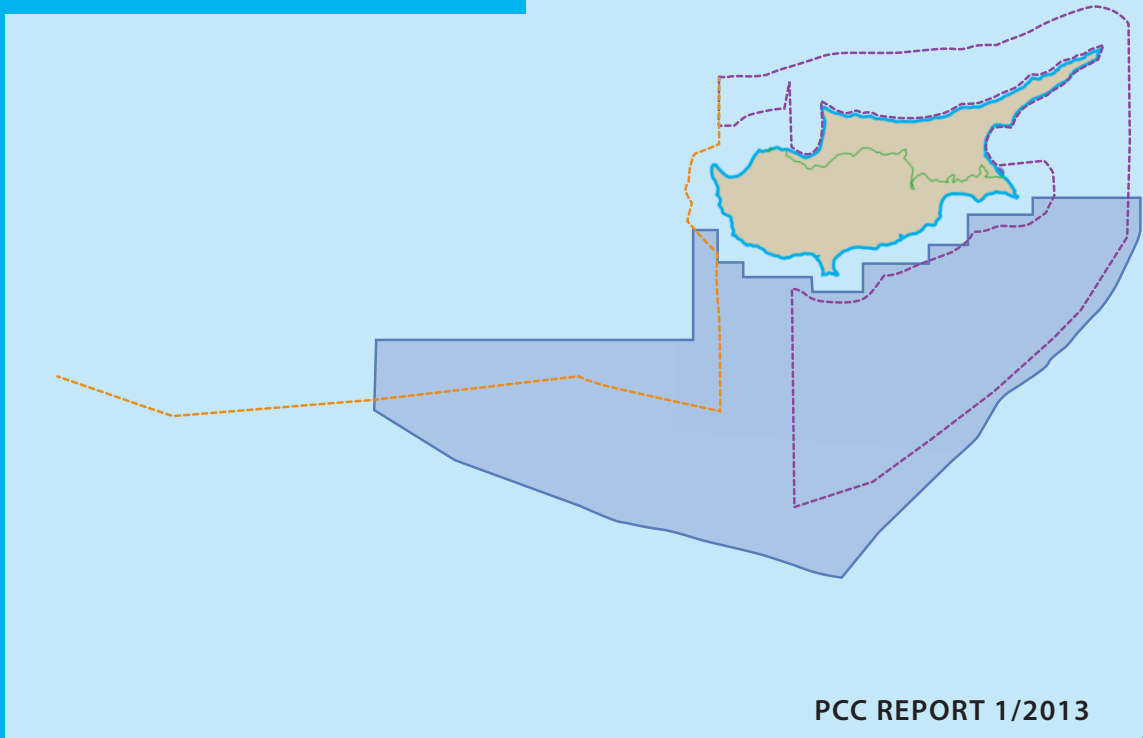


The Cyprus Hydrocarbons Issue: Context, Positions and Future Scenarios

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EXECUTIVE SUMMARY

The discovery of hydrocarbons by Eastern Mediterranean countries that were previously thought to have no such natural resources is changing the geopolitics and economics of the region in ways that are still evolving. This study focuses on the case of Cyprus. It examines the relevant developments from the legal, political and economic angles, with the aim of producing a primer for those who are interested in the Cyprus hydrocarbons issue and wish to understand its many different aspects.

First we outline recent natural gas discoveries in the region and assess the significance of finds offshore Cyprus. We then examine the legal framework of maritime delineation in the region, in particular the UN Convention on the Law of the Sea (UNCLOS or the Convention) as well as the reasons why neighbouring Turkey objects to certain UNCLOS articles and therefore why it has not signed the Convention. In this context we also detail the maritime jurisdiction disputes in the region which relate to Cyprus, including the dispute between Greece and Turkey in the Aegean Sea and the maritime border dispute between Israel and Lebanon.

For those who are unfamiliar with the Cyprus problem we give the historical and political background to the problem and particularly the dispute about sovereignty between the island's Greek Cypriot and Turkish Cypriot communities. We then outline the positions on hydrocarbons exploration of various parties involved in the dispute: the Greek Cypriots, the Turkish Cypriots, Turkey (including the difference in Turkey's stance between exploration in the south of the island and exploration west of the island), as well as the response of the international community. We explain that, while it is clear that the international community supports the right of the (*de facto* Greek Cypriot) Republic of Cyprus (RoC) to explore for oil and gas, it also has strong expectations that the hydrocarbons revenues be shared in the event of a solution to the Cyprus problem.

