation did not deny that such a device was "not satisfactory" and that it was "abnormal".

While the search for the establishment of a bi-communal, bi-zonal, Federal Republic is continuing under the U.N. Secretary General's auspices, a unilateral and partial representation can only obstruct the search for a negotiated and just settlement.

The partnership Republic established by the 1959-1960 Treaties and by the 1960 Constitution does not exist any more and the search for a new order, namely a federal solution is going on.

The representation of Cyprus at the Parliamentary Assembly has to be deferred until a final solution of the Cyprus problem whereby a common, democratic, federal Parliament representing the two ethnic peoples of Cyprus will be set up; or until a transitional, ad hoc formula is worked out that would provide for a simultaneous representation of both Communities.

ANNEX I.

Declaration on the Establishment of The Turkish Republic of Northern Cyprus

DECLARATION

INTRODUCTION

Developments which have taken place in Cyprus for the last 20 years, and the critical stage which these developments have reached at present, necessitate the placing of certain facts with clarity before world public opinion.

We expect all all those who desire peace and fundamental human rights to prevail on earth, who reject discrimination among men on grounds of race, national origin, language or religious belief and who are against colonialism and racism, to give serious consideration to these indisputable facts free from prejudice and preconception.

DESTRUCTION OF THE PARTNERSHIP STATE BY GREEK CYPRIOTS

1. The establishment of the Republic of Cyprus as an independent State was based on the partnership of the Turkish Cypriot people and the Greek Cypriot People. This joint Republic, which was established through the agreement of the two national communities, has been deliberately undermined and destroyed by the Greek Cypriot Administration since 1963. The Legislative, Executive and Judiciary of the partnership State, its entire Civil Service, from the most senior to the most junior ranks, have been usurped and taken over by the Greek Cypriots, placing the under the monopoly of only one of the two co-founder national communities.

Police and armed forces consisting exclusively of Greek Cypriots were formed and these armed elements have been used against the Turkish Cypriot People as an instrument of oppression and persecution.

For the past 20 years, the Turkish Cypriot People has been in a state of legitimate resistance and self-defence in the face of threats and attacks directed against its fundamental rights and freedoms, its political status and its very existence in Cyprus.

USURPATION OF THE LEGISLATURE

2. There has not been a single Turkish Cypriot member since 1964 in the "House of Representatives" of the so-called "Republic of Cyprus" whose bi-communal partnership character had been abrogated in December 1963 by brute force and armed violence. The right to elect and to be elected to this assembly, has been under the de facto monopoly of the Greek Cypriots for the past 20 years. A "House of Representatives" elected exclusively by the Greek Cypriots, and to which only the Greek Cypriots could be elected, cannot under any circumstances be regarded as the parliament of a partnership state based on two national communities. Although according to the Constitutional structure of 1960, religious affairs and similar communal functions of the Turkish/Muslim and the Greek/Orthodox communities had been entrusted to two separate Communal Chambers was unconstitutionally and unilaterally abolished by the Greek Cypriot side and its functions were transferred to the so-called "House of Representatives". Even this fact alone is sufficient to show that the said House had become the legislative assembly of only the Greek/Orthodox community. Such an assembly to which no Turkish Cypriot can be elected and in the election of which no Turkish Cypriot can participate surely cannot in any way represent the Turkish Cypriot people. The only assembly which can represent the free will of the Turkish Cypriots is the parliament elected by the Turkish Cypriot people themselves through democratic elections.

The fact that so-called "House of Representatives of the Republic of Cyprus", which had thus come under the monopoly of the Greek Cypriots by force and armed violence, could not represent the entire population of the island had also been acknowledged by the Parliamentary Assembly of the Council of Europe as far back as 1964. In spite of this fact the Greek Cypriot leadership has, in complete disregard of every principle of equity and justice, recently attempted to create yet another fait accompli with a view to having Cyprus represented in the Parliamentary Assembly of the Council of Europe unilaterally by the Speaker of the Greek Cypriot parliament. The call made by the Speaker of the Turkish Cypriot parliament, proposing that the Speakers of the national assemblies of the two communities should meet to resolve this question, was not even given a reply by the Speaker of the Greek Cypriot assembly.

