

IS A SETTLEMENT IN CYPRUS STILL POSSIBLE?

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Abstract: In the light of the failure of the UN sponsored talks between the Greek and Turkish Cypriots to reach a settlement of the Cyprus question, this paper asks whether a settlement in Cyprus is still possible. It starts by looking at the reasons why no agreement has yet been reached. In order fully to understand the crucial issues of sovereignty, the federal nature of any future Cyprus state, the Treaty of Guarantee, and the rights of half of the population who were displaced between 1963 and 1974, the paper reviews the history of this conflict. It then looks in detail at the key elements of any future settlement, and the progress made by the UN in the recent talks. The paper discusses a possible model for a settlement that seems to address the essential concerns of the Greek Cypriots, the Turkish Cypriots and Turkey. Finally, it discusses briefly how a settlement might be brought about.

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1. The recent UN-sponsored talks

Proximity talks between the United Nations and the Greek and Turkish Cypriots were held from December 1999 to November 2000, and direct talks from January 2002 to February 2003. The UN believed that the two sides were not able to reach agreement without third-party assistance, not least because the protagonists had been talking for nearly four decades without reaching any shared conclusions. Consequently the UN Secretary General tabled a comprehensive settlement proposal on 11 November 2002, a first revision on 10 December, and a second revision on 26 February 2003. The original aim was to establish a basis for agreement by the time of the EU's meeting of heads of state and government in Copenhagen on 12-13 December 2002. As agreement was not reached by the time of the Copenhagen EU summit negotiations resumed in Cyprus in mid-January 2003. In parallel, technical committees, agreed to by the two leaders began meeting, following a three-month delay by President Denktaş in appointing the Turkish Cypriot representatives. Greece and Turkey met on 21 February to address security issues related to the Plan.

The UN Secretary General visited Cyprus on 26 February 2003 and invited the leaders to The Hague on 10 March to announce whether they were prepared to sign a commitment to submit the Plan for approval at separate simultaneous referenda on 30 March. This was said to be to allow sufficient time to allow a united Cyprus to sign the EU Accession Treaty in Athens on 16 April 2003. On 11 March, at 05:30 am and following negotiations with the two leaders and the guarantor powers lasting more than 19 hours, the UN Secretary General announced that there had been no agreement, and at that point the process had reached the end of the road.

On 1 April 2003 the UN Secretary General published a report on his attempt to achieve a comprehensive settlement of the Cyprus problem². The 40-page report states that the TRNC President Rauf Denktaş should bear the 'prime responsibility' for the collapse of the Cyprus initiative - "except for a very few instances, Mr Denktaş by-and-large declined to engage in negotiation on the basis of give and take."

The Secretary General's report continues,

"both sides have done little over the years to prepare their res-

² UN document S/2003/398 dated 1 April 2003.

pective publics for the compromise that a settlement would involve. There remains among Greek Cypriots in particular a general reluctance to accept that the ultimate choice is not between a compromise along the lines of the Plan that I put forward and a better one, but between that and no settlement at all. I saw little effort by the Greek Cypriot leadership to explain to the public that this was the case.”³

The UN Security Council approved unanimously on 14 April 2002 Resolution 1475 that condemned:

“the negative approach of the Turkish Cypriot leader, culminating in the position taken at the March 10-11, 2003 meeting in The Hague, [as a result of which] it was not possible to reach agreement to put the Plan to simultaneous referenda as suggested by the Secretary General, and thus that the Turkish Cypriots and the Greek Cypriots have been denied the opportunity to decide for themselves on a plan that would have permitted the reunification of Cyprus and as a consequence it will not be possible to achieve a comprehensive settlement before April 16, 2003.”⁴

General problems with the Annan Plan

This last-minute rush which characterised the Annan Plan was aimed at achieving a settlement before the signing of the treaty for the accession of Cyprus and nine other countries to the European Union on 16 April. The timing of Kofi Annan’s proposals for a comprehensive settlement with its 12 December deadline for the final answer and other procedures was dreadful, given the fact that President Denktaş was in a New York hospital for a critical heart operation, and that there was no government in Turkey following the 3 November general elections. As Professor Clement Dodds comments, “It is certainly not the sort of plan to be presented when there is little time for the lengthy study and negotiation, but one thing is sure. It is very unlikely that after 28 years of independence, the Turkish Cypriots are going to relinquish their freedom and place themselves in a position inferior to that of the Greek Cypriots.” “It is puzzling,

3 UN document S/2003/398 dated 1 April 2003.

4 UN Security Council Resolution 1475 of 14 April 2003.

and hardly constructive, that the UN Secretary General should have produced so detailed and problematic a plan for consideration at virtually the last moment.”⁵

Worse than the timing was, however, the fact that the Annan Plan ignored both side’s “bottom line” positions – issues that they were very unwilling to bargain away. For the Greek Cypriot people the key issue is that all the Greek Cypriots displaced in 1974 want their properties back. This is evidenced by the massive public demonstrations against the Annan Plan in the South in December 2002 and early 2003. Despite massive public support for a settlement, most Turkish Cypriots do not wish to live in the same territory as the Greek Cypriots – they wish to be good neighbours, each living in their own territory. Ignoring these basic, immutable positions condemned the Annan Plan to failure.

Greek Cypriot Objections

Greek Cypriot public pronouncements indicate that the following are the main drawbacks of the Annan Plan from their perspective.

- a. The Plan essentially leads to the dissolution of the Republic of Cyprus and, furthermore, creates a new state, the “common state”, which will be under the strong influence of three guarantor powers, Turkey, Britain and Greece.
- b. It introduces serious derogations from the *acquis communautaire*, many of which would be permanent, thus creating a second- or third-class state that will have very limited chances of surviving.
- c. It establishes a divisive and dysfunctional system of governance which, among other things, will have serious adverse, if not catastrophic, effects on the economy.
- d. The 1960 Treaty of Guarantee and the right of intervention by the guarantor powers would continue to be in force, which it is argued, is anachronistic and has no place in the post-Cold War era.

5 Prof. Clement Dodd (2003), *UN Cyprus Plan: Solution or Delusion?*, published on the Internet at various sites including http://www.foreignpolicy.org.tr/eng/articles/dodd_070103.htm.

- e. The National Guard would be disbanded but the proposal fails to demilitarize Cyprus because it allows for a significant number of Turkish troops to remain on the island under expanded intervention rights, supporting the proposal requires the US to ignore the UN's requirement for a full and true demilitarization of Cyprus.
- f. The absence of a completely unified and free market throughout the island and the complicated decision-making mechanisms would derail the Cyprus economy and render the objective of joining the Eurozone in 2006 extremely difficult, if not impossible.
- g. As regards administrative arrangements, the whole system is characterised by complicated decision-making mechanisms which, in essence, demand separate (double) majorities by the two communities.
- h. Another provision that would create problems is the fact that the laws of the common state have no priority over those of the constituent states.
- i. The three-state structure proposed by the Annan Plan would entail an enormous increase in public sector expenditure.
- j. The proposal is undemocratic - the parliamentary system essentially creates a minority veto similar to that of the 'ill-advised 1959-1960 agreements, which vetoes led to the breakdown of the Cyprus constitution'.⁶ The new proposal is even more complicated than the 1959-1960 agreements and creates the conditions for continuous squabbling, disagreements and deadlock.
- k. The proposal undermines the Foundation Agreement - the Supreme Court shall consist of an unspecified number of judges with an equal number of judges from each component state appointed by the Presidential Council and 3 non-Cypriot judges. It is likely that 3 non-Cypriots will make the fundamental legislative decisions for the common state abrogating its sovereignty and independence.

6 Any observer of the events of the 1960s will recall this Greek-Cypriot attitude was the trigger for the breakdown between the two communities and the subsequent conflict.

- l. It essentially legitimises the continued presence of the settlers from Turkey and paves the way for the transformation of the demographic character of the island.
- m. The proposal subverts property rights - the Plan proposes a highly complicated, ambiguous and uncertain regime for resolving property issues. However, the proposals are clearly based on the principle that real property owners can ultimately be forced to give up their property rights and abide by whatever regime were to be created by the Plan for property issues. This violates international law.

Turkish Cypriot objections

The Turkish Cypriot administration's public statements on their objections to the Annan Plan are as follows.

- a. TRNC Foreign Affairs and Defence Minister, Tahsin Ertuğruloğlu, has condemned the Plan on the grounds that it "can not be considered as the plan for a settlement, but as the dissolution of the Turkish Cypriots".⁷
- b. "There exists no sovereignty in this document, it's only restricted autonomy – it puts the Greek Cypriots in charge, which is what the Greek Cypriots have always wanted."
- c. The Plan fails to treat the two states as equal, and allocates seats in the new federal lower house of parliament on the basis of population.
- d. The Turkish Cypriot side never accepted the concept of 'component-states' and rejected it during the negotiations process but, the formula 'constituent states' used in the third version of the Plan is acceptable.
- e. The Plan has excessive land concessions reducing the Turkish Cypriot territory from 36% to 28.5% of the island. The maps are not acceptable to any Turkish Cypriot government as the lands

7 Tahsin Ertuğruloğlu's criticisms were discussed in a private meeting in January 2003, but have also been aired in radio and television interviews reported at <http://www.trncinfo.com>.

to be relinquished considerably undermine Turkish Cypriot interests, indeed survival on the island.

- f. Turkish Cypriots would not be sovereign owners of the proportion of the land that will remain to them because with 1% of the Greek Cypriots coming to the North each year, after 20 years the Greek Cypriot population will amount to 33% of the population of the Northern state. The proportion of land remaining to the Turkish Cypriots will not be 28.5%, after the return of the Greek Cypriots to the North and the properties taken by the Church, this proportion may be lowered to around 13%.
- g. These Greek Cypriots will have the right to be represented in the Northern Assembly and will therefore dilute the self-government of the Turkish Cypriots.
- h. The right to veto by the Turkish Cypriots is eliminated.
- i. The Turkish sector would have an international force that could only be sent away by the Common State, and the Turkish Army would be reduced to around 6,000.
- j. A multi-national force with vast authorities will not be present to safeguard the Turkish Cypriots but only with the aim of protecting the rights of the Greek Cypriots within the Northern state.
- k. The maps are unacceptable and require around 42,000 Turkish Cypriots to move from their homes with no prospect of any replacement for the fertile lands they would be leaving.
- l. "The EU membership as it is foreseen in this document would lead to the hegemony of the Greek Cypriots and the elimination of the Turkish Cypriot people within the EU."⁸
- m. "Turkey would not be granted EU membership, as the North, entering the EU unprepared following a solution to the Cyprus issue, would lose its political existence in a short time."⁸
- n. Each revision of the Plan was slightly worse than the preceding one from the perspective of the Turkish Cypriots.

8 Gunduz Aktan (2003) *Congratulations, you got rid of Turkey*, Turkish Daily News, Ankara, 20 March 2003.

Turkish Government position

The Ministry of Foreign Affairs in Ankara seemed in January and February 2003 to be divided on Cyprus. Despite the change of government as a result of the general election on 3 November 2002, amongst many civil servants the view of the Ecevit Government persisted – that there can be no EU accession of Cyprus until Turkey also has membership. Within this group the phrase “... is unacceptable to my government” was frequently heard. In this camp can be found academics associated with the establishment and with strong links to the military.

Whilst not liking the Annan Plan Turkish politicians and senior civil servants were willing to look at the detail and discuss refinements and improvements to the Plan. This seemed to be in line with the statement by the Turkish Foreign Ministry spokesman Yusuf Buluç on 9 January 2003 that the Government was modifying its policy on Cyprus in line with the Annan Plan. Mr Buluç underlined that, “There is not even the slightest difference” between Turkey and the Turkish Cypriots and stated that Ankara agreed with Mr Denктаş’s objections to certain aspects of the Annan Plan. At the same time the Chief of the General Staff General Hilmi Özkök delivered the message that the military would support Mr Denктаş. Commentators took the view that the extent of this support may be limited and it may be more for show, although the General’s statement did not suggest that the Turkish establishment was willing to display the flexibility expected by the UN and hoped for by the EU.

As far as Turkey is concerned, accommodating the EU on Cyprus is the last card that Turkey has to play. Because the Turkish Cypriots could not be persuaded to sign up to a deal at the time of the Copenhagen summit it meant that if Turkey were to facilitate a solution to enable Northern Cyprus to accede with Cyprus, Turkey would be playing that card with no guarantee of Europe reciprocating by accelerating the date for the start of negotiations on Turkish EU membership. Turkey would have to trust the EU to keep its side of any bargain at a future EU summit, and there is no reason why Turkey should do so. Recent signs are more promising with Commissioner Günter Verheugen saying that Turkey could start accession negotiations with the EU in 2005, if it was firmly determined to do so.⁹

9 Günter Verheugen stated this on 31 January 2003 when he was visiting Ankara as part of an EU Troika mission.

Role of Lord Hannay

Lord (David) Hannay has been very much involved in the process for more than a decade. He was appointed British Government Special Representative for Cyprus in 1996 "to give support and new impetus to UN efforts to find a Cyprus settlement"¹⁰ He was clearly involved to a large degree in the development of the UN Plan.¹¹ But Lord Hannay said on 3 February 2003 that Britain was not one of the leading actors of the Cyprus question and added that Britain was only involved indirectly in the Cyprus problem in terms of the guarantorship.¹²

According to Jean Christou writing in the *Cyprus Mail* quoting 'informed sources' in the Greek Cypriot administration:

"Britain's envoy for Cyprus Lord David Hannay made changes to the UN peace plan to safeguard British interests, preventing thousands of refugees from Famagusta returning to their abandoned homes." He also "had a hand in watering down a section of the Plan that provided for cross voting between the two communities. 'He has been interfering all along in an imperialist manner in all these processes of preparing the Plan, primarily to protect British interests in Cyprus.' The source claimed Hannay had intervened to redraw a line on the map going into Famagusta in a clear attempt to secure British strategic interests. A second informed source on the Greek Cypriot side said that Hannay's fingerprints 'were all over the Plan'. 'We knew the British were working on the proposal for a long time but we don't know how much of it is Britain's work or the work of the US,' the second source said."¹³

The Turkish Cypriots have also criticised Lord Hannay. The Minister for Foreign Affairs and Defence, Tahsin Ertuğruloğlu, has said that the

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- 10 Answer to a House of Commons Written Question by Tom Cox MP by UK Minister for Europe, Peter Hain MP, House of Commons Hansard, Thursday 11 July 2002
- 11 The UN Secretary General "singled out in particular the support and advice received from ... Lord Hannay, and the special envoy of the United States of America, Thomas Weston." United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 149
- 12 Reported by Ankara Anatolia news agency 03 February 2003
- 13 Jean Christou (3 December 2002), *British meddling leaves 5, 000 refugees out in the cold*, Nicosia, *Cyprus Mail*

UN Plan was the creation of Lord Hannay, and bore little relationship to the proximity talks that preceded it. It is alleged that Lord Hannay has always been biased towards the Greek Cypriots, and there have been unsubstantiated reports that he is a shareholder in a company substantially owned by former Greek Cypriot President Vassiliou.

On occasions over the years Lord Hannay managed to annoy both sides at the same time, such as when both the presidents of the Republic of Cyprus and the TRNC boycotted meetings with him on 22 January 1999.¹⁴ Whilst these criticisms are probably incorrect, it is significant that all sides are blaming Lord Hannay for his perceived role. It is undoubtedly the case that peace brokers are likely to be blamed by both sides and thanked by neither, but the extent to which Lord Hannay has been blamed for the perceived inadequacies of the Plan indicates that he was more visible than he should have been.

2. History of the conflict

It seems as though almost everyone in Cyprus is obsessed with history. For the Greek Cypriots history began in 1974; for the Turkish Cypriots it began in 1963. You cannot meet one of the veteran leaders in Cyprus without having a history lesson. Indeed, in his report on his mission of good offices the UN Secretary General observed that “meetings often revert to debates about history or visions”.¹⁵ Whilst it is not desirable to dwell in the past, it is important to understand why the Turkish Cypriots have stood out against a return to the *status quo ante* demanded by the Greek Cypriots, in which they are regarded as simply a “minority” community on the island.