We then give an account of the steps taken by the Turkish Cypriots and Turkey in response to Greek Cypriot gas exploration. In particular we look at their "policy of reciprocity", whereby exploration by Greek Cypriots is met with exploration by Turkish Cypriots (with Turkey's collaboration) in areas to which the Turkish Cypriots feel they have an equal claim. We also discuss potential attempts by Turkey to explore in areas claimed by Turkey as part of its continental shelf, some of which overlaps with the exclusive economic zone proclaimed by the RoC.

In the light of current and future pressures on natural gas demand and supply, we examine the export options open to the RoC. We conclude that, in the context of uncertainties about

the impact on prices of shale gas, financing a small liquefied natural gas (LNG) plant, as is currently planned, will be challenging unless there is additional supply either from Israel or from blocks granted in the second licensing round. This in turn means that the RoC must wait longer before construction of an LNG plant can begin. We find that a pipeline to Turkey, which of course is not possible without a solution to the Cyprus problem, would be by far the most lucrative export option, generating an additional €15 billion in net revenue after major investment costs. It would also bring in revenue sooner than an LNG plant, thus raising the net present value (NPV) of the gas even higher.

On the basis of our preceding chapters outlining the positions of the parties, as well as the available export options, we conclude our analysis with a range of scenarios for the resolution of the Cyprus problem and the impact of each of these different scenarios on how successfully the Greek Cypriots can exploit natural gas. These scenarios range from the worst case (war and no hydrocarbons revenue) to the best case (solution to the Cyprus problem and highest possible hydrocarbons revenue). We argue that a scenario similar to the status quo—official negotiations to solve the Cyprus problem on-going but no real progress in practice—is the most likely. The extent to which this scenario affects whether or how fast the RoC can earn hydrocarbons revenue will depend to a large degree on factors that are out of its hands, namely on whether Israel takes a decision (still pending) to export significant quantities of gas from an LNG facility located in Cyprus (a scenario we believe to be unlikely given Israel's security concerns). Under a status quo scenario, gas revenue flowing to Greek Cypriots would be most vulnerable if Israel and Turkey were to make friends and Israel took up Turkey's recent offer to pipe gas from Israel to Turkey.

INTRODUCTION AND METHODOLOGY

Hydrocarbons exploration offshore Cyprus has been an on-going concern for at least a decade but it has attracted greater attention since subsea drilling by the Republic of Cyprus (RoC) began south of the island in September 2011. This was when a long-running maritime dispute involving the Greek Cypriots, the Turkish Cypriots and Turkey reached crisis levels. Although the crisis subsided in the subsequent months, it is an issue that continues to fester.

This is a complex topic with manifold aspects, which means that it is often misunderstood in whole or in part. With this report we intend to fill the knowledge gap, by setting the topic within the geological, geographical, legal, political and economic contexts, outlining the positions of the various parties involved and concluding with an assessment of possible future scenarios for hydrocarbons development by the RoC. The scenarios range from the worst-case situation (military conflict) to the best-case one (Cyprus settlement and higher hydrocarbons revenues). On the basis of the analysis in the preceding chapters, in the last chapter we make an estimate of which of the scenarios is the most likely.

Our explanation of the parties' positions with respect to hydrocarbons, or indeed of the Cyprus problem generally, should not be taken as an attempt to defend any party's particular stance. Our aim throughout this work is simply to contribute to a better public understanding of the issues at stake and why they are important to each of the parties involved.

Our research took three main forms. First, we conducted a wide range of interviews: with officials in Cyprus and Turkey, diplomats dealing with the region, lawyers and academics with expertise in maritime issues and industry operators in the natural gas sector. Second, we conducted desk research to examine the officially stated positions on the hydrocarbons issue and the Cyprus problem and studied the relevant maritime legal framework in the region. Third, we attended around ten conferences and seminars on natural gas in order to improve our understanding of the global and regional natural gas market. For the purposes of peer review, we asked the industry experts, lawyers and other interviewees to review and give comments on sections that pertained to their particular area of expertise, while staff and consultants at PRIO also gave comments on the entire manuscript.