USURPATION OF THE EXECUTIVE

3. Like the parliament of the so-called "Republic of Cyprus", its executive organ also came under the de facto monopoly of the Greek Cypriots. The leader of the Turkish Cypriot Community, who was empowered to exercise executive powers jointly with the leader of the Greek Cypriot community, has been prevented from doing so by brute force and intimidation, since 1963. For 20 years, the seats in the Council of Ministers belonging to the Turkish Cypriots have been unlawfully occupied by the Greek Cypriot "Ministers".

Such an executive organ, of course, is obviously not entitled to act or speak on behalf of the Turkish Cypriot People.

The only President entitled to speak on behalf of the Turkish Cypriot People is the President empowered to do so through democratic elections by the Turkish Cypriot People themselves. The only Government that can represent the Turkish Cypriot People is the Government responsible to the Parliament elected by the free will of the Turkish Cypriot People.

USURPATION OF THE JUDICIARY

4. Even after the premeditated armed attacks against the Turkish Cypriot People in 1963, Turkish Cypriot judges had tried to continue to perform their duties. In a short while, however, these judges were also ejected from the judiciary by armed threats and brute force. There is not a single Turkish Cypriot judge in any of the judicial organs since established by the Greek Cypriot Administration in complete disregard of the Agreements and in violation of Constitutional provision.

Just like the legislative and executive organs, the Greek Cypriot leadership had also put an end to the joint judicial organs of the partnership State and placed them completely under monopoly of the Greek Cypriots. In these circumstances, the Turkish Cypriot People were obliged to establish their own independent courts in order to meet their judicial requirements.

MONOPOLIZATION OF THE CIVIL SERVICE

5. The Greek Cypriots had seized all the public posts, ranging from under-secretary to messenger, which under the partnership State had to be shared by both communities. Obviously, the Turkish Cypriot People

cannot regard such a Civil Service as their own legitimate public administration.

UNILATERAL FOREIGN REPRESENTATION

6. All the representatives of the so-called "Republic of Cyprus" assigned to foreign countries and international organizations, without a single exception, belong to the Greek Cypriot community. There is not a single diplomat or even a secretary belonging to the Turkish Cypriot community in the entire foreign service of the Greek Cypriot Administration.

This foreign service protects only the interests of the Greek Cypriots and regards the political and economic strangulation of the Turkish Cypriot Community as a prime duty. Such a foreign service and its members abroad who have constantly been acting in hostility against the Turkish Cypriots, cannot possibly be accepted by the Turkish Cypriot People as their own representatives.

POLICE AND ARMED FORCES

7. It was an obligation arising from the Agreements leading to the establishment of the partnership State, that the police, gendarmerie and the armed forces should consist of persons belonging to both national communities. The Head of one of the armed forces had to be a Turkish Cypriot and the Heads and Deputy Heads of each of the armed forces had to belong to different communities.

In the past 20 years, there has not been any Turkish Cypriot of any rank in the police and armed forces, which have completely been taken over by the Greek Cypriot Administration. Can these armed elements, who have in the past held under siege Turkish Cypriot villages and Turkish quarters of the towns, be possibly regarded by the Turkish Cypriot People as their own "security forces"? Can it ever be possible for the Turkish Cypriot People to entrust its life, property, honour and dignity to these armed elements who have in the past, hand in hand with the EOKA terrorists, set Turkish Cypriot villages on fire and indiscriminately massacred Turkish Cypriots without even sparing women, children and the elderly?

BUDGET AND PUBLIC SERVICES

8. Not a single penny from the budget of the so-called "Republic of Cyprus" is ever spent on the Turkish Cypriots. Notwithstanding the fact that all the public establishments and institutions which have been set up with the contribution of the Turkish Cypriot People are the common property of both national communities, the State machinery which has been usurped by the Greek Cypriots, naturally, does not extend to the Turkish Cypriot People any of the public services required of a state.

In the past, the Greek Cypriot Administration, purporting to be the "Government of Cyprus", while providing electricity and water for the Greek Cypriot villages, has deliberately left even the neighbouring Turkish Cypriot villages without electricity and water. For many years, a veritable siege had been imposed on Turkish Cypriot enclaves prohibiting the provision of even the most basic items such as medicine, foodstuffs, construction material and even Red Crescent assistance. Turkish Cypriots who were studying abroad faced obstacles on returning to their own homeland. Obstacles were even created for the registration of newly born children and, in fact, the majority of Turkish Cypriot children after 1963 were not registered at all. On the "State" television, Greek Cypriot primary school children were told that the Turkish Cypriots were their "national enemy". In brief, the Greek Cypriot Administration has pursued a relentless policy of discrimination against the Turkish Cypriots.