1960-1973

The 1960 constitution of the independent Cyprus established and guaranteed a 30: 70 power-sharing arrangement between the Turkish and Greek Cypriots in the government of the Republic of Cyprus. The constitution established the two communities as politically equal, but the overw-

14 Reported in Turkish Daily News 23 January 1999.

15 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 39.

helming motivation was the continued control by the UK of the military and intelligence facilities on the island.

“The main elements of the 1959 independence agreements were not brokered by London but discreetly by Washington, as British records of NATO meetings and US diplomatic activity show in great detail. And they were shaped not in the interests of giving the Cypriots self-determination, but with the aim of preserving in perpetuity the use of the defence facilities on the island by the West.”¹⁶

The US State Department’s Bureau of Intelligence and Research issued an analysis of the 1959 London and Zurich agreements, calling them dysfunctional. It predicted problem areas that were manifested in 1963¹⁷ when this power sharing arrangement had lasted just three years before the then President of the Republic, Archbishop Makarios proposed in a 13-point memorandum on 30 November to amend the Constitution of the Republic. He was apparently encouraged by the British High Commissioner, Sir Arthur Clarke, whose advice he valued.¹⁸ Brendan O’Malley comments that:

“A contributing factor to the quick constitutional collapse was the fact that the ministers in the new government came to power with no experience of real democracy — because it had been denied them - and many had a history of pursuing the narrow interests of their community through violent or confrontational tactics.”¹⁹

On 21 December 1963 the Greek Cypriots forced through the House of Representatives these 13 constitutional amendments, six of them to Basic Articles that previously had been declared as immutable by treaty and constitutional provision.²⁰ These amendments had as their obvious purpo-

16 Brendan O’Malley (16 January 2001), *Origins of the Cyprus Problem*, a lecture at the Massachusetts Institute of Technology, Cambridge, United States.

17 Bureau of Intelligence and Research (July 1959) *Analysis of Cyprus Agreements*, Washington, Publication no. 8047

18 Ibid.

19 Brendan O’Malley (16 January 2001), *Origins of the Cyprus Problem*, a lecture at the Massachusetts Institute of Technology, Cambridge, United States.

20 Article 182 of the 1960 constitution stated that, “The Articles or parts of the Articles of this Constitution set out in Annex III hereto which have been incorporated from the Zurich Agreement dated 11th February 1959, are the basic Articles of the Constitution and cannot, in any way, be amended, whether by way of variation, addition or repeal.”

se the elimination of the carefully negotiated balance of power between the two communities. According to John Reddaway:

“In short the amendments emasculated the Constitution of all those provisions which were of fundamental importance to the Turkish community and on which they relied to protect them from subordination...”²¹

Both Britain and Turkey as Guarantor powers²² issued diplomatic protests condemning the amendments as “contrary to the Constitution of the Republic of Cyprus, which is under the safeguard of international treaties.” The Turkish Cypriot members of the House of Representatives were effectively expelled from the legislature and government.²³ The UK Commons Select Committee found, “When in July 1965 the Turkish Cypriot members of the House of Representatives sought to resume their seats they were told that they could do so only if they accepted the legislative changes to the operation of the Constitution enacted in their absence.”²⁴ This sparked inter-communal violence in which the Turkish Cypriots clearly came off worse. An incident between Greek Cypriots and Turkish-Cypriots on 21 December 1963 leading to the deaths of a Turkish-Cypriot couple, led in turn to the launching of:

“a major attack on the Nicosia Turkish-Cypriots, the first stage in a campaign to settle the problem by force... The Greek-Cypriots aimed at the subjugation of the Nicosia Turks by a swift knockout blow, and, in consequence, the automatic surrender of the Turkish-Cypriot communities in the rest of the island. The Turkish-Cypriots were largely defenceless, the Turkish-Cypriot police having been di-

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- 21 John Reddaway (1986), *Burdened with Cyprus - the British Connection*, London: Weidenfeld and Nicolson.
- 22 Treaty of Guarantee between the Republic of Cyprus and Greece, the United Kingdom and Turkey, drawn up and approved by the Heads of the Governments of Greece and Turkey in Zurich on 11 February 1959, taking into account the consultations in London, from 11 to 16 February 1959 between the Foreign Ministers of Greece, Turkey and the United Kingdom.
- 23 The Turkish Cypriots claim to have been thrown out of the bi-communal House of Representatives. In fact the Turkish Cypriots walked out of the House on 23 December. In January 1964 they asked the President of the House, Glafcos Clerides to be allowed to return to the House, but this was refused by Clerides.
- 24 Report of the Select Committee on Foreign Affairs, UK House of Commons, 2 June 1987 (H. C. no. 23 of 1986-87).

sarmed as a result of a ruse on the part of the Greek-Cypriot minister.”²⁵

This incident “was followed immediately by a major Greek-Cypriot attack by the various para-military forces against the Turks in Nicosia and Larnaca”²⁶ and this further developed into a comprehensive pogrom of the Turkish Cypriots by the Greek Cypriots. British veteran war correspondents Rene MacColl and Daniel McGeahie reported on 28 December 1963:

“We went tonight into the sealed-off Turkish quarter of Nicosia in which 200 to 300 people had been slaughtered in the last five days. We are the first Western reporters there and we have seen sights too frightful to be described in print and horrors so extreme that people seemed stunned beyond tears and reduced to a hysterical and mirthless giggle that is more terrible than tears.”²⁷

And three days later another British journalist reported:

“... A few days ago, 1, 000 people lived here, in their solid, stone built homes which hug the coast road to Kyrenia, 13 miles from Nicosia. Then in a night of terror 350 villagers - men, women and children - vanished. They were all Turks”.²⁸

Greece and Turkey became increasingly embroiled in the situation. Greece sent 20, 000 troops to the island illegally, while Turkey responded to attacks on Turkish Cypriot areas with air strikes. The UN Security Council passed a Resolution on 4 March 1964 on Cyprus “recommending the creation of a UN Peace-keeping Force in Cyprus”²⁹ (UNFICYP), which was rapidly deployed. The Security Council also recommended the UN Secretary-General to designate a mediator “for the purpose of promoting peaceful solution and an agreed settlement of the problem confront-

25 Nancy Crawshaw (1978) *The Cyprus Revolt: an Account of the Struggle for Union with Greece*, London and Boston: G. Allen & Unwin (pp 336-7); Oberling, Pierre. *The Road to Bellapais: The Turkish Cypriot Exodus to Northern Cyprus*. (East European Monographs, No. 125) Boulder, Colorado: Social Science Monographs, 1982, pp 87 et seq.

26 Keith Kyle, (1997), *Cyprus: In Search of Peace*, Cyprus Cyphis (p. 10).

27 Daily Express (28 December 1963), London.

28 Daily Herald (31 December 1963), London.

29 UN Security Council Resolution, 186 (S/5575) of 4 March 1964.

ting Cyprus.”³⁰

Forced displacements of population – “ethnic cleansing” as it has become known - occurred between 1963 and 1970, in which Greek Cypriot military and paramilitary forces attacked and terrorised Turkish Cypriots, displacing 20, 000 people. The Turkish Cypriots lost 103 villages and lived in small enclaves corresponding to only 3% of the territory of Cyprus, as a result of being forced there by Greek Cypriot armed assaults. Some 803 Turkish Cypriots are still missing. The reports of the UN Secretary General to the Security Council during this period bear testimony to these violations of the Turkish Cypriots’ human rights:

“... thousands of Turkish Cypriots fled from their homes, taking with them only what they could drive or carry and sought refuge in what they considered to be safer Turkish Cypriot villages and areas.”³¹

Keeping the two sides apart became the accepted solution to the problem, but the issue was how this was to be achieved. The UK House of Commons Foreign Affairs Committee later observed:

“Both before and after the events of December 1963, the Makarios government continued to advocate the cause of *enosis* and actively pursued the amendment of the Constitution and the related treaties to facilitate this ultimate objective... There is little doubt that much of the violence, which the Turkish Cypriots claim led to the total or partial destruction of 103 Turkish villages and the displacement of about a quarter of the total Turkish Cypriot population, was either directly inspired or certainly connived at by the Greek Cypriot leadership.”³²

Arbitrary arrests, murder, rape, restrictions in freedom of movement, economic blockades and innumerable other hardships became daily occurrences that the Turkish Cypriots had to suffer. The then US Under-Secretary of State, George W Ball, recorded his personal experiences of events in Cyprus during that period:

“Makarios’ central interest was to block off Turkish intervention so

30 Ibid.

31 Report of the UN Secretary-General S/8286 of 8 December 1967.

32 Report of the Select Committee on Foreign Affairs, UK House of Commons, 2 June 1987 (H. C. no. 23 of 1986-87).

that he and his Greek Cypriots could go on happily butchering Turkish Cypriots.” “... the Greek Cypriots... do not want a peace keeping force; they just want to be left alone to kill Turkish Cypriots.”³³

British Prime Minister at the time was Sir Alec Douglas-Home wrote in his autobiography,

“I was convinced that if Archbishop Makarios could not bring himself to treat the Turkish Cypriots as human beings he was inviting the invasion and partition of the island.”³⁴

It is now a matter of historical record³⁵ that this was a systematic plan to wipe out the Turkish Cypriot population and bring about the union of Cyprus with Greece, or *enosis*. In 1962 Archbishop Makarios with Interior Minister Polycarpos Yeorgadjis and President of the House of Representatives Glafcos Clerides drew up a plan (the Akritas Plan) based on the principles of:

“annihilating a sizeable part of the Turkish Cypriot community in 48 hours,

“uniting the island with Greece before Turkey could intervene,

“misleading world public opinion into believing that what was occurring on the island was a simple civil strife, perpetrated by some Turkish Cypriot extremists.”³⁶

During this period Harry Scott Gibbons was covering the Middle East for the London *Daily Express* from Cyprus. In his book *The Genocide Files*, based on his own first-hand experience and eyewitness accounts of the events in Cyprus from 1963 to 1968, he notes that:

33 George W Ball (1982), from quoting what he had reported to President Johnson on 15 February 1964 following a week of meetings in Cyprus, Ankara and Athens, from his memoirs *The Past Has Another Pattern*, New York: Norton.

34 Lord Home of Hersel, (1976), *The Way the Wind Blows* Collins ISBN 0 00 211997-8 at p. 242.

35 Various sources including Glafcos Clerides' autobiography (1989-90), *Cyprus: My Deposition*, Nicosia: Alithia.

36 First published on 21 April 1966 in the Greek Cypriot newspaper *Patris* and widely published in other sources since then, including in Glafcos Clerides' autobiography (1989-90), *Cyprus: My Deposition*, Nicosia: Alithia.

“When Makarios became president, one of the first appointees to his cabinet was Yeorgadjis³⁷ who ... took control of EOKA³⁸ and the *enosis* movement. It was not long, however, before Makarios announced that he had signed the terms of the independence agreements under coercion. *Enosis* was still the final solution, he said. The call for union with Greece again swept the island.

And Yeorgadjis was given the task of organising that end, the ‘final solution’ that, in order to be achieved, would of necessity mean the extermination of the Turks. And so ... Makarios, the saintly president, Yeorgadjis, the EOKA killer, and Glafkos Clerides, wartime Royal Air Force hero turned EOKA propaganda chief³⁹, at that time leader of the Cyprus House of Representatives and today president of Greek Cyprus, sat down and worked out a plan for genocide.”⁴⁰

In 1967 a military junta seized power in Greece backed by the KYP (the Greek CIA and supported financially by the United States CIA). The junta seemed determined to resolve the deadlock between the Greek and Turkish Cypriots, and bring about *enosis* by force. As relations with the junta deteriorated after several coup plots were revealed, Makarios grew closer to the Soviet Union. He sought to bolster his position by making an eight-day visit to Moscow. In 1972 when he imported Czech arms without seeking the approval of Athens to prepare against a possible coup. His closeness to Moscow prompted more fears in the west that he was becoming a “Castro of the Mediterranean”⁴¹ who, backed by the strongest

37 Minister of the Interior Polycarpus Yeorgadjis was appointed as commander of “the organisation” later renamed The National Guard of Cyprus, and the President of the Parliament Glafkos Clerides and the Minister of Labour Tassos Papadopoulos were appointed as its deputy commanders. This was reported by Lieutenant General George Karajan’s (a Greek army officer who served in Cyprus at the time) to an Athens newspaper on 13 June 1965.

38 In the 1950s there was a terrorist organisation in Cyprus led by George Graves called *EOKA* (Ethnic Organises Cyprian Agonist on) whose aim was to achieve independence from Britain and union with Greece.

39 Clerides’ role in EOKA and his code-name Prides is recorded in his CV published on the Republic of Cyprus Government website as well as in Glafkos Clerides’ autobiography (1989-90), *Cyprus: My Deposition*, Nicosia: Alithia.

40 Harry Scott Gibbons (1997), *The Genocide Files*, London: Charles Bravos.

41 Quote from Henry Kissinger (1999), *Years of renewal*, New York: Weidenfeld & Nicholson p.199.

communist party in the middle east (AKEL), might hand the island to the Eastern Bloc, jeopardising the south-eastern flank of NATO and the spying facilities on the island. "After the [Arab-Israeli] October War in 1973, the US became increasingly eager to get rid of Makarios and secure a strategic foothold on the island by installing its Greek and Turkish allies on Cyprus. Britain had denied Washington the use of Cyprus-based communications facilities which might have enabled the US to warn Israel of the Arabs' pre-emptive attack."⁴²

Turkish intervention

All sides agree that the 1974 intervention by the Turkish mainland forces was a response to the *coup d'etat* sponsored by the Greek military regime seeking to achieve *enosis*. On 15 July 1974 Greek National Guard officers deposed President Makarios (who fled to Britain) and replaced him with Nicos Sampson, a terrorist and self-confessed murderer nicknamed "Butcher of the Turks." Sampson was as a long-standing recipient of financial support from the CIA. He also received money for his fanatical Nicosia newspaper *Makhi* ("Combat" – which is still published today) from a pro-junta CIA proxy in Athens, Savvas Constantopoulos, the publisher of the pro-junta newspaper *Eleftheros Kosmos* (Free World).⁴³ The Turkish Cypriots genuinely feared that they were going to be exterminated. It was clear that Greece was in breach of the Treaty of Guarantee that states:

"Greece, Turkey and the United Kingdom ... recognise and guarantee the independence, territorial integrity and security of the Republic of Cyprus ..."⁴⁴

Article IV of the Treaty of Guarantee states:

"In the event of a breach of the provisions of the present Treaty, Greece, Turkey and the United Kingdom undertake to consult together with respect to the representations or measures necessary to ensure

42 Michael Jansen (20 July 1999), *Duplicity over Cyprus survives to this day*, London: The Daily Star.

43 Christopher Hitchens (2001), *The Trial of Henry Kissinger*, London: Verso.

44 Article 2, *Treaty of Guarantee* signed in Nicosia on 16 August 1960 by the Republic of Cyprus and Greece, Turkey, and the United Kingdom.

observance of those provisions. In so far as common or concerted action may not prove possible, each the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty.”