The report is divided into seven chapters as follows.

Chapter 1 starts with the regional exploration context, explaining why the Eastern Mediterranean has suddenly become a player in the international energy market and how it compares with other gas producers.

Chapter 2 outlines the legal context, in particular the United Nations Convention on the Law of the Sea (UNCLOS), as well as maritime zones and delimitation issues in the Eastern Mediterranean. Here we also examine Turkey's continental shelf dispute with Greece over the Aegean Sea and its reasons for not signing the UNCLOS.

In Chapter 3, for those less familiar with Cyprus, we give the historical and political background to the Cyprus problem and the consequent conflicting claims to sovereignty that also affect the hydrocarbons issue.

Chapter 4 explains the positions taken by the parties with regard to hydrocarbons exploration in the sea around Cyprus: Greek Cypriots, Turkish Cypriots, Turkey and the relevant international actors.

In Chapter 5 we describe the steps taken to date by the Turkish Cypriots and Turkey respectively in response to Greek Cypriot activities relating to hydrocarbons exploration.

In Chapter 6, we set out the economic context, examining trends in global supply, demand and prices and estimating the likely revenue from two key export options, namely liquefied natural gas (LNG) and a natural gas pipeline.

On the basis of the positions of the parties, their responses to date and the different export options available, Chapter 7 examines seven possible future scenarios. It concludes with an assessment of which scenario is the most likely to occur given the current circumstances.

CHAPTER 1:

THE REGIONAL EXPLORATION CONTEXT

The topography of Cyprus and the surrounding area makes it a fascinating location for geologists but a challenging one for hydrocarbons explorers. Until the past decade, much of the hydrocarbons in this area went undiscovered because the resources lie in very deep waters (known in the industry as “ultra-deepwater”), with depths of more than two kilometres (1.24 miles) in some locations. This made it technically difficult, risky and expensive to carry out exploration in the area. However, technological advances, combined with high international oil prices, which tend to encourage oil and gas companies to invest, prompted new exploration at the beginning of the 21st century. The discovery of hydrocarbons in the Eastern Mediterranean by countries that previously had no natural resources is changing the geopolitics and economics of the region in ways that are still evolving. Below, we discuss the discoveries in chronological order.

1.1 Exploration offshore Egypt

The major change came in 2003, with the first significant ultra-deepwater discovery by Shell of natural gas offshore Egypt in the Nile Delta region’s North East Mediterranean (NEMED) block or “concession”. By February 2004, when Shell had drilled three wells and made two large natural gas discoveries, Shell’s Global Exploration Director, Matthias Bichsel, said, ‘The drilling results have demonstrated that this ultra-deepwater area is a rich hydrocarbon province.’¹ Today, Egypt’s NEMED block is estimated to have 1.5 trillion cubic feet (tcf), or 42 billion cubic metres (bcm) of natural gas.² Egypt launched a bidding round for 15 mainly onshore licences in 2011³ and 15 mainly offshore licences in the Mediterranean and Nile Delta in June 2012.⁴

The NEMED discovery encouraged the countries bordering the Eastern Mediterranean to begin serious exploration. A number of seismic surveys were conducted and in 2010 the US Geological Survey estimated that the waters of the Levant Basin, south-east of Cyprus and

1 ‘Shell Egypt announces two ultra-deepwater discoveries’, 15 February 2004, Gulf Oil and Gas, <http://www.gulfoilandgas.com/webpro1/MAIN/Mainnews.asp?id=395>, accessed 20 October 2012.

2 ‘Shale lures ONGC to quit block’, R. Sury Amurthy, 20 February 2011, http://www.telegraphindia.com/1110221/jsp/business/story_13611726.jsp, accessed 29 October 2012.

3 ‘Egyptian General Petroleum Company launches International Bid Round 2011’, Deloitte, http://www.psg.deloitte.com/NewsLicensingRounds_EG_110927.asp, accessed 21 December 2012.