What has compelled the Turkish Cypriot People to establish its own administration, to prepare its own budget and to organize its own public services is precisely this hostile and discriminatory attitude of the Greek Cypriot Administration.

ECONOMIC WARFARE AGAINST TURKISH CYPRIOTS

9. The above-mentioned discriminatory policies and practices have also aggravated the economic and social disparity between the Turkish Cypriot People and the Greek Cypriots. The obvious economic gap between the two cofounder partners is closely related to the Greek Cypriot policies of domination and exploitation.

Even today, the Greek Cypriots are trying to impose an all-out embargo on the Turkish Cypriot People and to create every conceivable obstacle in order to strangle by economic means, the Turkish Cypriot People

whom they have not been able to subjugate through armed violence and terrorism. This attitude has assumed the dimensions of an aggression directed against the fundamental rights and freedoms of the Turkish Cypriot people.

ARMED ONSLAUGHT AND EXTERMINATION PLANS

10. The Greek Cypriot leadership has in time past tried to force a choice on the Turkish Cypriots between "death or exile". In order to eradicate totally the Turkish-Islamic presence in the island, numerous plans of aggression and massacre, all well documented and verified, such as the notorious Akritas plan, the "extermination" plans for implementation by the Greek Cypriot National Guard against the Turkish Cypriot people and the "Ioannides-Sampson" plan, were prepared.

Ever since 1955, when EOKA terrorist organisation first launched its campaign of terror and violence, intimidation and extermination plans have been put into operation on many occasions in hundreds of Turkish Cypriot villages and in the Turkish Cypriot quarters of towns.

Even today, the Greek Cypriot leadership refuses to recognize the Turkish Cypriot Community's right to live in security and freedom in its own zone. It has become more and more evident with every passing day that the aim of the Greek Cypriot leadership is none other than to force the Turkish Cypriot People to live as a "Subject community" with the status of second class citizens within a State which in practice would be dominated by the Greek Cypriots.

A faction of the Greek Cypriot leadership, and the pan-Hellenists in Greece who manipulate them, have not given up the illusion of totally hellenising the island of Cyprus, in which two separate national communities live and where these two communities must co-exist in peace.

The fanatical Greek-Orthodox Church of Cyprus, which does not even make any secret of its aim of hellenising the entire island, continues to prevail over the Greek Cypriot Administration.

INHUMAN DISCRIMINATION

11. The afore-mentioned facts clearly demonstrate that the Greek Cypriot Administration's claim to represent also the Turkish Cypriot People is incompatible with the principles of democracy, human rights, the

principles of the United Nations and with reason and morality. The Greek Cypriot leadership, who wishes to subjugate the Turkish Cypriots to alien domination and who has placed all State organs under the monopoly of the Greek Cypriots, has in fact displayed one of the most flagrant examples of discrimination based on race, national origin, language and religion.

WHY WE OWE NO ALLEGIANCE TO THE GREEK CYPRIOT ADMINISTRATION

12. The Greek Cypriot leadership which denies to the Turkish Cypriot People the right to security, equality and fundamental freedoms; the right to participate effectively in the administration of the State; the right to self-government and the right to self-determination; and even the right to existence, can no longer claim any legitimate connection whatsoever with the Turkish Cypriot People.

The Turkish Cypriot People could owe no allegiance whatsoever to an administration;

which has implemented racist and discriminatory policies;

which has attempted to usurp all the rights of the Turkish Cypriot People emanating from History, from international Agreements, and from Declaration and Conventions on human rights;

which has lost all legitimacy by totally ignoring and violating international Agreements and the constitutional order;

which has placed all the organs of State under the monopoly of the Greek Cypriots;

which has become exclusively the administration of the Greek Cypriots, not only because of its composition, but also because of the policies it continues to pursue;

which is serving the interests of pan-hellenist expansionism; and

which aims at the very elimination of the Turkish Cypriot existence in the island.

A FULLY WORKING DEMOCRACY

13. Today the Turkish Cypriot People has a democratically-elected President chosen by the people through direct universal suffrage; a dem-

ocratically elected Parliament which represents the free will of the Turkish Cypriot People within a democratic multi-party system; a Government which is responsible to this Parliament; an independent judiciary with a Supreme Court which also reviews the constitutionality of all legislation; a public administration which cover all the functions of a contemporary State; security forces which maintain law and order; laws enacted through the votes of the elected representatives; taxation imposed by these laws; its own budget and its own security institutions.