But James Callaghan, the British Foreign Secretary, told the House of Commons on 16 July that Britain had no authority to take any action beyond urging Athens and Ankara to meet and discuss their differences. The Turkish Government, led by the youthful Prime Minister Bülent Ecevit, wanted Britain and Turkey as guarantor powers, to intervene militarily to protect the Turkish Cypriot citizens and to restore the 1960 Constitution. British troops were already on the island, both as UN peace-keepers (16/5th Lancers) and in the Sovereign Bases in the south of the island. There were also British marine commandos training in the Kyrenia mountains in the north of the island. Ecevit's idea was that Turkish forces should land on the island at the Sovereign Bases (presumably by air) and should then fan out in a joint operation to restore order. James Callaghan, then British Foreign Secretary, recalled that:

“Prime Minister Bülent Ecevit of Turkey arrived at No 10 Downing Street on the evening of 17 July, accompanied by some of his Ministers and two Generals. On our side were the Prime Minister [Harold Wilson], Minister of Defence Roy Mason, and myself. Ecevit was very direct. In view of the coup he no longer recognised Greece as a Guarantor of Cyprus and he would not therefore meet them for the consultations among the three powers, as laid down in Article IV of the 1960 Treaty. There must be immediate action to bring about an effective Turkish presence on the island to save Turkish lives. The island needed fewer Greek troops, not more Turkish troops, and we had called on the Greek Government to withdraw their National Guard officers.”⁴⁵

Ecevit's recollections of the dinner with Harold Wilson and James Callaghan are similar. Ecevit told them, ‘If you want to avoid bloodshed and irreparable harm to NATO, let us undertake joint action, permitting the Turkish armed forces to operate from the British Bases. I call upon you to fulfil your obligations under the Treaty of Guarantee.’ Replying, Wilson assured him that Britain was well aware of the sort of man Sampson was

45 James Callaghan (1987), *Time and Chance*, London: Collins.

and shared Turkey's anxieties. 'But', he said, 'it is not yet too late to restore the old regime'. Ecevit answered, 'With every hour that passes, the situation becomes more difficult. It is imperative that Sampson should be quickly forced to step down and a new order established. The balance has been completely upset and we are determined to safeguard the Turkish Cypriot community.'⁴⁶

The British Government argued that Britain was under no duty to take military action, but the treaty of Guarantee provided that Britain would guarantee the independence, territorial integrity and security of the Republic, which it manifestly failed to do. The House of Commons Select Committee on Cyprus investigated this and concluded that "Britain had a legal right to intervene, she had a moral obligation to intervene. She did not intervene for reasons which the Government refuses to give."⁴⁷

The British Prime Minister agreed that Turkey and Britain had a responsibility to set the Treaty of Guarantee in motion and both countries should jointly invite the Greeks to come to London for the consultation under the Treaty of Guarantee.

"On 18 July we at last received a reply from the Greek Military Government. Brigadier Ioannidis was as uncompromising as Ecevit had been. He told our Ambassador that Greece would not come to London for talks, either between the three Guarantor Powers under the Treaty or bilaterally with Britain."⁴⁸

As the Turkish delegation was about to depart from London on 18 July the British Government told them that they "expected Turkey not to resort to unilateral military action and so worsen an already bad situation."⁴⁹ Wilson declared, "We do not share the view that the Treaty of Guarantee confers on Britain any right to intervene militarily." To which Ecevit replied, "That is a pity, for there will be all the more bloodshed."⁵⁰ But it was clear that the Turkish Government's mind was made up. As Callaghan recalled:

46 Mehmet Ali Birand (1985), *30 Hot Days*, Lefkoşa: K. Rustem and Bro.

47 House of Commons Select Committee report HC 331 1975/76 para. 22

48 James Callaghan (1987), *Time and Chance*, London: Collins.

49 Ibid.

50 Mehmet Ali Birand (1985), *30 Hot Days*, Lefkoşa: K. Rustem and Bro.

“It seemed to us that [Turkish Foreign Minister, Turan] Güneş had little or no authority. Behind him stood the Turkish Cabinet, and behind the Cabinet stood the Turkish Generals.”⁵¹

On Thursday 18 July the BBC news bulletin at 08.00 hrs contained a detailed account of Ecevit’s confidential talks with the British leaders and included the statement that “the Turks are determined to land troops in Cyprus.” Precisely the same story was carried by the morning papers and must have emanated from either the Foreign Office or the Prime Minister’s Office. In the opinion of the Turkish delegates, this was a deliberate leakage with a two-fold aim - to increase international pressure on Turkey, and to alarm both the Greeks and the Greek Cypriots.⁵²

On the morning of 20 July Turkey launched Operation Attila, landing troops on the northern coast of Cyprus in a “peace operation” to protect the Turkish-Cypriot population. However, the Greek Cypriots struck back against Turkish Cypriot civilians. The Times correspondent observed that:

“Thousands of Turkish Cypriots were taken hostage after the Turkish forces landed. Turkish women were raped, children were shot in the street and the Turkish quarter of Limassol was burnt out by the (Greek) National Guard.”⁵³

On 23 July the collapse of the military junta in Athens coincided with the collapse of the coup in Nicosia. Parliamentary speaker Glafcos Clerides took over as caretaker President of Cyprus until the restoration of Makarios.

Talks in Geneva were initiated between the UK, Greece and Turkey on 25 July during a tentative ceasefire, and all parties agreed to continue negotiations. By 30 July the powers agreed that the withdrawal of Turkish troops from the island should be linked to a ‘just and lasting settlement acceptable to all parties concerned’. The declaration also spoke of ‘two autonomous administrations - that of Greek-Cypriot community and that of the Turkish-Cypriot community’.⁵⁴ Had the Turkish

51 James Callaghan (1987), *Time and Chance*, London: Collins.

52 Mehmet Ali Birand (1985), *30 Hot Days*, Lefkoşa: K. Rustem and Bro.

53 The Times (23 July 1974), London.

54 C. H. Dodd, (1993), *Cyprus: A Historical Introduction*, in C. H. Dodd (ed.), *The Political, Social, and Economic Development of Northern Cyprus*, Huntingdon, Cambridgeshire, England: Eothen Press.

Prime Minister Bülent Ecevit, withdrawn his forces at this point, 'he would have been remembered as the man who rid Greece of the junta, saved Cyprus from its designs, and rebuilt the image of Turkey in the West.'⁵⁵

At the second Geneva Conference on 9 August, Turkey pressed for a federal solution to the problem, against stiffening Greek resistance. Whilst Turkish Cypriots wanted a bi-zonal federation, Turkey, under American advice, submitted a cantonal plan involving separation of Turkish-Cypriot areas from one another. For security reasons Turkish-Cypriots did not favour cantons. Each plan embraced about 34% of the territory.⁵⁶ These plans were formally presented to the conference on 13 August by the Turkish Foreign Minister, Turan Güneş. Clerides wanted thirty-six to forty-eight hours to consider the plans, but Güneş demanded an immediate response, and the talks broke up.⁵⁷

Massacres of Turkish Cypriots took place on 14 and 15 August in villages in the east of the island near Famagusta. 57 of the 60 inhabitants of the Turkish village of Atlılar (Aloa) were massacred by Greek Cypriot gunmen and buried in a mass grave. In Sandallar (Sandallaris), the whole population of 57 and in Muratağa (Maratha) 82 Turkish Cypriots were lined up and shot dead and buried in mass graves. Amongst the victims there were elderly people, women, children and even a 16-day old baby. In the village of Tokhni on 14 August all the Turkish Cypriot men between the ages of 13 and 74, except for eighteen who managed to escape, were taken away and shot.⁵⁸ In Zyvi on the same day all the Turkish Cypriot men aged between 19 and 38 were taken away by Greek Cypriots and were never seen again. On the same day Greek Cypriots opened fire in the Turkish Cypriot neighbourhood of Paphos killing men, women, and children indiscriminately.

The Turkish army advanced eastward in a second phase of the operation starting on 14 August partly to ensure a defensible position, and partly to fulfil a plan agreed with the United States to divide the two com-

55 Christopher Hitchens (1997), *Hostage to History: Cyprus from the Ottomans to Kissinger*, London: Verso, p. 102.

56 Ibid.

57 Ibid.

58 The Times, Guardian, 21 August 1974.

munities in order to bring about peace on the island.⁵⁹ Towards the end of 16 August they controlled 37% of the island, creating a safe haven in Northern Cyprus for Turkish Cypriots. Hitchens contends there are a variety of reasons why the Turks initiated the extension of their presence on the island.⁶⁰ Central to his thesis is the influence of the great powers interested in Cyprus. He argues that knowing of a build-up of Turkish forces on Cyprus, US Secretary of State Kissinger sent a signal to Ankara on 13 August suggesting the US did not disapprove of Turkey's actions.⁶¹ Indeed Ecevit reported at the time that he was on the phone with Kissinger hourly on 16 August keeping him informed of the progress of Turkish troops moving towards the line previously agreed for the area to be occupied by the Turkish Cypriots. The then Chief of the General Staff, later Turkish President Kenan Evren, said that the Turkish military plans for Cyprus were more moderate, but that the Turkish Army moved forward beyond the intended boundaries because the Greeks fled and the Turkish forces filled the vacuum, with the intention of relinquishing some of the land at the time of a final settlement.⁶²

No informed observer disputes that Turkey had a legal right under the Zurich and London Accords of 1960 to intervene - the problem arises as to whether they should have stayed on the island.⁶³ Examining the

59 The key architects of the US proposed scheme in 1964 was US Secretary of State Dean Acheson and Deputy Secretary George W Ball. The plan was to use NATO to force Athens and Ankara to divide the island between them. The plan was revived in 1973 at the Geneva talks.

60 Until the second invasion Turkey held just 5% of Cyprus in the northern part of the island. This was extended to 37% after 14 August.

61 Christopher Hitchens (1997), *Hostage to History: Cyprus from the Ottomans to Kissinger*, London: Verso, p. 99.

62 "Turkish Pulse" Editorial, 26 November 2002.

63 Although legal commentators disagree on the legitimacy under international law of the extension of the Turkish intervention in August 1974, it remains a fact that the situation was under close scrutiny by the Security Council and that body did not at any point determine that the Turkish action was a breach of the peace or an act of aggression. The furthest that the Council went was to express concern at the situation resulting from "military operations which constituted a most serious threat to peace and security in the Eastern Mediterranean area" and to record "its formal disapproval of unilateral military actions undertaken against the Republic of Cyprus" (note the plural covering both Greek and Turkish military action). *United Nations Security Council resolution 360 (1974)*.

events of 1974 the UK Government concluded that “on 20th July 1974 Turkey intervened under Article IV of the Treaty of Guarantee.”⁶⁴ The Athens Court of Appeals, in its Decision of 21 March 1979, has also ruled that the intervention of Turkey in Cyprus was legal:

“... The Turkish military intervention in Cyprus, which was carried out in accordance with the Zurich and London Agreements, was legal. Turkey, as one of the Guarantor Powers, had the right to fulfil her obligations. The real culprits... are the Greek officers who engineered and staged a coup and prepared the conditions for this intervention.”⁶⁵

The legitimacy of the Turkish intervention under the Treaty of Guarantee was confirmed by the Consultative Assembly of the Council of Europe which passed the following Resolution:

“2. Condemning the *coup d’etat* carried out in Cyprus by officers owing allegiance to the Greek military dictatorship;

“3. Regretting the failure of the attempt to reach a diplomatic settlement which led to the Turkish Government to exercise its right of intervention in accordance with the article 4 of the Treaty of Guarantee of 1960.”⁶⁶

These events caused major social upheaval for both peoples of the island. Some 180, 000 to 200, 000 Greek Cypriots fled south and about 50, 000 to 60, 000 Turkish Cypriots fled north, including many who had been displaced before. Almost half the population of Cyprus lost properties as a result of inter-communal strife or military action between 1963 and 1974 and the unresolved division of the island since that time.⁶⁷ Forty percent of Greek Cypriots and half the Turkish Cypriots were made refugees.⁶⁸ A large proportion of these are now living abroad, with around 300, 000

64 UK Foreign & Commonwealth Office doc. CPS/75, Jan., 1987.

65 Decision No. 2658/79 dated 21 March 1979.

66 Resolution 573 (1974) of 29 July 1974.2 and 3. Text adopted by the Standing Committee, acting on behalf of the Assembly, ref Doc. 3464, report of the Political Affairs Committee - quoted by Dr Necati Münir Ertekün, *Some reflections on the Cyprus Question*.

67 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 107.

68 Reuters (15 Nov 1996), *Economist assesses impact of Cyprus federation*, London.

Cypriots currently living in the UK, mainly in north London.⁶⁹

The geographic separation has resulted in peace with only around a dozen people having died on the border since 1974.

1974-1998

The response of the international community was crystallised into UN Security Council Resolutions 365 (1974) and 367 (1975). The creation of a bi-zonal, bi-communal federation was agreed by both communities in the 1977 and 1979 High Level Agreements and set out in the relevant UN Security Council resolutions. Practically every sort of possible arrangement to form a bi-communal bi-zonal federation has been discussed, culminating in the UN Secretary-General's 'Set of Ideas' in 1992 and the comprehensive 'Confidence Building Measures' a little later. Although the two sides agreed about the principle (and much of the detail) of having such a federation, the final steps eluded negotiators for more than a quarter of a century.

From a practical point of view two states have existed side by side on Cyprus with little or no civil society contact for most of the last 3 decades. The international community continues to display a considerable lack of logical thought on the nature of a bi-communal bi-zonal federation. A federation, by definition is a "union of several states under a federal government, each retaining control of its own internal affairs"⁷⁰. Dr Andrew Mango observes:

"A federation requires the support of the inhabitants of its constituent parts. A marriage cannot be valid, let alone happy, without mutual consent. At present this consent is lacking in Cyprus."

In order to form a federation, therefore, more than one state must be recognised. For various reasons, discussed below, the Turkish Cypriot state has not been recognised.

69 See ethnographic research at <http://www.ucy.ac.cy/research/ethno/article1.htm>. Former Greek Cypriot President Vassiliou once joked with the former MEP for London North, Pauline Green, that "more Cypriots vote for you than voted for me."

70 Oxford English Dictionary.

The confederation proposal and after

The proposal of President Denktaş of 31 August 1998 for a confederation of “two peoples and two states of the island supported by symmetrical agreements with the two respective motherlands and guarantor states” foresees a confederal entity. The sting, however, is in the tail of the proposal: “By participating in these negotiations [to form a confederal arrangement] the parties will acknowledge that the Greek and Turkish Cypriot sides are two sovereign and equal states, each with its own functioning democratic institutions and jurisdiction, reflecting the political equality and will of their respective peoples. They will also acknowledge that the authorities of one party do not represent the other.” The TRNC uses the shorthand “state-to-state” talks to describe this condition.

In July 1999 the UN Security Council passed two resolutions regarding the Cyprus issue. One called upon the two sides in Cyprus to negotiate, without any precondition, within the framework of the Secretary-General’s good offices mission.⁷¹ The first round of the proximity talks between President Denktaş and President Clerides was held in New York on 3-14 December 1999 under the supervision of the UN Secretary-General Kofi Annan and his Special Advisor for Cyprus Alvaro de Soto. The aim of the talks was to prepare the ground for comprehensive face-to-face negotiations in reaching a lasting solution in the island. But after four rounds of talks there had been little significant progress. President Denktaş announced on 24 November 2000 that the Turkish Cypriot side would not continue the talks unless the original parameters of “State-to-State talks” are accepted. With this decision the proximity talks came to a halt.

A year later, partly thanks to a series of interviews conducted by Mehmet Ali Birand on CNN Turk with groups of Turkish and Greek Cypriot youth born since 1974 and with the leaders of the two communities, and with the encouragement of the Turkish military,⁷² Rauf Denktaş took the initiative and wrote to Glafcos Clerides on 8 November 2001 calling for a face-to-face meeting. Clerides’ first response was to reject the offer, but after some frantic manoeuvring in Athens, Ankara and both sides of the divided capital of Nicosia, he agreed, provided that UN special

71 UN Security Council Resolution No 1250.

72 Reported by the UK House of Commons Foreign Affairs Committee (April 2002) *Turkey*, London: House of Commons; para 89.

Cyprus representative Alvaro de Soto also was in attendance. President Denktaş agreed, and the three met on 4 December 2001 in the UN-controlled buffer zone. On 5 December the Greek Cypriot leader Glafcos Clerides, crossed over to the TRNC, for the first time since 1974 in order to attend a dinner being hosted by President Denktaş. In return, the President Clerides invited President Denktaş for a dinner, which took place on 29 December at his private home in Nicosia. The face-to-face talks started on 16 January 2002 and continued until they broke down in The Hague on 11 March 2003.

3. Sovereignty

Undoubtedly the most difficult and contentious issue is that of the sovereignty of Northern Cyprus. The UN Security Council has passed over 100 resolutions on the subject of Cyprus. Most of these are procedural resolutions renewing the UNFICYP mandate and other similar administrative tasks. All of the political resolutions have been overwhelmingly on the side of the Greek Cypriot position claiming the right to be the only true government of the island.