4 ‘EGAS launches international oil and gas Bid Round 2012’, Deloitte, http://www.psg.deloitte.com/NewsLicensingRounds_EG_120607.asp, accessed 21 December 2012.

north-east of the NEMED block, contain a mean of 122 tcf (3,455 bcm) of recoverable natural gas and 1.7 billion barrels of recoverable crude oil.⁵ If these estimates prove to be accurate, then the Levant Basin would have around three-quarters of the proven reserves of Algeria, the country with the largest proven reserves in the Eastern Mediterranean and North Africa region.

1.2 Exploration offshore Israel

Israel attempted offshore exploration as early as the late 1960s.⁶ But the main exploration period came once private companies became involved. The first, initially small, discoveries were made in the Noah/Noa offshore field in June 1999 and the Mari-B field in February 2000.⁷ The first large offshore find was in the Tamar 1 site in January 2009, discovered by a partnership including Noble Energy of the US, and Israeli companies Avner, Delek Drilling, Isramco and Dor. This was followed in March 2009 by the discovery at the Dalit 1 site. Delek has estimated that Tamar and Dalit contain an estimated 9 tcf (255 bcm) of natural gas, 'a quantity sufficient to meet Israel's natural gas needs for over 20 years'.⁸ The next major find, and the biggest in the region to date, was the discovery in October 2010 of a giant field in the Leviathan block by a consortium comprising Noble Energy, Delek Drilling, Avner Oil and Ratio Oil. As of October 2012, Leviathan was estimated to hold 17 tcf (491 bcm) of reserves.⁹ Other smaller discoveries include Dolphin and Tanin, while Pelagic, owned by Stenmetz, Sagui, Israel Opportunity and AGR Group, is estimated to hold 6.7 tcf (190 bcm).¹⁰

Israel's proven reserves, which it should be noted are less than estimated reserves, had reached 300 bcm by late 2011 according to the Israeli Ministry of Energy. Proven reserves are expected to continue rising, perhaps to as much as 1,300 bcm in the next few years.¹¹ This amount of gas is still smaller than that of the countries that hold the world's largest reserves (Russia with 44.8 trillion cubic metres, Iran with 29.6 tcm and Qatar with 25.4 tcm)¹² but it is enough to make Israel energy-independent in the medium term and turn Israel into a major

⁵ U.S. Geological Survey, World Petroleum Resources Project, Assessment of Undiscovered Oil and Gas Resources of the Levant Basin Province, Eastern Mediterranean, Fact Sheet 2010–2014, March 2010.

⁶ The Levant Basin Offshore Israel: Stratigraphy, Structure, Tectonic Evolution and Implications for Hydrocarbon Exploration, Michael Gardosh, Yehezkel Druckman, Binyamin Buchbinder and Michael Rybakov, 21 April 2008.

⁷ Ministry of Energy and Water Resources, Petroleum and Natural Gas Prospecting, <http://energy.gov.il/English/Subjects/OilAndGasExploration/Pages/GxmsMniPetroleumAndNaturalGasProspecting.aspx>, accessed 29 October 2012.

⁸ Delek Group, Holdings, Energy and Infrastructure, <http://www.delek-group.com/Holdings/EnergyInfrastructure/DelekEnergy.aspx>, accessed 26 October 2012.

⁹ Noble Energy, Operations, Eastern Mediterranean, <http://www.nobleenergyinc.com/Operations/International/Eastern-Mediterranean-128.html>, accessed 26 October 2012.

¹⁰ 'Pelagic gas field estimated at 6.7 TCF', Guy Katsovich, Globes, 3 June 2012, <http://www.globes.co.il/serveen/globes/docview.asp?did=1000753681&fid=1725>, accessed 26 October 2012.

¹¹ 'Gas authority head: Israel's proven reserves to triple', Amiram Barkat, 7 November 2011, <http://www.globes.co.il/serveen/globes/docview.asp?did=1000695896&fid=1725>, accessed 26 October 2012.

¹² CIA World FactBook as of 1 January 2011, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2179rank.html>, accessed 26 October 2012.

regional energy exporter in the longer term. However, despite its large reserves, Israel has yet to export any gas, not least because, as of late October 2012, the Israeli government had yet to make a final decision on whether or not it would allow gas exports.¹³ The Zemach committee charged with advising the government recommended in August 2012 that exports be allowed under certain conditions¹⁴ but the actual decision lies with the government.