A PEOPLE DETERMINED TO LIVE TOGETHER IN SECURITY AND FREEDOM

14. In order to save themselves from oppression and tyranny and from the constant danger of being annihilated, and in order to be able to live in security and freedom amongst their own national community; thousands of Turkish Cypriots who had been living in south Cyprus had clandestinely crossed over to the North through mountain passes, leaving all their belongings behind and at the risk of their lives. As a result of the opportunity provided by the "Vienna Agreement" of 2 August 1975, the Turkish Cypriot People in its entirety have settled in Northern Cyprus.

The Turkish Cypriot People are determined to live together; they are determined to protect their national identity, to govern themselves in a democratic manner. They are willing to reach just and peaceful solutions, on all issues, through negotiations on the basis equality with the Greek Cypriot People.

REJECTION OF RE—COLONIZATION BY GREECE

15. Although Cyprus has never been a part of Greece, either geographically or historically, the Greek Cypriot leadership, under the influence Greece, has never given up the aim of annexing Cyprus to Greece.

The Turkish Cypriot People, who have all along rejected all forms of colonialism have defended the independence of Cyprus at the cost of their lives, by resisting against ENOSIS. Had it not been for this valiant resistance of the Turkish Cypriot people, the whole of Cyprus would have been annexed to Greece long ago, the independence of Cyprus terminated and the Turkish Cypriot People once again put under colonial rule.

The Turkish Cypriot People, after having freed from colonial rule and after having established a bi-communal State as a co-founder partner,

and subsequently having been ejected from all the organs of that State, could never accept to live once again as an oppressed "subject community" under an administration totally in the monopoly of the Greek Cypriots; nor could they accept to be put, as a results of ENOSIS, under the rule of a foreign nation.

TURKISH CYPRIOT EFFORTS FOR A BI—ZONAL FEDERAL SOLUTION

16. The Turkish Cypriot People have earnestly strived for years for the re-establishment of an order which would be based on the equal partnership of the two peoples within a bi-zonal federal solution.

The Turkish Cypriot People, faced with the continued need for self-government while formally establishing its own state in 1975, had adopted the name and status of a "federated state" in order to pave the way for the foundation of a federal union.

In the Summit Agreement of 1977, concluded between the leaders of the two communities, the establishment of a bi-communal, bi-zonal federation was accepted as the common aim. This aim was later confirmed in the 1979 Summit Agreement, in the Opening Statement of the UN Secretary-General of 1980 and in the UN Evaluation Document of 1981.

In order to achive this aim, direct negotiations between the two national communities, and on the basis of equality, under the auspices of the UN Secretary-General, have been accepted as the only valid method. Believing that a just and lasting solution could only be achieved through this process, the Turkish Cypriot People and its leadership have made sincere efforts within this framework.

DESTRUCTION OF THE NEGOTIATING PROCESS BY GREEK CYPRIOT LEADERSHIP

17. The Greek Cypriot leadership, especially since towards the end of 1981, under the negative influence of Greece, constantly has acted with the intention of undermining the negotiating process, of destroying the framework of the negotiations as well as eroding the major points of agreement on which the negotiations were based. All warnings and calls made by the Turkish Cypriot side in order to preserve the basic points of agreement achived through great efforts and patience and in order not to

jeopardize the negotiating process have all gone unheeded with blind intransigence.

In the course of the last three years, while the intercommunal talks were continuing the Turkish Cypriot side actively made constructive contribution to the negotiating process, with a view to giving effect to the agreed basis for a bi-zonal federal solution. The basic negotiating position of the Turkish Cypriot side took into account the agreed criteria in the Summit Agreements of 1977 and 1979, and was in harmony with the approach in the UN Secretary-General's Opening Statement of 1980 and the UN Evaluation Document of 1981. The Turkish Cypriot side made comprehensive proposals on all aspects of the problem, explored all constructive means and approaches in order to pave the way for a compromise and was prepared to make great sacrifices to this end.

However, all proposals made in good will and all steps taken by the Turkish Cypriot side to pave the way for a compromise have remained unreciprocated. Although it had been emphasized on numerous occasions that the Turkish Cypriot side was ready for meaningful negotiations in order to move rapidly towards a federal solution, the Greek Cypriot leadership first slowed down and frustrated the negotiating process, and then they abandoned the negotiating table altogether, eventually taking the Cyprus question to international fora where the Turkish Cypriot People had no opportunity of being heard, and of defending their rights.