Declaration of the Turkish Republic of Northern Cyprus

The Turkish Republic of Northern Cyprus (TRNC) was established on 15 November 1983 by a declaration that stated amongst other things that the proclamation will not hinder the establishment of a federation and that the new Republic will not unite with any other state. The TRNC was not recognised by the international community. In fact three states (Pakistan, Jordan, and Bangladesh) did immediately recognise the TRNC, but they were told by the US Administration to reverse the recognition. The Islamic countries would probably recognise the TRNC willingly, but the matter is marginal to their interests and the slightest pressure from Britain or the United States is sufficient to keep it off their agenda.

On 18 November, three days after the declaration of the TRNC, the United Nations Security Council adopted a British-tabled Resolution No 541 (1983), which states:

“The Security Council ...

1. deplores the declaration of the Turkish Cypriot authorities of the

purported secession of part of the Republic of Cyprus;

2. considers the declaration ... as legally invalid and calls for its withdrawal; ...

6. calls upon all States to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus;

7. calls upon all States not to recognise any Cypriot State other than the Republic of Cyprus.”

This Resolution was reaffirmed in Resolution 550 (1984), adopted on 11 May 1984 in response to the exchange of ambassadors between Turkey and the TRNC. The Security Council reiterated the call upon all states “not to recognise the purported State of the ‘Turkish Republic of Northern Cyprus’ set up by secessionist acts and calls upon them not to facilitate or in any way assist the aforesaid secessionist entity.”

This was at a time when the international community had been confronted with a number of secession problems with Biafra/Nigeria, in the Congo and elsewhere. The fear was that if the TRNC were recognised it would lead to the break-up of other states. In a letter from the UN Secretary General to the General Assembly dated 20 December 1996 the Secretary General reflected that:

“The cold war interrupted the project of democratic international organisation begun by the founders [of the United Nations]. Throughout the decades of this confrontation, many of the major decisions of international peace and security were taken outside the United Nations and managed within the context of a non-democratic system, the bipolar system. The principle of self-determination was usurped and manipulated. International law became a casualty.”

It can reasonably be argued that in this case the people of Northern Cyprus also became a casualty.

Since 1983 the cold war has ended and the USSR has broken up, fragmenting into more than a dozen states, all of which have been accepted as members of the United Nations. The UN largely encouraged Eritrean separation from Ethiopia, and Eritrea has been accepted as a member of the United Nations. Yugoslavia has broken up and in the “velvet divorce” the Czech and Slovak Republics separated. All have been recognised by the international community.

The TRNC authorities tried to obtain recognition for their Republic. The Islamic nations were the key target of Turkish Cypriot recognition efforts. In wooing Islamic support, Turkish Cypriot officials emphasized the religious aspect of the Cyprus conflict and stressed the importance of Muslim solidarity. Meetings of the Organisation of the Islamic Conference (OIC), in which Turkey played an increasingly active role in the 1980s, were an important focus for the TRNC. The OIC passed several resolutions urging economic support and cultural contact with the Turkish Cypriots, but stopped short of embracing the recognition issue. Many Arab Islamic countries had ambivalent relations with Turkey, because of the legacy of the Ottoman Empire, and also because they wished to maintain good relations with the Republic of Cyprus, which served as a financial centre and *entrepôt* for Middle Eastern business activity. These reservations inhibited the TRNC in seeking to achieve its goals in the Islamic world.⁷³

Self-determination

The Charter of the United Nations underlines the stated Purposes of the United Nations "to promote respect for the principle of equal rights and self-determination of peoples".⁷⁴ Later, the Declaration on the Granting of Independence to Colonial Countries and Peoples, adopted by the General Assembly in 1960, strongly reaffirmed the right of all peoples to self-determination and declared that,

"by virtue of that right [all peoples] freely determine their political status and freely pursue their economic, social and cultural development".⁷⁵

The principle of self-determination was reaffirmed also in the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights.⁷⁶ Also, members of the Commonwealth, of which Cyprus has always been a member, "will use all our efforts to foster hu-

73 Source: US Library of Congress Federal Research Division, Country report on Cyprus.

74 Article 1, paragraph 2, and Article 55.

75 General Assembly resolution 1514 (XV) - coincidentally with the granting of independence to Britain's colony of Cyprus.

76 General Assembly resolution 2200 A (XXI).

man equality and dignity everywhere, and to further the principles of self-determination and non-racialism.”⁷⁷ And twenty years later at Harare, the heads of government of the Commonwealth declared,

“we believe in the liberty of the individual under the law, in equal rights for all citizens regardless of gender, race, colour, creed or political belief, and in the individual’s inalienable right to participate by means of free and democratic political processes in framing the society in which he or she lives.”⁷⁸

The UK Government explicitly recognised from the outset of the independence negotiations in the 1950s that the Turkish Cypriots had a right to self-determination and that, “any exercise of self-determination should be effected in such a manner that the Turkish Cypriot community, no less than the Greek Cypriot community, shall in the special circumstances of Cyprus, be given freedom to decidé for themselves their future status.”⁷⁹

The position today is that states are recognised on the basis of ethnicity. And yet the TRNC remains unrecognised by the international community apart from Turkey. No one would argue that there is a single ethnic origin called Cypriot - everyone recognises that the Greek and Turkish Cypriots are different ethnically, religiously and culturally. According to Professor Perenthaler:

“The two populations of Cyprus are two distinct ethnic groups, which means that there is no homogenous ‘nation’ or ‘people’ of Cyprus that could exercise a ‘national’ right of self-determination for the entire island. Therefore, both Greek and Turkish Cypriot communities are subjects of the right of self-determination in Cyprus.”⁸⁰

At a multilateral level the Barcelona Conference brought together on 27-28 November 1995 twenty seven foreign ministers (Europe’s 15 member states and the Mediterranean 12 - including the Republic of Cyprus)

77 Declaration of the Principles of the Commonwealth, issued at the Heads of Government Meeting in Singapore, 1971.

78 Declaration adopted by the Heads of Government Meeting on 20 October 1991 in Harare, Zimbabwe.

79 See 526 Parliamentary Debates, House of Commons, 5th series, 1956, pp. 1267-1268.

80 Professor Dr. Peter Perenthaler, *A Federal or Confederal Solution to the Cyprus Problem?*, Innsbruck, University of Innsbruck.

and saw the formal launching of the Euro-Mediterranean partnership. They all endorsed a Declaration pledging to promote peace and stability in their region, and to respect the right to self-determination. The Barcelona Declaration states that "The participants ... undertake in the following declaration of principles to:

"respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States, as reflected in agreements between relevant parties; "

It would appear that the non-recognition of the TRNC is an anachronism stemming from the cold war era, and therefore Security Council Resolution 541 should be reversed. Having said this, UN Resolutions are very rarely repealed although they can be superseded. Therefore the Greek Cypriots must acknowledge that the Turkish Cypriots can govern themselves. The consistent failure of the administration of the Republic of Cyprus to acknowledge the human right of the Turkish Cypriot community to self-determination is a breach of the Copenhagen Criteria (see below).

Statehood

According to international law the territory controlled by the Turkish Cypriot administration is more eligible for statehood than its Greek Cypriot counterpart. The traditional requirements recognised by international law for the existence of a state are:

- a permanent population,
- a reasonably well-defined territory,
- an effective government, and
- independence from foreign control of decision-making, particularly regarding relations with other states.

The Turkish Cypriot state is more eligible than the Republic of Cyprus because it is quite clear what territory the Turkish Cypriots control and it is delimited by an internationally established and UN patrolled buffer-zone. The Republic of Cyprus, on the other hand claims 60% more

territory than it controls⁸¹, and over which it provides no government. According to the Montevideo Convention on the Rights and Duties of States:

“An entity that satisfies [these] requirements... is a state whether or not its statehood is formally recognised by other states.”⁸²

On 16 December 1991, the European Community’s Council of Ministers adopted a ‘Declaration on Guidelines on the Recognition of New States in Eastern Europe and the Soviet Union’ and agreed to extend recognition by 15 January 1992 to those republics that met the conditions of recognition. The Declaration affirmed the principles of the Helsinki Final Act and the Charter of Paris, particularly the principle of self-determination. It then noted that the European Community would “recognise, subject to normal standards of international practice and political realities in each case, those new states which, following the historic changes in the region, have constituted themselves on a democratic basis, have accepted the appropriate international obligations and have committed themselves in good faith to a peaceful process and to negotiations.”⁸³

Again according to Professor Peter Pernthaler:

“The foundation of the Turkish Republic of Northern Cyprus (TRNC), was no secession from a unitary state of Cyprus, but rather a reaction to the foundation of the Greek *de facto* regime leading to ten years of civil war. Both *de facto* regimes in the north and in the south of Cyprus have now developed into nation states, simply because they possess all essential elements of independent states that are required by international law, i. E. they exercise stable and effective constitutional power on a clearly defined territory and over permanent population without foreign control.”⁸⁴

81 The Greek Cypriot area is around 60% of the total area, but it claims to control 100% of the island.

82 *Montevideo Convention on the Rights and Duties of States* 26 December 1933, 165 League of Nations Treaty Series 19.

83 *JCG Balkans Report No. 101, Current Legal Status of the Federal Republic of Yugoslavia (FRY) and of Serbia and Montenegro* Washington/Brussels, 19 September 2000, pp. 6–7, quoted by M. Ergün Olgun (2001), *Confederation: The last chance for establishing a new partnership in Cyprus*, Brussels.

84 Professor Dr. Peter Pernthaler, *A Federal or Confederal Solution to the Cyprus Problem?*, Innsbruck: University of Innsbruck.

According to Brierly in *The Law of Nations*:

“Thus, there exist in Cyprus two independent states, namely the Turkish Republic of Northern Cyprus and the Greek Cypriot State in South Cyprus, which both meet the traditional *indicia* recognised by customary international law for the political existence of states: an organised government, a defined territory, and such a degree of independence of control by any other state as to be capable of conducting its own international relations.”⁸⁵

“A state may exist without being recognised, and if it does exist in fact, then whether or not it has been formally recognised by other states, it has a right to be treated by them as a state.”⁸⁶

Copenhagen criteria

In 1993, at the Copenhagen European Council, the EU member states agreed that ‘the associated countries in central and eastern Europe that so desire shall become members of the European Union.’ ‘Accession will take place as soon as an applicant is able to assume the obligations of membership by satisfying the economic and political conditions required.’ The member states designed the membership criteria referred to as the ‘Copenhagen Criteria’. The first Copenhagen criterion states that a country must “achieve institutional stability as a guarantee of democratic order and the rule of law and for ensuring respect for human rights, as well as respect for and the protection of minorities”, before accession negotiations are opened. The Commission believes that, apart from the northern part of the island which is under Turkish control, fundamental freedoms are sufficiently respected in the rest of the territory and thus, accession negotiations were opened with the Republic of Cyprus. This is a rather simplistic view of the situation.

The European Commission concluded in its 2002 Regular Report that “Cyprus continues to fulfil the Copenhagen political criteria.”⁸⁷ But

85 J. L. Brierly (1st edition 1963), *The Law of Nations, Sixth Edition*, Oxford: Oxford University Press, p. 137 quoted by Dr Necati Münir Ertekün, *Some reflections on the Cyprus Question*.

86 *Ibid.*, p. 139.

87 European Commission Regular report on Cyprus’ Progress towards Accession, Brussels, 9 October 2002, section 2.1, page 30.

the same report also notes that:

“The Turkish Cypriots living in the government controlled areas cannot exercise their *right to vote*. Participation in national elections would entail a constitutional revision.”

The 2001 Regular report noted that:

“the application by a Turkish Cypriot living in the south and holding a Cypriot passport to be enrolled in the voters list of the Greek Cypriot Community for the national elections was dismissed by the Supreme Court on 23 May 2001 on constitutional grounds. Two days later, he filed an application before the European Court of Human Rights⁸⁸ for an alleged breach of his right to free elections.”

All references to the Constitution by the EU are to the 1960 Constitution. According to Jolanda Westerling:

“Here we come to the heart of the problem; the unfortunate ambiguity of a government that, on paper, is responsible for a part of its territory in which, in reality, it cannot even set foot. The problematic situation that will thus arise is that the constructive ambiguity (recognising the responsibility of the Republic of Cyprus for the whole island, whereas the northern part is in fact ruled by Turkish-Cypriot authorities) in Cyprus will no longer function. The Republic of Cyprus, the Greek-Cypriot authorities to be more precise, with whom the negotiations are being held, cannot *de facto* be brought to account for events happening in the northern part and it cannot guarantee the implementation of any policy measure in that part of its territory. In practical terms this will not only become problematic in sectors such as transport and agriculture, but also for discussions on the amelioration of respect for human rights in the north.”⁸⁹

The Greek Cypriot Government says that it is governed under the 1960 Constitution, but it is in reality a modified version excluding Turkish-Cypriot participation. It is notable that on his re-election in 1973 President

88 Aziz vs. Cyprus, ref. number 69949/01 quoted in the European Commission's Regular Report on Cyprus 2001, (SEC (2001) 1745), issued on 13 November 2001, p. 17.

89 Dr. Iur. Jolanda Van Westerling (2000), *Conditionality and EU Membership: The Cases of Turkey and Cyprus*, Brussels: European Foreign Affairs Review (Vol. 5 pp. 95-118, 2000).

Makarios took a modified form of oath which avoided a declaration of respect for the 1960 Constitution.⁹⁰ Indeed, when it suited their purposes from 1964 to 1974 the Greek-Cypriots repeatedly declared the Treaty creating the 1960 constitution to be invalid.⁹¹ On 29 March 1965 the UN Mediator for Cyprus, Dr Galo Plaza said, "It is obvious that the Cyprus problem cannot any longer be solved by trying to implement fully the 1960 Treaties and the Constitution governed by the treaties ... The events since December 1963 have created a situation which makes it psychologically and politically impossible to return to the previous situation."⁹²

Who governs Northern Cyprus?

Officially the Greek Cypriot Government is the only recognised authority throughout the island. And yet there is wide acknowledgement that there are two states on Cyprus. As early as 1965 the UN Secretary General's report to the Security Council indicated that President Makarios' writ did not run over the Turkish Cypriots or the whole of Cyprus. This report⁹³ noted the "inaccessibility of the areas inhabited entirely by Turkish Cypriots to the Government's law-enforcing authorities and officials. The organs of the State are thus powerless in these areas to administer justice." "For example, this government has never collected any taxes from the Turkish Cypriot community." "Likewise, its courts have not judged cases involving Turkish Cypriots." "In Nicosia the work of the courts, however, has been almost entirely confined to those cases where the parties involved are Greek Cypriots. Only Greek Cypriot litigants and Greek Cypriot counsel have attended the courts to transact business."

The Geneva Declaration of 30 July 1974 issued by the Foreign Ministers of Greece, Turkey and the United Kingdom "noted the existence in practice in the Republic of Cyprus of two autonomous administrations, that of the Greek Cypriot community and that of the Turkish Cypriot community". According to Professor Pernthaler:

90 Michael Stephen (1987) *Cyprus: Two Nations in One Island*. London: Bow Educational Briefing No.5.

91 UK Government publication, Cmnd. 6579 para. 4 (c).

92 UN doc. S/6252.

93 The report of the Secretary-General on the United Nations Operation in Cyprus (S/6228 dated 11 March 1965).

“Neither of the two ethnic groups or peoples possesses the *de jure* or the *de facto* power to deny or overrule the right of self-determination of the other group. The sovereignty of the historical unitary state of Cyprus was clearly defined and restricted by international law (London and Zurich Agreements of 1959) in order to protect the Turkish Cypriots. The illegal amendments of the constitution – by Greeks – and the violations of the civil rights of the Turkish population during the early 60s, therefore, surpassed the legal scope of Cyprus’ sovereignty. They are clearly *ultra vires acts*.”⁹⁴

During the negotiations leading up to this on 28 July 1974 the Turkish delegation proposed that the three foreign ministers should accept the *de facto* existence of two separate autonomous administrations in the island. Greek Foreign Minister Mavros was affronted. “This is going too far. I can’t accept this. Are we trying to partition the island?” There was a long argument during which the British Foreign Secretary Callaghan said, “Mr Mavros, if you notice, the Turkish proposal uses the term ‘*de facto*’, isn’t that so? And isn’t that just what we have got?” After consulting with his colleagues, Mavros accepted the proposal. In his memoirs President Glafcos Clerides of the Republic of Cyprus states:

“There exist in Cyprus two poles of power on a separate geographical basis, ie the Government of the Cyprus Republic, controlling the largest section of the territory of the state and internationally recognised, and the Turkish Cypriot Administration, which controls a very limited area and is not internationally recognised, but has already taken almost all the characteristics of a small state.”⁹⁵

President Clerides told Rauf Denктаş in the presence of the UN Secretary-General’s Special Advisor on Cyprus, Diego Cordovez at the talks at Glion-sur-Montreux, Switzerland in August 1997:

“I know I do not govern the Turkish Cypriots or the whole of Cyprus, but since the whole world tells me that I do, why should I say otherwise?”⁹⁶

94 Professor Dr. Peter Pernthaler, *A Federal or Confederal Solution to the Cyprus Problem?*, Innsbruck, University of Innsbruck.