1.3 Exploration offshore Cyprus

In 2006 the Republic of Cyprus (RoC) began prospecting for hydrocarbons in an exploration area of 51,000 sq km offshore Cyprus. The exploration area, divided into 13 blocks (see Map 1.1), is only part of the total Exclusive Economic Zone (EEZ) proclaimed by the RoC. Two-dimensional (2D) surveys were conducted in March to May 2006 in all 13 blocks and three-dimensional (3D) surveys were conducted in January–March 2007 in Block 3.¹⁵ Having already signed in February 2003 an Exclusive Economic Zone (EEZ) delineation agreement with Egypt, the RoC also made a similar agreement with Lebanon in January 2007 (although to date the latter has not been ratified by the Lebanese Parliament: see Chapter 2).

In February 2007 and based on the available seismic data, the RoC launched its first international tender for three-year oil and gas exploration licences. In this round 11 of the 13 blocks were offered (Blocks 3 and 13 were excluded).¹⁶ At that time, there were only three bids, and just one company, Noble Energy, was awarded a licence in Block 12. A production-sharing contract was signed with Noble in October 2008. After further seismic surveys, and an EEZ agreement signed with Israel in December 2010, the first exploratory drilling began on 20 September 2011. In December 2011, Noble announced that it had discovered an estimated 5 to 8 tcf' with a gross mean of 7 tcf' (198 bcm) in the field known as Aphrodite.¹⁷ Noble's partner, Delek, which as a company listed on the Tel Aviv Stock Exchange is obliged to use different methods for estimation, estimated the reserves a little lower at 5.2 tcf (147 bcm).¹⁸

¹³ 'Gas Authority raises gas demand forecast 20%', Amiram Barkat, 10 July 2012, <http://www.globes.co.il/serveen/globes/docview.asp?did=1000764483&fid=1725>, accessed 26 October 2012.

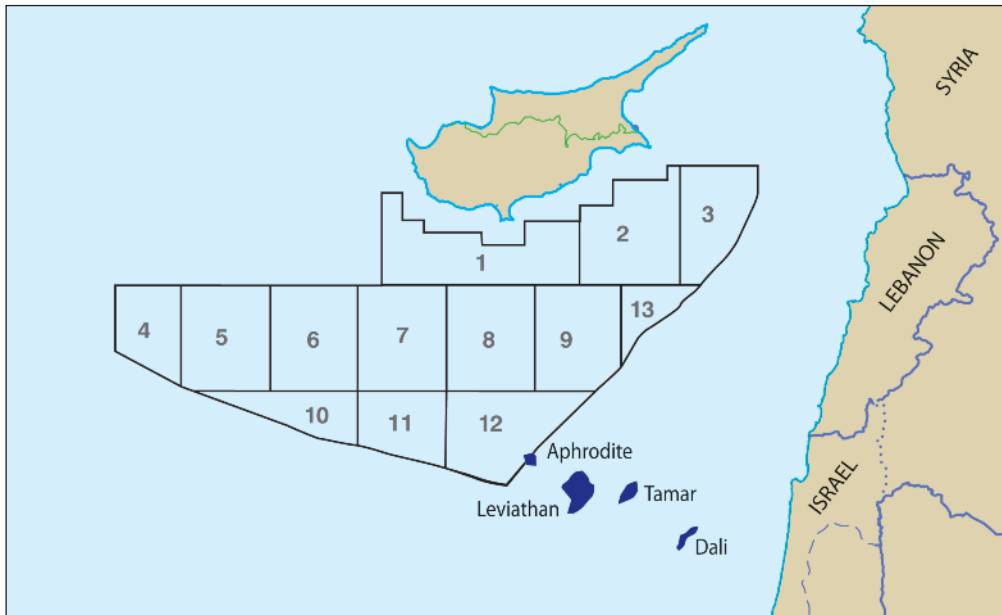
¹⁴ The Inter-ministerial Committee to Examine the Government's Policy Regarding Natural Gas in Israel, Executive Summary, 29 August 2012, <http://energy.gov.il/English/Subjects/Natural%20Gas/Pages/GxmsMniNGPolicyIsrael.aspx>, accessed 26 October 2012.