It has become quite clear that the Greek Cypriot leadership does not wish to accept the Turkish Cypriot People as an equal co-founder partner within a federal structure.

A negative attitude, especially in recent months, has been predominant in the Greek Cypriot leadership-an attitude which is not compatible with the concept of a federal state and the concept of co-founder partnership; which does not take into account the bitter experiences of that past; which does not recognize the right of the Turkish Cypriot People to live in security and freedom in their own zone; and which even aims at destroying mutually agreed fundamental points of agreement.

Under these circumstances, the Turkish Cypriot People has been confronted with the necessity of determining its own destiny.

INALIENABLE RIGHT TO SELF—DETERMINATION

118. The Parliament elected by the free will of the Turkish Cypriot People has, as the only legitimate body capable of representing them, already declared to the world that the Turkish Cypriot People possess the right of self-determination.

The right of self-determination of the Turkish Cypriot People stems naturally from the fundamental rights and freedoms possessed by all men. Many a State, large or small, have been established through the exercise of the right of self-determination.

This right constitutes one of the fundamental principles of the Charter of the United Nations.

Article 1 of the "International Covenant on Civil and Political Rights" as well as Article 1 of the "International Covenant on Economic, Social and Cultural Rights" also confirm the inalienable right of the Turkish Cypriot People to "self-determination".

As stated in Article 1 of the Universal Declaration of Human Rights, "all human beings are born free and equal in dignity and rights". All of the international documents relating to fundamental human rights emphasize that their right must be exercised without discrimination of any kind as to race, colour, language, religion or national origin.

The participation of every citizen, directly or through freely chosen representatives, in the conduct of public affairs, and access, on terms of equality, to public service, are among the fundamental rights protected by basic documents relating to human rights.

As mentioned before, the Turkish Cypriot People have been prevented from all kinds of participation in the conduct of the public affairs of the so-called "Republic of Cyprus". The Greek Cypriot leadership has, for long years, given the most inhuman examples of discrimination based on national origin, language and religious belief. Turkish Cypriot citizens of the partnership State have been deprived of all their civil, political and of all economic opportunities and public services.

Even individuals known by the Greek Cypriot Administration to have committed crimes and atrocities against Turkish Cypriots have gone unpunished and not a single Greek Cypriot official who had oppressed and discriminated against Turkish Cypriots has ever been prosecuted for his offences.

The Greek Cypriot Administration, by its very composition and its own actions; by destroying the partnership State; by trying to deprive the Turkish Cypriots of their fundamental rights and liberties; and by pursuing a policy of hostility against them, has disqualified itself from any claim to be the legitimate "Government" of the whole of Cyprus.

The exercise of the right of self-determination has become an imperative for the Turkish Cypriot people.

NOT ONLY A RIGHT BUT ALSO A DUTY

19. For years, the Turkish Cypriot People, having been deprived of its fundamental rights, has sacrificed the lives of many of its sons in order not to bow to servitude and domination.

It is the inalienable right of the Turkish Cypriot People to live freely in security, peace and happiness under a government emanating from its own free will and to determine its own destiny. To declare that we have decided to do so has become not only a "right" for us, but also a "duty" towards future generations.

ETERNAL AND UNIVERSAL PRINCIPLES

20. No one can expect the Turkish Cypriot people to renounce the principle that:

"All people have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development".

No one can prevent the Turkish Cypriot People from declaring the following eternal truths:

"...all men are created equal, they are endowed by their Creator with certain inalienable rights; among these are Life, Liberty and the pursuit of Happiness... Governments derive their powers from the consent of the governed."

The Turkish Cypriot People believe that there must be in the world:

"...peaceful and friendly relations based on respect for the principles of equal rights and self-determination of all peoples, and of universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

The Turkish Cypriot people have as much right to live in freedom and independence as the Greek Cypriots.

CONFIRMATION OF AN EXISTING REALITY

21. The Turkish Cypriot People have in fact exercised this right a long time ago; they have established their own State with all its organs. All that is being done today is the confirmation and declaration of an existing reality and the re-naming of our State.