95 Glafcos Clerides’ autobiography (1989-90), *Cyprus: My Deposition*, Nicosia: Alithia, Vol 3, pp 236-237.

96 Frequently quoted by Rauf Denктаş.

At a press conference in Cyprus on 4 May 1998 President Clinton's Special Envoy Richard Holbrooke stated:

"I think it is very clear and no one has disputed that Glafcos Clerides does not represent or has any control over the people of Northern Cyprus. He does not deny that. It's a fact. He said it."

It is clear that a major obstacle to progress towards a settlement has been the insistence of the international community that the Greek Cypriot administration governs the whole of Cyprus, whilst in reality the TRNC is self-administering. There is wide agreement that "the Turkish Cypriot community possesses the same political status as the Greek Cypriot community, that the two communities participate in the negotiations for the settlement of the Cyprus question on an equal footing and that, it follows, the Greek Cypriot community should not enjoy any privileged position in the negotiations, whether on matters of substance or of procedure, by reason of the fact that it presents itself as the Government of the Republic of Cyprus."⁹⁷

It is therefore both incorrect, and in the long-run risks serious political damage, for the European Union to deny the existence of the TRNC both as a state and as the legally competent authorities with whom to negotiate the accession of Northern Cyprus to the European Union.

Soundness of Security Council Resolution 541

Doubts have been expressed about the legal soundness of the Security Council resolutions 541 (1983) and 550 (1984), both of which purported to pronounce unlawful and invalid the 1983 declaration of the establishment of the Turkish Republic of Northern Cyprus (the TRNC) and called upon States not to recognise the TRNC. In an Opinion dated 10 July 1990, Professor Elihu Lauterpacht concludes that:

"The Security Council did not adopt an even-handed approach. Instead it dealt with the action of the Turkish Cypriot community in isolation. If it had assessed the situation as a whole, it could not possibly have concluded that the conduct of the Turkish Cypriot com-

⁹⁷ Prof. Elihu Lauterpacht, CBE, QC (1990) . *Legal opinion The Turkish Republic of Northern Cyprus-The Status of the two Communities in Cyprus* (10 July 1990).

munity violated the controlling legal instruments while the conduct of the Greek Cypriot community did not. Nor could it have reached any other conclusion than that the action of the Greek Cypriot community justified the conduct of the Turkish Cypriot community.

“The resolutions of the Security Council were, therefore, tainted by such a degree of selectivity and incompleteness as to render them arbitrary and discriminatory, and thus not well founded in law. It follows that the call to States not to recognise the TRNC was not legally justified.”⁹⁸

In another legal Opinion on the legal status in international law of the Turkish Cypriot and Greek Cypriot communities in Cyprus dated 20 July 1990, Professor Monroe Leigh⁹⁹ concluded as follows:

“The Greek Cypriot people has never had the right to assert sovereignty over the Turkish Cypriot people without their consent. Nor, from the moment the Greek Cypriots unilaterally rejected the constitutional basis on which the legitimacy of the Cypriot government rested in international law, has the Greek Cypriot regime had any right to assert sovereignty over the island. Since that time, practical necessity has created two governments on Cyprus. The rights of the peoples of the two communities to determine their own political futures have remained unchanged and in all respects are equal. The nations of the world, through resolutions of the Security Council and General Assembly of the United Nations, have recognised and consistently reaffirmed these rights, as have the two communities themselves in their interim negotiated agreements. Under these circumstances, international law does not sanction differential treatment of the two communities in the current negotiations or in any resulting settlement. If these efforts to establish a federal government of Cyprus with the equal participation and mutual acceptance of the two peoples should fail, each regime - the Turkish Cypriot no less

98 Prof. Elihu Lauterpacht, CBE, QC, is a British international lawyer of great academic and professional experience. He is at present Director of the Research Centre for International Law of the University of Cambridge, a Bencher of Gray's Inn and a member of the Institut de Droit International.

99 Monroe Leigh is an American international lawyer engaged in general practice of law, with special emphasis on international disputes. Appointed as Legal Adviser to the Department of State in January 1975.

than the Greek Cypriot - would be eligible for recognition as an independent state. Such recognition by other states would not then infringe any principle of international law.”

UN Plan proposals

The UN Secretary General made his proposals for a comprehensive settlement of the Cyprus question on 11 November 2002, and these were subsequently revised twice. These three versions of the Plan have been widely analysed and are available on the internet so I do not propose to do more than summarise the proposals:

- a common state made up of two equal component (later “constituent”) states in “indissoluble union”
- single Cypriot citizenship
- a six-member presidential council proportional to the population of the two states, with a 10-month rotating presidency
- a transitional government for three years
- a two-chamber parliament, each chamber containing 48 members
- territorial adjustments lowering the Turkish Cypriot controlled area of in the island from 36% to around 29%
- Cyprus to join the European Union and maintain special ties with Greece and Turkey
- Cyprus to be demilitarised and barred from purchasing arms, with UN observers to monitor compliance
- Greece and Turkey allowed to maintain limited military forces on the island
- the constitution must safeguard civil rights and rights of minorities
- a reconciliation commission to promote tolerance and mutual respect.

The UN plan proposes that “the status and relationship between the United Cyprus Republic, its federal government and its constituent states is modelled on the status and relationship of Switzerland, its fede-

ral government, and its cantons". Accordingly, the Plan specifies that the United Cyprus Republic has a single international legal personality and sovereignty, and partition or secession are expressly prohibited. At the same time, the Plan provides that the constituent states sovereignly exercise all powers not vested in the federal government, and (as in Belgium) for no hierarchy between federal and constituent state laws.¹⁰⁰

The Greek Cypriot side may take comfort in the fact that Switzerland was clearly a sovereign State and its cantons do not enjoy a right to secede. The Turkish Cypriots may take comfort in the fact that the Swiss model, which they regularly cite as their inspiration, is the model to be applied.¹⁰¹

4. EU Accession

Implications of membership for Northern Cyprus

Throughout much of the last decade, an important element in Mr Denktas's position, supported by Turkey, was that the accession of Cyprus to the European Union was illegal, as long as Turkey was not a member and as long as the Turkish Cypriots had not consented to it. Under Article I of the Treaty of Guarantee¹⁰² the Republic of Cyprus "undertakes not to participate, in whole or in part, in any political or economic union with any State whatsoever. It accordingly declares prohibited any activity likely to promote, directly or indirectly, either union with any other State or partition of the Island."

At face value it seems that the accession of Cyprus to the EU without the agreement of the signatories to the Treaty of Guarantee would be a clear breach of that Treaty. These accords were designed to prevent *enosis* with Greece and *taksim* with Turkey. The Vienna Convention on the Law

100 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 76.

101 The reference to the Swiss model in regard to issues of status, and the Presidential Council, has led to the mistaken belief in some quarters that the plan proposed the Swiss model in general as the solution for Cyprus. This is not the case. Cyprus requires its own model. While specific aspects of various models provided inspiration, none were simply transplanted wholesale.

102 *Treaty of Guarantee* signed in Nicosia on 16 August 1960 by the Republic of Cyprus and Greece, Turkey, and the UK.

of Treaties provides that treaties can only be terminated by mutual consent of the parties.¹⁰³ It has therefore been argued that Cyprus can only legally join the EU if both Greece and Turkey are members.¹⁰⁴ The legal arguments put forward by the Turkish Government in support of this view are set out in an opinion written by Professor Maurice Mendelson QC, which was circulated, at the request of Turkey, within the UN in 1997.¹⁰⁵ The arguments in the Mendelson opinion were subsequently rebutted in a joint opinion commissioned by the Government of the Republic of Cyprus from Professors James Crawford, Gerhard Hafner and Alain Pellet.¹⁰⁶ Then, towards the end of 2001, two further opinions by the same authors were circulated by the Turkish and Cypriot Governments respectively.¹⁰⁷ These additional opinions amplify some of the points raised in 1997, but do not contain any new substantive arguments. In evidence to the UK House of Commons Foreign Affairs Committee the British Foreign and Commonwealth Office stated:

“The [British] Government and EU position is that there is no legal obstacle to Cypriot membership of the EU, since EU membership does not constitute “union with another State” and is therefore not ruled out by the Treaty of Guarantee. The UK Government subscribes to the legal analysis in the joint Crawford/Hafner/Pellet opinions on this point. The Government’s view of the legal position is also supported by the actions and statements of other EU member States, the European Commission and the UN Security Council. Since, in the Government’s view, Cypriot membership of the EU does not constitute a breach of the Treaty of Guarantee, the question of the need to obtain Turkey’s consent, as a guarantor power, does not arise.”¹⁰⁸

103 *Vienna Convention on the Law of Treaties* (3 May 1969), art. 54, 1155 United Nations Treaty Series 331 (1969)

104 According to the conclusions of the Copenhagen European Council the issue of starting accession negotiations with Turkey will next be considered in December 2004.

105 UN document A/51/951-S/1997/585.

106 UN document A/52/481-S/1997/805.

107 Second Mendelson opinion: UN document A/56/451-S/2001/953. Second Crawford/Hafner/Pellet opinion: UN document A/56/723-S/2001/1222. 108 British Foreign and Commonwealth Office evidence to the UK House of Commons Foreign Affairs Committee (April 2002) *Turkey*, London: House of Commons; Annex D.

108 British Foreign and Commonwealth Office evidence to the UK House of Commons Foreign Affairs Committee (April 2002) *Turkey*, London: House of Commons; Annex D.

It seems clear that EU membership would bring significant economic, social and human benefits to both communities on the island but given economic and numerical disparities, the unrestricted application of the *acquis communautaire* in the North would be problematic for the Turkish Cypriots. The European Union confirmed that the EU with its *acquis*, would never be an obstacle to finding a solution to the Cyprus problem, and that the EU would accommodate whatever arrangements the parties themselves agreed to in the context of a political settlement.¹⁰⁹ Furthermore the Treaty of Accession for the applicant states including Cyprus, once concluded and ratified, would constitute an integral part of the Union's primary law and would give Turkish and Greek Cypriots recourse to the European Commission, the Parliament, the Council, and the European Court of Justice to ensure that their rights under the Treaty of Accession are implemented in full.

Economic benefits

According to public opinion polls, more than 90% of Turkish Cypriots want to be a part of the European Union.¹¹⁰ On 9 August 2002, 86 NGOs which represent about 38, 000 members, signed a declaration, entitled the "Common Vision of the Turkish Cypriot Civil Society", calling for a solution to the Cyprus problem and EU membership before the end of the year 2002.¹¹¹ As a result of the failure of the two sides to reach agreement before the Copenhagen European Council in December 2002 there have been large demonstrations against President Denktaş calling for his resignation. At the demonstration on 26 December some 30, 000 people come onto the streets in protest, on 14 January 2003 around 50, 000 and on 27 February around 70, 000 people – more than one third of the total

109 The European Union's policy was stated on 22 June 2002 in the Seville European Council Presidency conclusions: "The European Union would accommodate the terms of ... a comprehensive settlement in the Treaty of Accession in line with the principles on which the European Union is founded: as a member State, Cyprus will have to speak with a single voice and ensure the proper application of European Union law. The European Union would make a substantial financial contribution in support of the development of the northern part of a reunited island."

110 Source: BBC 26 March 2002.

111 Reported in the European Commission's Regular Report on Cyprus, 9 October 2002, page 27.

population of Northern Cyprus. The leader of Turkey's ruling party AK Party, Recep Tayyip Erdoğan, has forcefully criticized President Denktaş for ignoring his constituents' desire for a negotiated peace.

The TRNC Minister of Foreign Affairs and Defence, Tahsin Ertuğrulöğlu puts these demonstrations down to opposition manipulation with the help of the media, and he claims that the opinion polls have been manipulated. I have been assured by those who commissioned the polls that this is not the case. But certainly among the business community there is a deep anger and disquiet at the failure of their government to move their country towards EU membership.¹¹²

Economically, the EU's single market would provide new opportunities for the development of the tourism and offshore sectors and significant amounts of private investment from the EU and elsewhere would take an interest in Northern Cyprus. The direct benefits of membership to Turkish Cypriots would include freedom of movement throughout the Union, the right to set up a home and a business anywhere in the Union, and the right to have their diplomas and qualifications recognised in all the member states. According to Michael Leigh, the Director responsible for Cyprus and Turkey within the European Commission's Directorate General for Enlargement:

"The European Commission is on stand-by in the event of a settlement to provide an emergency 'pre-accession programme for the north specially designed', and that member states can easily shoulder the burden of bringing the economy of Northern Cyprus, with a population of little more than 200, 000, into line with EU standards, even though it falls far short of the Copenhagen criteria."¹¹³

Federal structure

In November 2002 the newly-elected Turkish Government started mentioning the Belgian model for a new federal Cyprus soon after the election on 3 November 2002, although the waters have been somewhat

112 Based on private discussions in January and February 2003.

113 Michael Leigh, Director of the European Commission's Directorate-General for Enlargement, stated in evidence to the UK House of Commons Foreign Affairs Committee (April 2002) *Turkey*, London: House of Commons; para 92.

muddied subsequently. In an interview on 4 November with Greek TV channel NET Recep Tayyip Erdoğan stated that his party supported the Belgian model for a permanent solution on the island. He recalled that United Nations Secretary-General Kofi Annan had previously recommended the same model, a federal governance based on equality between the constituent parts and the central government. Greek and Greek Cypriot officials remarked that if Turkey officially adopts a Cyprus policy advocating the Belgian model, then the island's problems might be near their end. Greek Foreign Minister George Papandreou stated that this was the first time the Belgian model had been advocated by such a key Turkish political figure, a development he hailed as positive.¹¹⁴ This model is clearly acceptable to the EU, and it has been openly discussed by both sides in Cyprus since the middle of 2002.¹¹⁵

Belgium appears to be one form of federal model consistent with the objective of a bi-zonal, bi-communal federation agreed by both. Turkish Cypriot ministers would take part in meetings of the Union's Council of ministers in exactly the same way as both Walloon and Flemish ministers attend meetings side by side. This has been amply summarised by Emerson and Tocci:

“Since Article 146 of the EU Treaty permits only one person to represent Belgium in the EU Council (with the right to speak and vote), and given the large decentralisation of competences and the legal equality of the national and sub-national levels of government, elaborate rules have been developed on who should represent Belgium depending on the agenda of the Council. The decision on whether the leader of the Belgian delegation should be from the federal or sub-national government depends on which level of government has the main competence for the sector of policy of the particular formation of the Council in question. For this purpose four categories have been established:

114 Reported in Turkish Daily News 6 November 2002.

115 For example, daily press briefing by Republic of Cyprus Government spokesman, 26 June 2002 see: <http://www.kypros.org/PIO/news/spokesman/spokesman267.htm>.

Belgian model for representation in EU Councils - Practice

Type	Division of competences	Sector-specific Councils	Representation
I	Exclusively federal	Foreign policy, Macroeconomic policy, Budget (of EU), Development aid Telecommunications Justice and Home Affairs	Federal
II	Mainly federal, partly sub-national	Internal market Public health Energy Transport Environment* Agriculture**	Federal minister, assisted by one (rotating) sub-national representative
III	Mainly sub- national, partly federal	Industry Research	One (rotating) sub-national representative, assisted by a federal representative
IV	Exclusively sub- national	Culture Education Tourism Land use planning Fisheries***	One (rotating) sub-national representative

* It is being discussed whether to move environment down to Type III.

** Agriculture is a special case. In the absence of a federal ministry of agriculture, a deputy minister of foreign affairs represents Belgium in the Council, supported by two assessors from Flanders and Wallonia without rotation.

*** Fisheries is also a special case. Since only Flanders has a coastline, there is no rotation with Wallonia, and Flanders therefore always represents Belgium in the EU Fisheries Council.

Source: *Kerremans and Beyers (2000)* .”¹¹⁶

5. Distribution of competences

There has been a great deal of focus on the powers that would reside with the two federal states. Initially it was foreseen that these powers would be those proposed in 1992 in the Secretary General's "Set of Ideas".¹¹⁷ The latest proposal limits the federal powers to those necessary to

116 Michael Emerson and Nathalie Tocci (2002), *Cyprus as Lighthouse of the East Mediterranean - Shaping EU Accession and Re-unification Together*, Brussels, Centre for European Policy Studies.

117 Para 26 of the UNSG's "Set of Ideas" proposes that the federal government will have the following powers and functions: a. foreign affairs [although the federated

ensure that Cyprus can speak and act with one voice internationally and in the European Union, fulfil its obligations as a European Union member state, and protect its integrity, borders, resources and ancient heritage. This subject was discussed at length by Emerson and Tocci in their recent publication *Cyprus as Lighthouse of the East Mediterranean*.¹¹⁸

On *monetary policy* the whole of Cyprus would probably accede in 2006/7 to the Euro area. Acceding states cannot join the Euro area immediately, because they must first join the Exchange Rate Mechanism 2 and comply with the convergence criteria for 2 years. Under the latest plan Northern Cyprus would use the Cyprus Pound as currency (it is still widely accepted in Northern Cyprus although the official currency is the Turkish Lira) but Northern Cypriot business could do their accounting in Euros. As Emerson and Tocci say, "this leaves open the possibility for the central bank to delegate to its branches in the constituent states a role in supervising financial institutions (German model)."

For the *internal market* both sides would adopt the *acquis communautaire* with its freedom of movement of goods, services, labour and capital. It is worth noting that much of the internal market *acquis* has already been adopted by Turkey as part of its customs union agreement with the EU. In theory Northern Cyprus has a customs union with Turkey in the same areas, and so in theory has adopted the *acquis* in these areas, but some in Northern Cyprus take the view that this has not actually happened. Entry of the whole of Cyprus into the EU would also mean automatically joining the EU's *customs union* with Turkey and the abolition of all present trade restrictions with Northern Cyprus and between the two states on the island.

states may enter into separate agreements]; b. central bank functions; c) customs and co-ordination of international trade; d. airports and ports as concerns international matters; e. federal budget and taxation; f. immigration and citizenship; g. defence; h. federal judiciary and federal police; i. federal postal and telecommunications services; j. patents and trademarks; k. appointment of federal officials and civil servants; l. standard setting for public health, environment, use and preservation of natural resources and weights and measures; m. co-ordination of tourism and industrial activities.

118 Michael Emerson and Nathalie Tocci (2002), *Cyprus as Lighthouse of the East Mediterranean - Shaping EU Accession and Re-unification Together*, Brussels, Centre for European Policy Studies. See the section entitled *Kompetenz Katalog*.

“For the *budgetary system* of the re-unified Cyprus, there is a wealth of experience in advanced, multi-tier government systems, with clearly identified models for taxation, social security finance and revenue redistribution to choose from. These choices may be influenced, and pressures for inter-community redistribution eased, by grants and loans from the EU institutions. These funds would be largely aimed at the economic catch-up of Northern Cyprus, which could proceed at an impressive speed as long as the political settlement is perceived as credible for investors.”¹¹⁹

On *economic* matters, in 1999 the GDP per capita in the North was approximately \$4, 666¹²⁰, although in purchasing power standard (PPS) terms this would undoubtedly be much higher because of the relatively low cost of living in Northern Cyprus. It is also thought that this figure takes no account of the unregistered economy which could well be half the total economy. For comparison the GDP per capita at current prices in southern Cyprus for 1999 was estimated at _13, 000 or _17, 500 in PPS terms.¹²¹ Taking all these factors into account, it may be concluded that the North has roughly half the wealth per capita of the South. This has been borne out recently by Turkish Cypriots crossing to the South finding prices very much higher, indicating a much lower cost of living in the North.

In several sectors, such as *energy, transport and environment policy*, the broad sweep of policy would be governed by the EU *acquis*, but the delivery would be at a constituent state level.

The EU has little competence in the area of *education* and indeed education for the two communities has always been handled separately in Cyprus.

There would be single Cyprus *citizenship* and all citizens would also be citizens of the European Union. The free *movement of persons* internationally will be determined by EU and Schengen law, and transitional arrangements could be as part of the settlement in order avoid new restrictions such as visa requirements between Cyprus and Turkey. Similar exceptions to the general rules exist, for example between the UK and the

119 Ibid.

120 Source: TRNC Government Public Information Office.

121 Source: European Commission Regular Report on Cyprus, October 2001.

Republic of Ireland (both outside the Schengen area) where there has always been passport-free access between the two countries.

Foreign policy would call for a major responsibility at the common state level but would fit into the EU's Common Foreign and Security Policy (CFSP). In terms of attracting investment and developing trade the two states would continue to market themselves as they do at present in the international arena. In terms of *defence policy*, again this would come within the scope of the CFSP but would be adapted by the terms of the settlement between the two states. It has been suggested that, "The demilitarised island would not need an army or defence policy (beyond international and EU guarantees)." ¹²²

Regional, agricultural and tourism policies would undoubtedly be handled at a constituent state level. Of major importance is the restructuring of the Turkish Cypriot economy which currently relies heavily on subsidies from Turkey and is burdened by an overly large public sector. The economy is basically service oriented, but it has a relatively smaller tourism base ¹²³ and a larger agricultural sector than the Greek Cypriot economy. Under the Northern Cypriot administration's liberal economic policy, trade, tourism, banking, education, transportation and industrial sectors are important.

Embargo

The European Court of Justice (ECJ) ruled on 5 July 1994 against the British practice of importing produce from Northern Cyprus based on certificates of origin and phytosanitary certificates granted by TRNC authorities. The ECJ decision stated that only goods bearing certificates of origin from the Government of Cyprus could be recognized for trade by EU member countries. That decision resulted in a considerable decrease of Turkish Cypriot exports to the EU: from \$36.4 million (or 66.7% of total Turkish Cypriot exports) in 1993 to \$24.7 million in 1996 (or 35% of total exports) in 1996. Even so, the EU continues to be the TRNC's second-largest trading partner, with a 24.7% share of total imports and 35% share of total exports. This has forced the Turkish Cypriots to rely heavily on Turkey. Whilst this was not a political act by European Union or the

122 Ibid.

123 The TRNC only received 84,000 tourists, or 3% of the 2.7 million arrivals in the south. Source: European Commission Regular Report 2002.

Court of Justice, it was undoubtedly a political act by the Republic of Cyprus in bringing the case to the European Court.

If Northern Cyprus is on a short course towards EU membership, then this decision can be overcome, by the European Commission proposing a Decision to the Council under Article 133. European Commission spokesman Jean-Christophe Filori has said that the Commission will propose on 4 July 2003 an easing of restrictions on exports from the Turkish part of the island to EU member countries. This announcement came hours after Turkish Foreign Minister Abdullah Gül proposed to make Cyprus free of embargoes, urging the European Union to lift the embargo on goods from the Turkish Cypriot side, and saying Turkey was ready to do the same for Greek Cyprus.¹²⁴ This would enable Turkish Cypriot goods such as oranges and grapefruit to enter the EU.¹²⁵

UN negotiations

Although they began far apart in the negotiations, the Greek and Turkish Cypriots made progress on the issue of distribution of competences, leaving only a small gap to be bridged. The plan equips the federal government with specified powers, comprising those necessary to ensure that Cyprus can speak and act with one voice internationally and in the European Union, fulfil its obligations as a European Union member state, and protect its integrity, borders, resources¹²⁶ and ancient heritage. All remaining powers - which are the bulk of the powers and include most matters affecting the day-to-day life of citizens or requiring major budgetary

124 Source Turkish Daily News 17 May 2003.

125 The main agricultural and industrial products exported from TRNC are: live lambs & kid; dairy products; citrus crops; grapes; citrus animal fodder; concentrated citrus; fresh vegetables; potatoes; carob seeds; kibbled carobs; olives and olive oil; refreshments; tobacco; hides and leather; wool; gypsum; PVC band (sellotape); craft linear paper; kitchen utensils (Teflon); ready-made clothes; welding electrodes.

126 Natural resources were initially proposed as a matter within the competence of the constituent states. In view of Turkish Cypriot concerns that a disproportionate share of water resources would be within the Greek Cypriot State (since any realistic territorial adjustment would affect aquifers in the Famagusta and Morphou areas), this was included as a federal matter in the second version of the plan, with the specific matter of water resources to be regulated by special majority law and equitably attributed between the constituent states.

expenditure - would fall within the sphere of competence of the constituent states, which would thus enjoy residual powers. The plan also provides for the implementation of federal legislation by the constituent states where this is appropriate.¹²⁷

The plan contains mechanisms to promote cooperation and coordination between the constituent states, and between them and the federal government. These include Constitutional Laws, Cooperation Agreements, and facilities for cooperation and coordination funded by the federal government. The concept of Constitutional Laws was developed to regulate in a uniform manner the exercise of powers by the constituent states (and the federal government) at a level of detail not appropriate for the Constitution. Cooperation Agreements between the federal government and the constituent states, inspired by the Belgian model (which was repeatedly invoked by the Turkish Cypriot side during the talks), were the mechanism to ensure cooperation on foreign and European Union relations, as well as on police matters.¹²⁸

To provide for the functioning of Cyprus as a European Union member state, the Plan foresees, among other things, extensive cooperation between the federal government and the constituent states based on cooperation agreements inspired by the Belgian model. Cyprus could thus be represented in the European Council by members of constituent state institutions if the issue under discussion fell into the sphere of competence of the constituent states.¹²⁹

If the two Cyprus states could enter the EU at the same time there would need to be rapid progress towards the normalisation of relations between the two parts of the island and between Northern Cyprus and the rest of the world. A crucial issue here is that of the internal border between the two sides. Full freedom of movement between the two sides is simply impractical from the outset. There are precedents for restrictions on the free movement between the two parts of the island. As Emerson and Tocci tell us in their recent publication for the Centre for European Policy Studies:

127 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 87-88.

128 *Ibid.*, para 89-91.

129 *Ibid.*, para 97.

“Some permanent derogations to the full application of the four freedoms have been accepted within the EU in the past in exceptional cases that were ‘justified by history’. In Finland the Aaland Islands represent an autonomous entity of Swedish-speaking Finnish citizens, approximately 25, 000 in number. The right to ‘official domicile’ on the islands is controlled by the Aaland Islands authorities and is restricted to Swedish-speaking people. Of course all Finnish and EU citizens have freedom of movement in and out of the islands. Without official domicile, however, the individual cannot participate in elections, stand for local office, own property or exercise a trade or a profession without a licence of the Aaland authorities. These special arrangements existed prior to Finland’s EU membership and were retained upon Finnish accession to the EU through a Protocol annexed to the Treaty of Accession. In Denmark there are still permanent restrictions on the acquisition of second homes by German citizens, more than a century after the settlement of the Schleswig-Holstein dispute. In the current round of enlargement negotiations, Malta succeeded in securing permanent restrictions on the purchase of property by foreigners. Following EU membership only foreigners who have been residing in Malta for more than five years will be able to freely acquire property in the island. In order to guarantee the permanent nature of these arrangements, a Protocol will be annexed to Malta’s Accession Treaty, which can only be altered with Malta’s consent.”¹³⁰

Col Stephen Norton described this in a recent briefing for the CSCE:

“New flexibility [is needed] regarding the basic EU tenet that all citizens can move freely, with the right to acquire private property, within a member country. This greatly concerns Turkey, which envisages Greek Cypriots simply moving north, buying the TRNC parcel by parcel, and relegating Turkish Cypriot workers to unskilled labour and farming while Greek Cypriots become the primary entrepreneurs across the entire Cypriot republic. But this EU tenet is not absolute and arrangements - even at a transitional level - can be considered for Cyprus to assuage these fears.”¹³¹

130 Michael Emerson and Nathalie Tocci (2002), *Cyprus as Lighthouse of the East Mediterranean - Shaping EU Accession and Re-unification Together*, Brussels, Centre for European Policy Studies.

131 Col Stephen R Norton (US Army Retd.) (26 March 2002) *Briefing for CSCE: If the Cyprus talks fail*.

In the UN negotiations there was little disagreement between the two sides on the economic aspects. Significant investment will be necessary in Northern Cyprus and the European Commission was in the process of organizing an international donor conference for this purpose. There would be a net transfer of resources from the Greek Cypriot State to the Turkish Cypriot State until the economic disparities between the two states have disappeared.¹³² The whole of the territory of the Northern state would benefit from European Union structural funds and programmes, as well as the creation of a special fund of _200 million for the Turkish Cypriot State in order to assist further the economic harmonisation process.

6. Treaty of Guarantee

A major concern for the TRNC is that accession would affect the safeguards currently offered by the guarantor powers - notably Turkey - under the Treaty of Guarantee. It would be perfectly possible for the new Cyprus federation to retain guarantee arrangements along with other provisions relating to Cyprus' security assuming these are acceptable to both sides within the new federal arrangement. There would be likely to be some changes to the Treaty of Guarantee, partly through using some key provisions of the EU Treaties (Articles 6 and 7 of the Treaty on European Union).

The UN plan includes devices by which the key international actors would underwrite, in different ways, the principles of the agreement. This would occur, through acknowledgement, endorsement and/or guarantee, by the Security Council, the European Union, the Council of Europe and the guarantor Powers. The various devices form a coherent structure of international underpinning of the agreement.¹³³

In answer to a UK parliamentary question from Lord Monson on 30 July 1997 the British Government affirmed that it considers both the 1960 Treaty of Guarantee and the 1960 Treaty of Establishment to be in force. This was reaffirmed in a parliamentary answer to Lord Kilclooney of Armagh on 7 November 2001 in which the British Government further dec-

132 According to Turkish Cypriot calculations roughly 25 million Cyprus pounds (around _42 million) in the first year after a settlement.

133 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 78.

lared that the Treaty of Guarantee would not be affected if Cyprus were to join the EU.