AN APPEAL TO THE GREEK CYPRIOT PEOPLE FOR PEACE AND FRIENDSHIP

22. On this historic day, we extend once again our hand in peace and friendship to the Greek Cypriot people:

PEACEFUL SOLUTIONS TO ALL DIFFERENCES

a) We firmly believe that the two Peoples, who are destined to coexist side by side in the island, can and must find peaceful, just and durable solutions to all differences between them, through negotiations on the basis of equality.

DOOR OPEN TO FEDERATION

b) The proclamation of the Turkish Republic of Northern Cyprus will not hinder the two equal Peoples and their administrations from establishing a new partnership within the framework of a genuine federation on the contrary such a proclamation can facilitate efforts in this direction by fulfilling the necessary requisites for the establishment of a federation. The Turkish Republic of Northern Cyprus, determined to make every constructive effort in this direction, will not unite with any other State.

U.N. MISSION OF GOOD OFFICES

c) The Turkish Cypriot side desires the continuation of the mission of good offices of the UN Secretary-General for a peaceful and conciliatory solution of all the issues between the two Peoples and urges the pursuit of negotiations under the auspices of the UN Secretary-General.

GOOD WILL MEASURES

d) We urge the Greek Cypriot Administration to abandon, once and for all, its illusion of "Enosis" which aims at subjugating the Turkish Cypriot People to a foreign State; to give up its false pretence of speaking on behalf of all Cyprus in the international field; to accept the fact that it has no authority whatsoever to represent the Turkish Cypriots and to facilitate the immediate taking of measures of good on matters which can be resolved in the short term, with the object of narrowing the gap between the two peoples.

BASIC POLICY

23. We consider it our duty to announce that the Turkish Republic of Northern Cyprus which we are declaring:

a) Is, and shall remain, faithful to the principles of the United Nations Charter,

b) Shall adhere to no other policy than non-alignment,

c) Shall, in her relations with two Super Powers and with all other countries attach the greatest importance to the need for peace and stability and for the presentation of the balance of power in the Eastern Mediterranean and shall not join any military bloc,

d) Shall endeavour to establish friendly relations with all countries and shall remain firmly decided not to allow any hostile activity against any country on its territory.

e) Shall continue to adhere to the Treaties of Establishment, Guarantee and Alliance,

f) Shall strive to establish the closest possible ties and relations with the Islamic countries, the Non-Aligned countries and the Commonwealth countries.

We are resolved and determined to preserve Northern Cyprus as an independent and non-aligned region of tranquility and stability which will serve the cause of peace in the world and in the Mediterranean.

DECLARATION

24. Expressing the legitimate and irrepensible will of the Turkish Cypriot People, in the light of the aforesaid realities, convictions and ne-

cessities we hereby declare before the World and before History the establishment of the Turkish Republic of Northern Cyprus as an independent State.

On this historic day, we reiterate our gratitude to our Martyrs who sacrificed their lives in order that the Turkish Cypriot People may never again be subjected to servitude under foreign domination any may live in dignity and freedom. May God's mercy be upon our Martyrs.

ANNEX II

RESOLUTION

Our Assembly,

- Representing the free will of the Turkish Cypriot people;
- Believing that all human beings, who are born free and equal, should live in freedom and equality;
- Having declared, in this belief, the right of the Turkish Cypriot people to self-determination, by its Resolution of 17 June 1983;
- Rejecting discrimination between human beings on grounds of race, national origin, language, religion or any other grounds; and rejecting also all forms of colonialism, racism, oppression and domination;
- Expressing the hope that peace and stability will prevail and that freedom and human rights will flourish not only in Cyprus, but also in the Eastern Mediterranean, the Middle East and the world at large;
- Believing that the two peoples in Cyprus each has the right to live and govern itself in its own territory in peace and security, and has the right to preserve its own national identity;
- Firmly adhering to the view that these two Peoples, who are destined to co-exist side by side in the island, can must find peaceful, just and durable solutions to all the differences between them, through negotiations on the basis of equality;
- Firmly convinced that the proclamation of the Turkish Republic of Northern Cyprus will hinder but facilitate the re-establishment of the partnership between the two Peoples within a federal framework also facilitate the settlement of the problems between them;
- Earnestly hoping that negotiations will be carried out, on the basis of equality and under the auspices of the UN Secretary-General, with a view to resolving in a peaceful and conciliatory manner, all the outstanding issues between the two Peoples, and convinced that the proposed Summit Meeting would be useful in this regard;

And acting on behalf of the Turkish Cypriot People,

Approves the establishment of the Turkish Republic of Northern Cyprus and the "Declaration of Independence".