7. Security

The report of the UN Secretary-General on his mission of good offices in Cyprus states that, "the issue of security was one of the few where points of agreement were reached, however ephemerally, in direct negotiations between the leaders — before Mr Denktaş retracted his provisional agreement."¹³⁴ There was agreement on the need for an arms embargo, the creation of a Monitoring Committee, the Treaty of Guarantee would not only remain in force and be extended to cover the constitutional order of the United Cyprus Republic, the territorial integrity, security and constitutional order of its constituent states. On the issue of the maximum number of Greek and Turkish troops to be on the island the third UN proposal was for a figure of 6, 000 and withdrawal of all troops stationed under the Treaty of Alliance upon Turkish accession to the European Union.¹³⁵

8. Presidential Council

The United Nations proposal states that the office of head of State is to be vested collectively in a Presidential Council of six equal members — four Greek Cypriots, two Turkish Cypriots. The chair of the Council would rotate among the six members. This would mean that a Turkish Cypriot would represent the Presidential Council as head of State one third of the time — underlining political equality while also reflecting in a democratic manner the larger number of Greek Cypriot citizens. The members of the Council would be elected from a single list (unlike in Switzerland), requiring the support of at least two fifths of the Senators from each constituent state. This would ensure that those elected would have clear support from their own constituent state (a Turkish Cypriot concern) and from both constituent states (a Greek Cypriot concern) . The plan proposes that the decisions of the Presidential Council would be taken by consensus if possible, and otherwise by simple majority provided such a majority included at least one Greek Cypriot and one Turkish Cypriot. The compani-

134 Ibid., para 120.

135 Ibid., para 121-122.

on concepts that no decision could be taken by persons from one constituent state alone, and that no single person could veto decisions or block the running of the state, run like a golden thread throughout the Plan.¹³⁶

9. Bicameral parliament

As to the federal Parliament, the UN plan proposes a Senate with a 50-50 composition, reflecting the political equality of the constituent states, and a Chamber of Deputies reflecting the population of the island with a slight weighting of seats towards the smaller Turkish Cypriot population (minimum of 25% of seats per constituent state). The decision-making procedures of the Senate are designed to ensure that decisions enjoy substantial support from both constituent states. Ordinary decisions would require a majority of Senators which included at least one quarter of Senators from each constituent state. On a range of subjects that could be said to touch on vital interests of the constituent states, a special majority of two fifths of Senators of each constituent state would be required.¹³⁷

10. The key role of the Supreme Court

In a system without legal hierarchy between the federal and the constituent state level of government, the Supreme Court is the only institution which can ultimately guarantee the harmonious functioning of the state. The UN plan underlines that there should be an equal number of Greek Cypriot and Turkish Cypriot judges, and to prevent the Court from being deadlocked on issues contentious between the two communities or the two constituent states, to provide for non-Cypriot judges. Cyprus would not be the only country with foreign judges in its Supreme Court and this would in no way diminish its sovereignty, as those judges would be appointed by the Cypriot authorities.¹³⁸ In January 2003, the Greek and Turkish Cypriot

136 Ibid., para 84-85.

137 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 86.

138 It should be noted that the plan provided flexibility on this issue, enabling the federal Parliament to dispense with foreign judges once trust and confidence built up between the two sides. It should also be noted that a refinement was added in the third version of the plan whereby the foreign judges would not participate in decisions if the Cypriot judges were able to reach decisions without their participation.

leaders reluctantly agreed that the inclusion of foreign judges, and the deadlock-resolving role of the Supreme Court, would be necessary.¹³⁹

11. Residency rights

In the UN sponsored negotiations the issue of freedom of establishment of residence was extremely contentious. The plan suggests a very gradual approach to the establishment of residency by former inhabitants and other Greek Cypriots in the Turkish Cypriot State (and vice versa) . Initially there would be a total moratorium, though people over 65 and their spouses (or one sibling), as well as former inhabitants (and their descendants) of four villages at the tip of the Karpas peninsula where some Greek Cypriots have remained since 1974, would be exempted from limitations after two years.¹⁴⁰ The second plan extended the moratorium but slightly accelerated the pace to end with a limitation of 28% after 15 years. The third plan introduced the concept of lifting these limitations after Turkey joins the European Union in exchange for lower limits before, and the exemption for the elderly in exchange for a longer overall moratorium.¹⁴¹

12. Citizenship and the exercise of political rights

In the negotiations the Greek Cypriot side took the view that there should be a single Cypriot citizenship and that it should be held only by people who were citizens of the Republic of Cyprus in 1960 and their descendants (and by persons who have since acquired such citizenship in accordance with the law of the Republic) . In particular, the Greek Cypriot side considered that Turks who had migrated to Northern Cyprus since 1974 should not be given citizenship but at best some form of residency rights for humanitarian reasons, while most of them should return to their places of origin. The Turkish Cypriot position, ba-

139 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 92-94.

140 The population of these villages had also been granted special rights under the third Vienna Agreement reached by Mr Clerides and Mr Denktas in 1975.

141 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 99-100.

sed on the approach of two pre-existing states coming together, demanded blanket recognition of existing citizenship rolls and dual citizenship for the future, that is, the allocation of constituent state citizenship by constituent state authorities, which would automatically entail citizenship of the United Cyprus Republic.

The UN proposals on who would be considered a citizen of the United Cyprus Republic, proposes that, in addition to those who had citizenship in 1963 and their descendants, plus a list of 45, 000 people from each side, priority to be given to people who grew up in Cyprus and to others on the basis of length of stay, while people married to Cypriots would automatically be considered citizens.¹⁴²

13. Properties affected by events since 1963

Almost half the population of Cyprus lost properties as a result of inter-communal strife or military action between 1963 and 1974 and the unresolved division of the island since that time. The Greek Cypriot side advocated a solution based on full respect for property rights so that all displaced persons, from either community, would have the right to have their properties reinstated. The Turkish Cypriot side argued that they do not wish to live with the Greek Cypriots, and Turkish Cypriots do not want the properties that they left in the South to be returned. They argue that property claims should be settled through liquidation by means of a global exchange and compensation scheme, meaning that no displaced persons, from either side, would have the right to have their properties reinstated. This is similar to the arrangements at various points over the last century where there has been a global settlement of property claims as a result of an exchange of population.

This issue raises problems of human rights, not least since the European Court of Human Rights has taken decisions recognising the property rights of Greek Cypriots in the northern part of the island and allocating

142 In addition, each constituent state would be entitled to give permanent residency rights to citizens of Greece or Turkey, as the case may be, up to a level of 10 per cent of the number of persons holding its internal constituent state citizenship status. Such persons would, in time, be entitled to acquire Cypriot citizenship. Source: United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 102-106.

damages at the expense of Turkey.¹⁴³ Thousands of similar cases are pending before the Court.

The UN has proposed a scheme, to be administered by a property board, giving priority to the claims of current users who have themselves been displaced and dispossessed of properties and allows them to obtain title in exchange for their property in the other part of the island. Similarly, anyone who has significantly improved a property would be able to obtain title provided he/she pays for the value of the property in its original state. Other properties would be reinstated to their owners — although a range of incentives would encourage dispossessed owners to sell, lease or exchange their properties or seek compensation. In addition, reinstatement would not be possible for more than 20% of the residences and land in any village or town and for more than 10% of the residences and land in either constituent state. Owners whose properties were not reinstated would be compensated with bonds guaranteed by the federal government and redeemable after 10 or 15 years from a compensation fund, to be funded by the sale of properties by the property board (the concept being that no one should obtain title to a property without paying for it through exchange or in cash). The property proposals also include detailed provisions for adequate alternative accommodation and a preferential loans scheme for current users.¹⁴⁴

But as Michael Stevens put it in a recent article:

“People on both sides lost their homes nearly 3 decades ago, and justice can be done by compensating them in cash and property. Instead

143 In March 1989, the Greek Cypriot Titina Loizidou attempted to cross the ‘green line’ in order to reach her property in Kyrenia and was stopped by Turkish forces. In July Ms Loizidou filed a complaint to the European Court of Human Rights (no. 15318/89). The Court’s rulings on the Loizidou case came in different stages. On 23 March 1995, the Court first accepted the premise that in the light of the ongoing conflict and the presence of Turkish forces in northern Cyprus, Turkey’s jurisdiction was considered to extend to the northern part of the island. In its second ruling on 18 December 1996, the Court found Turkey guilty of violating Article 1, Protocol 1 of the European Convention for the Protection of Human Rights and Fundamental Freedoms guaranteeing Ms. Loizidou’s ‘peaceful enjoyment of her possessions’. Finally on 28 July 1998, the ECHR requested a compensation of £800,000 from Turkey to Ms. Loizidou for denying the enjoyment of her property in Kyrenia.

144 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 109-110.

the UN Plan would have caused mass evictions and would have turned at least 50, 000 Turkish Cypriots into forcibly displaced persons, many of whom have already been refugees twice before.”¹⁴⁵

14. Territory

The area currently under Turkish Cypriot control is slightly more than 36% of the territory of the 1960 Republic of Cyprus, including 57% of the coastline. During at least the century that preceded the division of the island, the share of the Turkish Cypriot population had consistently been in the vicinity of 18%, and that of the Greek Cypriot population over 80%. These statistics suggest that a fair solution which would be acceptable to both sides would require a substantial territorial adjustment.¹⁴⁶ The Turkish Cypriots, however, argue that territory of Northern Cyprus is approximately equal to the land which the Turkish Cypriots and their religious foundation, EVKAF¹⁴⁷ had owned, and their share of the jointly-owned national land.

The United Nations initially proposed two alternative maps for territorial adjustment based on maximising the number of Greek Cypriots that could return to their former homes. These maps were changed and the map in the third proposal allocated slightly more than 29%¹⁴⁸ of the territory and more than half the coastline of the 1960 Republic of Cyprus to the Turkish Cypriot State. The area of territorial adjustment, which represents about 7% of the territory of Cyprus, was home to 54% of the Greek Cypriots displaced in 1974.¹⁴⁹ The number of current inhabitants according to the 1996 Turkish Cypriot census would be 47, 000, though the United Nations believes the actual figure is probably lower. This figure,

145 Michael Stevens (2003), *Cyprus after Annan*, http://www.trncpresidency.org/press/news/after_annan.htm.

146 United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 112-113.

147 EVKAF and its properties are recognised under Article 110 (2) of the Constitution of the Republic of Cyprus, 1960.

148 In earlier negotiations under United Nations auspices, Mr Denktaş, in the context of an overall package had accepted that the Turkish Cypriot State would be within this range.

149 More than 86, 000 then; with offspring, about 120,000 today (since population growth among Greek Cypriots since 1974 has been about 40 per cent).

combined with the maximum of 15, 000 to 18, 000 persons who would be affected by reinstatement of properties in the Turkish Cypriot State, amounts to a maximum of 62, 000 to 67, 000 persons being dislocated under the Plan. The cost of this would probably be covered by international donors.¹⁵⁰

It is clear that whilst the Turkish Cypriot authorities recognise that some territory will have to be handed back to the Greek Cypriots, they have major problems with these proposed territorial transfers. The Turkish Cypriots would be willing to hand over the “dead” area of Varosha (around 3% of the territory) from where 50, 000 people were displaced¹⁵¹, and this has been offered by President Denktaş in his proposals of 2 April 2003. As a result of the recent border opening and the revelation that the two sides do not need to be kept apart by a *cordon sanitaire* 3 km wide, it can be argued that much of the land in the UN buffer zone (currently 3% of the land area) could be released, and this would enable a further 30, 000 people to return to their homes.¹⁵² With other territorial adjustments along the boundary between the two states significant numbers of Greek Cypriots could return to their homes while disrupting relatively few Turkish Cypriots.

15. Possible scenarios

There are two alternative approaches to the Cyprus question:

- the current approach
- progressive membership of the two sides.

The current approach

If nothing substantial happens between now and May 2004, the Republic of Cyprus will join the EU, but the *acquis communautaire* will only

150 United Nations (2003), *Report of the Secretary-General on his mission of good-offices in Cyprus*, Doc S-2003-398, para 114-119.

151 Former President Evren told Turkish Pulse, “It is a fact that Varosha, next to the port of Famagusta, has been kept idle for more than a quarter of a century with the intention of relinquishing it at the final settlement.”

152 Various sources, notably Council of Europe (COE), Parliamentary Assembly, 27 April 1992, *Report on the Demographic Structure of the Cypriot Communities*, Doc. 6589.

apply to the southern part of the island. This is similar to the situation under which the Federal Republic of Germany joined the European Economic Community in 1958, where it was deemed that both eastern and western Germany were a member of the Community, but the *acquis* did not apply in the eastern part). Thus with the reunification of Germany the eastern *länder* were already officially in the European Community.¹⁵³

Since the breakdown of the talks in The Hague, President Denktas proposed on 2 April a scheme to allow those Turkish Cypriots who want to participate in the EU to do so. Elements of the scheme are as follows:

- allowing Turkish Cypriots to take Republic of Cyprus (that is European Union) passports, and thus participate in the EU;
- the abolition of military service for Turkish Cypriots;
- freedom of movement to allow Turkish Cypriots to travel to the south;
- freedom to travel in and out of Cyprus via Greek Cypriot ports and airports;
- the lifting of restrictions on trade with the south.

The Greek Cypriot National Council has accepted the border opening proposals but rejected the rest as an attempt to get around the UN Plan.

But the medium- to long-term consequences of there being no settlement are potentially very severe for Turkey and the Turkish Cypriots. The political correspondent Mehmet Ali Birand foresaw these consequences in an article in 2001 in which he pointed out that taking a divided island into the EU would have the following effects:

1. With southern Cyprus as a full EU member, the TRNC will be left out in the cold.
2. A short time later, cases will be opened at international platforms and campaigns will be started up against the Turkish party on the pretext that 'EU territory is under occupation'. Indeed, the latest decision to be taken by the European Court of Human Rights demonstrates what attitude the court will adopt in the

¹⁵³ These articles of the Treaty of Rome were removed from the Treaty at Maastricht because they were no longer required.

years ahead. Accordingly, any Greek Cypriots who apply to the court will be able to receive compensation for their property.¹⁵⁴ There are signs that unless Turkey changes its own attitude, it will be expelled from the Council of Europe.

3. The door to the EU is closed in two ways to Turkey. One is due to the domestic reaction Turkey will show. The other is due to the veto system within the EU.
4. It will mean the perpetuation of TRNC, which only Turkey in the entire world recognizes, as either an annex of Turkey or a piece of land continuously nourished by Turkey.
5. It will see the start to new provocations and a new arms race in the Aegean.
6. It will see Turkey being roughed up by the UN, the Council of Europe, the European Parliament and other international bodies and then pushed into political isolation.¹⁵⁵

The list of undesirable consequences was extended by Dr Harry Anastasiou and Dr Birol Yeşilada in a paper for the TÜSIAD office in Washington DC:

7. The UN will withdraw its peace-making efforts for the near future [which happened on the day this paper was published]
8. The division of Cyprus will become permanent. Greek Cypriots will continue on the EU membership road while the Turkish Cypriots move closer to integration with Turkey.
9. Turkish Cypriots and Greek Cypriots will become permanently alienated from each other.
10. Greek-Turkish relations will suffer a major setback and diminish the progress made in recent years.
11. The ESDI-NATO relations may be strained.
12. Finally, in this worst-case scenario, the prime losers will be tho-

154 As stated above, already thousands of such cases have been filed at the European Court of Human Rights.

155 Mehmet Ali Birand (22 May 2001), *Turkey wake up! We're losing Cyprus*, Ankara: Turkish Daily News.

se Greek Cypriots and Turkish Cypriots who had spent their lives hoping for peace and reconciliation on their Island.¹⁵⁶

These views were confirmed in the wake of the collapse of UN sponsored talks when the European Union issued a stern warning to Turkey on 11 March 2003 that the Greek Cypriot side remained on course to join the EU in 2004, and from that date on, Turkey would become a country occupying EU territory. EU spokesman Jean-Christophe Filori restated the EU's position that only the internationally recognized Greek Cypriot state will join the EU, unless Turkish and Greek Cypriot leaders accept a reunification agreement by the accession date. Jean-Christophe Filori added, "The timetable will continue as planned. There is absolutely no change in the situation." "If by the end of 2004 there is still no settlement on Cyprus, we will be facing this rather weird situation where a candidate country knocking at the door does not recognise one of our own member states." Greek Prime Minister Costas Simitis warned that Turkey would not enter the European Union as long as Cyprus remained divided. "The line dividing Nicosia also separates Turkey from the European Union," Simitis said in a televised speech after a meeting of his ruling socialist party's executive committee.¹⁵⁷

On the other hand Professor Clement Dodd of the School of African and Oriental Studies argues that failure of the UN Plan will not really be an obstacle to Turkey's EU membership:

"The decision to admit so large and populous a country as Turkey would be a decision of historic proportions, going far beyond the confines of the Cyprus issue. If the European Union wants Turkey as a member it will be for reasons that have little or nothing to do with Cyprus and a great deal to do its oil reserves (not least in the Caspian), and to the sources of world terrorism - points to the need to make Turkey a part of the European Union. Clearly the major European states are beginning to see this, even if European public opinion often seems to lag behind."¹⁵⁸

156 Dr Harry Anastasiou & Dr Birol Yeşilada (11 March 2003) *The Annan Plan: A Historic Challenge for the Cypriots*, Turkish Industrialists' and Businessmen's Association, Washington DC Office.

157 Quoted by AFP, 8 April 2003.

158 Prof Clement Dodd (2003), *UN Cyprus Plan: Solution or Delusion?*, published on the Internet at various sites including http://www.foreignpolicy.org.tr/eng/articles/dodd_070103.htm.

Progressive membership of the two sides

I believe that there is a possible alternative model that addresses the major concerns of both the Greek and Turkish Cypriots. For the Turkish Cypriots the principle issues that need to be addressed are: sovereignty; the maintenance of the Treaty of Guarantee; that Northern Cyprus should not join the EU before Turkey does; and the maintenance of an economically viable and contiguous territory. For the Greek Cypriots the main issues are: accession of the whole of the island to the EU in May 2004; a workable federal arrangement; and the return of all Greek Cypriots to the properties they lost in the North of the island.

In many areas I believe that the two sides are quite close, and agreement could be achieved in the following areas: the issue of sovereignty and the status of two states within a new federal union; EU accession; the distribution of competences between the states; the maintenance of the Treaty of Guarantee; security; and the Presidential Council.

There are much more deep-seated problems in the other areas: the bicameral parliament; the role and structure of the Supreme Court; residency rights; citizenship and the exercise of political rights; properties affected by events since 1963; and territory. On the Supreme Court both sides seem opposed to having foreign judges. The problem could be overcome by a combination of appealing to the British Privy Council (Cyprus is a member of the Commonwealth) which may be sufficiently politically distasteful to force Cypriots to resolve problems, and reference to the European Court of Justice to the extent that the federal constitution will be underwritten by the Accession Treaty.

The subjects of properties affected by events since 1963 and the issue of territory are intimately bound up in the "bottom line" issues. The fact that both sides are unwilling to negotiate certain points does not make diplomacy impossible, but it does explain why a solution has not been found over the last twenty nine years.

The Treaty for EU enlargement could take the whole of a new Cyprus federation into the EU. Cyprus would comprise two states, one in the South would accede fully in May 2004, and the one in the north would accede step-by-step in line with Turkey's progress towards the EU (foreseen for 2010). Thus the Northern state would implement immediately a customs union in industrial products with the EU and would adopt mo-

re and more of the *acquis communautaire* over a period of six years in line with the extension of the EU-Turkey Customs Union. The relationship between the states and the new federation, and the powers vested in the federal state would be as foreseen in the Annan Plan based on the Swiss and Belgian models. The federal state would have the powers necessary to ensure that Cyprus can speak and act with one voice internationally, fulfil its obligations as an EU member state, and protect its integrity, borders, resources and ancient heritage.

Clearly this arrangement is distinctly less than ideal from the EU's perspective - for the Northern state to be legally part of a federation that is a member of the European Union, but for it to progressively apply more and more of the *acquis* over time. This could be regarded by the EU as derogations over whole chapters of the *acquis* for say 6-8 years.

There is a precedent for the *acquis* not applying in a part of the European Community and that is the situation in East Germany from the signing of the Treaty of Rome for 30 years up till German Reunification. Indeed, if nothing happens to reach a settlement in Cyprus between now and May 2004, "the application of the *acquis* to the northern part of the island shall be suspended, until the Council decides unanimously otherwise" according to the Copenhagen European Council decision.¹⁵⁹ The same European Council meeting declared, "In case of a settlement, the Council, acting by unanimity on the basis of proposals by the Commission, shall decide upon adaptations of the terms concerning the accession of Cyprus to the EU with regard to the Turkish Cypriot community." So the European Union should be prepared to accommodate an unusual set of conditions regarding Northern Cyprus if this were part of a settlement on the island. Furthermore, the European Union has confirmed that the EU with its *acquis*, would never be an obstacle to finding a solution to the Cyprus problem, and that the EU would accommodate whatever arrangements the parties themselves agreed to in the context of a political settlement.¹⁶⁰

159 Copenhagen European Council Conclusions, 12 and 13 December 2002.

160 The European Union's policy was stated on 22 June 2002 in the Seville European Council Presidency conclusions: "The European Union would accommodate the terms of ... a comprehensive settlement in the Treaty of Accession in line with the principles on which the European Union is founded: as a member State, Cyprus will have to speak with a single voice and ensure the proper application of European Union law. The European Union would make a substantial financial contribution in support of the development of the northern part of a reunited island."

The other problem from the EU's perspective would be the linkage between the implementation of the *acquis* for the Northern state, and the negotiations on membership of another state, Turkey. On the face of it this linkage would be unacceptable to the Commission and a number of the existing member states, but in view of the desirability of resolving the Cyprus question, it is probable that an acceptable formula could be found to overcome this issue.

There would be territorial adjustments reducing the area of the Northern state to around 30% of the island. The Northern administration has indicated that it would be willing to hand over the "dead" area of Varosha (around 3% of the territory) from where 50, 000 people were displaced.¹⁶¹ In recent weeks the crossings of the population to the other part of the island have shown that the people should be able to live side by side without the need for a UN buffer zone that is up to 3 kilometres wide. Opening up the UN buffer zone (currently 3-4% of the land area) would enable a further 30, 000 people to return to their homes.¹⁶² Further territorial adjustments could be made along the boundary between the two states, for example handing over the territory that was taken by Turkish forces after the cease-fire of 18h00 on 16 August 1974. This plus the enclave of Kokkina / Erenköy¹⁶³ would enable around 10, 500 of the displaced Greek Cypriots to return to their homes, but would displace perhaps 5, 000 Turkish Cypriots. Altogether these territorial adjustments would add around 10% of the island to the area available for Greek Cypriots and would enable up to 90, 000 (56%) of the displaced Greek Cypriots (plus their descendants means around 125, 000 people today¹⁶⁴) to return to their homes im-

161 President Denktaş in his statement of 2 April 2003 proposed that, "the fenced area of Varosha south of Dhimoktrathias Street, including the area extending to the UN Buffer Zone, will be transferred to the Greek Cypriot control to be opened for re-settlement." Former Turkish President Evren told Turkish Pulse, "It is a fact that Varosha, next to the port of Famagusta, has been kept idle for more than a quarter of a century with the intention of relinquishing it at the final settlement."

162 Various sources, notably Council of Europe (COE), Parliamentary Assembly, 27 April 1992, *Report on the Demographic Structure of the Cypriot Communities*, Doc. 6589.

163 Whilst the enclave of Kokkina / Erenköy has great political significance for the Turkish Cypriots, and it was an entirely Turkish village, it must cost greatly more than it is worth to maintain this as part of the Northern state.

164 This is based on a population growth amongst Greek Cypriots of 40% since 1974.

mediately whilst disrupting relatively few Turkish Cypriots. The Annan Plan foresaw the handing over of about 7% of the territory of Cyprus from the Turkish Cypriot area to the Greek Cypriots, and this was home to 54% of the Greek Cypriots displaced in 1974, but meant that some 42,000 Turkish Cypriots would have to be relocated.¹⁶⁵

The remaining 44% of the properties (numbering presumably around 25,000 based on a total displaced Greek Cypriot population of 160,000 according to UN figures) would be subject to the proposed exchange of properties and compensation scheme. This scheme has been heavily criticised by the Greek Cypriots as undemocratic and a breach of human rights, but it is not without precedent and has been used to resolve these kinds of issues in Europe for the last hundred years – in 1912 and in the 1920s between Greece and Turkey, and more recently in the former Yugoslavia.

President Denktaş has indicated that all Greek Cypriots would be allowed to return to live in the North and to buy back their properties (having received compensation previously) once Turkey (and, under this plan, Northern Cyprus) is a full member of European Union. This way all Greek Cypriots could have their properties back; half of them immediately, and half in probably about 2010, as opposed to the Annan Plan which allowed about half to have their properties back slowly over 20 years.

I believe this model fulfils most of the objectives of the Greek Cypriots, the Turkish Cypriots and Turkey:

- The Greek Cypriots would be able to claim that the whole of Cyprus is joining the EU under the “legitimate” government; about half the displaced Greek Cypriots would be able to get their properties back immediately, and the other half eventually when the EU accession process is complete.
- The Turkish Cypriot state would get progressive membership of the EU, but immediately the trade embargo would be lifted and it would mean that the economy of Northern Cyprus could be rebuilt. The Turkish Cypriots would not need to go to the South in order to participate in the EU. The EU should be happy because it would have a resolution to the conflict.
- Turkey should be reasonably content except that Cyprus would be

¹⁶⁵ Around 86,000 people then, with offspring, means about about 120,000 today (based on a population growth among Greek Cypriots since 1974 of about 40%).

joining a supra-national body before Turkey, but they would still have the “nuclear button” of being able to delay the membership of the whole of Cyprus until Turkey joins. This would mean the Greek Cypriots would not want to block Turkey’s accession because it would mean delaying the full “reunification” of the island. Indeed, the House of Commons Foreign Affairs Committee has confirmed that “The Greek Cypriots we met ... including President Clerides, denied that they wished to prevent Turkey’s EU candidacy from making progress.”¹⁶⁶

President Denktaş said on 15 April 2003 that he was willing to restart talks with Greek Cypriots but would not accept the Annan plan as a basis for negotiations.¹⁶⁷ It seems that in fact he is not rejecting the whole plan, but is underlining there are completely unacceptable elements of the Annan package. On the other hand President Papadopoulos had already told President Denktaş that any new initiative for the recommencement of talks must be based on the UN Plan.

Although the core of this model is different from the Annan plan, large parts of the plan can be used within this model. For example, the UN reports broad agreement on the combination of Swiss and Belgian models for the structure of the new federal republic, the distribution of competences, the maintenance of the Treaty of Guarantee, and security questions. In addition there is broad agreement on much of the detail being discussed in technical committees.

16. Scope for further negotiations

Four decades of history in Cyprus indicate clearly that the failure to address the essential concerns of the Turkish and Greek Cypriot people does not lead to a solution of this problem. Both sides have indicated a willingness to continue discussions, although President Denktaş says that it is not on the basis of UN Plan, whilst President Papadopoulos insists that it should be. Objectively it would be a great shame to throw out the vast amount of detailed work that has been done, especially in areas whe-

166 UK House of Commons Foreign Affairs Committee (April 2002) *Turkey*, London: House of Commons; para 87.

167 Turkish Daily News (16 April 2003), *Denktaş says ready for restarting talks, but not on basis of Annan plan*, Ankara.

re the two sides are close to agreement. Radical changes, however, need to be made to the overall structure of any possible settlement so as not to ride roughshod over the essential requirements of the two sides.

If a new programme of negotiations is not to be a waste of time, returning time and again to historical questions, there must be proper ground work to ensure that the discussions are fully focused on issues to be resolved. It seems to me that the major issues are as follows:

Issue	Greek Cypriot position	Turkish Cypriot position	Possible compromise
Sovereignty	UN plan leads to dissolution of Republic of Cyprus	In the third proposal references to "constituent state" are acceptable.	It seems that compromise is possible here.
EU Accession	Greek Cyprus will be acceding in May 2004. Reasonable agreement on distribution of competences for reunified Cyprus. Objects to derogations on free movement etc.	Government prefers accession for Northern Cyprus only when Turkey accedes to EU. Reasonable agreement on distribution of competences for reunified Cyprus.	It seems that compromise is possible here.
Distribution of competences	Broad agreement - only small gap to be bridged.	Broad agreement - only small gap to be bridged.	Broad agreement.
Treaty of Guarantee	Willing to accept.	Treaty of Guarantee is essential.	It seems that compromise is possible here.
Security	Object to Turkish troops remaining but agreement possible.	Turkish troops only fully withdrawn after Turkish EU accession, but agreement possible.	It seems that compromise is possible here.
Presidential Council	Divisive and dysfunctional system of governance	Acceptable.	It seems that compromise is possible here.
Bicameral parliament	Essentially undemocratic with minority veto.	There is no need for two chambers - they prefer one parliament with equal numbers parliamentarians from the two sides.	Major divisions here. Logically a unicameral system is what is needed for the federal government. The unresolved issue is on the level of representation of the two communities in the parliament.
The key role of the Supreme Court	The foreign judges would make fundamental legislative decisions, which is not acceptable.	No need for foreign judges. The Supreme Court should have equal Turkish and Greek Cypriots.	Both sides seem opposed to having foreign judges. The problem could be overcome by a combination of appealing to the Privy Council (Cyprus is a member of the Commonwealth) which may be sufficiently politically distasteful to force Cypriots to resolve problems, and reference to the European Court of Justice to the extent that the federal constitution will be underwritten by the Accession Treaty.

Residency rights	-	Turkish Cypriots do not want to live with Greek Cypriots - bizonal arrangement with Greek Cypriots in South, Turkish Cypriots in North.	Significant divergence here. Greek Cypriots want their properties back but Turkish Cypriots do not want to live with Greek Cypriots. See discussion in paragraphs 19-21.
Citizenship and the exercise of political rights	Plan legitimises presence of Turkish settlers who are illegal immigrants.	Existing citizens of the two states must have right to stay.	The main problem here is over the number of Turkish mainland settlers who may remain, but this does not seem to be an issue that would of its own cause breakdown if all other matters are resolved.
Properties affected by events since 1963	Proposals subvert property rights, undemocratic and breach human rights. All displaced Greek Cypriots must be able to have their properties back.	Should be handled on the basis of an exchange of property and compensation. No property should be given back except "dead" part of Varosha.	The "dead" part of Varosha, the UN buffer zone and some other marginal areas should be given to the Greek Cypriots. This would enable up to 90,000 to return to their homes immediately.
Territory		The maps are unacceptable. Only the "dead" part of Varosha should be given back.	The others should be compensated, and allowed to return to their former villages after full implementation of the acquis in the North. See paragraphs 19-21.

17. Conclusions

The history of Cyprus shows one thing clearly - persistent ignoring of the legitimate interests of both sides simply perpetuates confrontation. It is absolutely clear that taking a divided island into the EU would not contribute to the resolution of the Cyprus dispute – on the contrary it would create a permanent division of the island. The clear losers would be the people of both parts of Cyprus. As the UN Secretary General put it in his report on the negotiations:

“One of the obstacles to solving the Cyprus problem has been the perception on both sides that this was a zero-sum game: one side’s gain was the other side’s loss. I am strongly convinced that, had [the Plan] been accepted, my proposal would have created a win-win situation.”¹⁶⁸

An agreement for settling the Cyprus problem would bring enormous benefits for both sides and for the international community:

¹⁶⁸ United Nations (2003), *Report of the Secretary-General on his mission of good offices in Cyprus*, Doc S-2003-398, para 109-143.

1. both the Greek Cypriot and Turkish Cypriot people will enjoy the fruits of EU membership, greater security, prosperity and freedom;
2. it is difficult to over-estimate the economic benefits that would flow to Northern Cyprus and the step-change in the well-being of the Turkish Cypriot people;
3. hundreds of thousands of Cypriots living abroad would be likely to return to the island, bringing wealth, talent and business opportunities;
4. the young will be freed from a history that currently dominates their lives, but they had no part in creating;
5. relations between Turkey and Greece will greatly improve;
6. a major road block will be removed from Turkey's road towards EU membership;
7. Northern Cyprus will be the first Muslim state to join the EU, and Turkish will be an official language of the EU – this will considerably ease the path for Turkey and other Muslim states (such as Bosnia-Herzegovina);
8. there will be greatly enhanced stability in the eastern Mediterranean, which will facilitate the greater participation of the EU through the Euro-Mediterranean partnership in helping to bring about a peaceful solution to the Palestinian conflict.

No one Cypriot side has a monopoly of truth or justice. A scrupulously even-handed approach in dealing with the legitimate concerns of both sides could create an atmosphere conducive to compromise. If there were a simple or easily agreed solution to the conflict it would have been found at least a quarter of a century ago. The plain fact is that both sides have "bottom lines" on which they are not willing to compromise, and no amount of blaming one or the other for intransigence is going to change this position. Recently the UN tried, and failed, to bully both sides on their "bottom lines" because of the deadline for signing the EU accession treaty.

The UN with the Greek and Turkish Cypriots have done a huge amount of invaluable work in preparing the way for a solution. In broad terms all the small issues have been solved, and there remain on the table only a few big issues. I believe that a solution to the Cyprus question is possible

- what is need is for these important issues to be addressed in an open-minded and sympathetic way, and for the two sides to be willing to compromise a little on the less important points.