¹⁵ Ministry of Commerce, Tourism and Industry, http://www.mcit.gov.cy/mcit/mcit.nsf/dmlhexploration_en?OpenDocument, accessed 29 October 2012.

¹⁶ Ministry of Commerce, Industry and Tourism, Energy Service, Hydrocarbon Exploration, First Licensing Round, <http://www.mcit.gov.cy/mcit/mcit.nsf/All/FE3EB5707ADA0E6EC225771B0035B0D2?OpenDocument>, accessed 29 October 2012.

¹⁷ Noble Energy, Operations, Eastern Mediterranean, <http://www.nobleenergyinc.com/Exploration/Recent-Discoveries-130.html>, accessed 29 October 2012. Note that the geological structure in which the Aphrodite field is located actually lies on the EEZ border with Israel. As stipulated in the RoC-Israel EEZ delimitation agreement, the two parties are presently negotiating 'to reach a framework unitization agreement on the modalities of the joint development and exploitation' of reserves that may be proven to extend across the border. As of late October 2012, such an agreement was yet to be finalized.

¹⁸ 'Delek Group Announces Consolidated Results for the First Quarter of 2012', press release, 30 May 2012, Delek Group, <http://ir.delek-group.com/phoenix.zhtml?c=160695&p=irol-newsArticle&ID=1700654&highlight=Cyprus>, accessed 29 October 2012.



Map 1.1 The RoC's present offshore exploration area and its proximity in the south-east to the gas fields discovered by Israel. [Source: Petroleum Geo-Services (PGS)]

The discovery in Block 12, together with the large finds in the neighbouring Israeli Leviathan block, significantly raised interest for the second Cyprus offshore licensing round, launched on 11 February 2012. Despite protestations from Turkey (see Chapter 5), the round had attracted 15 bidders by the bid deadline of 11 May 2012, comprising individual companies and consortia, and included a handful of large oil and gas companies such as Total of France, ENI of Italy, Gazprombank of Russia, Petronas of Malaysia and Kogas of South Korea.¹⁹ The main interest was in Block 9, adjacent to Block 12, and Block 2, adjacent to Block 9.²⁰ The successful bidders for Blocks 2, 3, 9 and 11 were announced at the end of October 2012. ENI and Kogas were initially invited to negotiate a contract for Blocks 2 and 3, Total and Novatek for Block 9 and Total by itself for Block 11. Talks with Total and Novatek over Block 9 were subsequently terminated and the government started negotiations for that block with the ENI-Kogas consortium instead. At the same time, it started talks with Total for Block 10 with Total alone.

Two points are worth noting in this regard. First, absent from the list of successful bidders were the five blocks which Turkey claims partly fall within its continental shelf (see Section 4.3), although bids were reportedly also received for some of these blocks.²¹ Second, all the

¹⁹ List distributed at the Ministry of Commerce on 11 May 2012, [http://www.mcit.gov.cy/mcit/mcit.nsf/all/D07B061F265E085CC2257A070033CE1E/\\$file/Companies%20which%20expressed%20interest%20in%20the%202nd%20round.pdf?openelement](http://www.mcit.gov.cy/mcit/mcit.nsf/all/D07B061F265E085CC2257A070033CE1E/$file/Companies%20which%20expressed%20interest%20in%20the%202nd%20round.pdf?openelement), accessed 29 October 2012.

²⁰ 'Strong international interest as Cyprus' hydrocarbon bidding round closes', Cyprus News Agency, 11 May 2012.

²¹ 'Second Cyprus offshore licensing round participants and license applications', Middle East Economic Survey (MEES), 26 October 2012.

companies chosen were very large oil and gas companies from countries with significant military strength.²² Both of these facts suggest that the RoC is on the one hand being cautious, by not licensing the blocks that have parts directly claimed by Turkey, but on the other hand affording itself potentially strong military protection in the other blocks where the Turkish Cypriots claim equal rights (see Chapter 5). The RoC's bolstering of ties with Israel in the past two years can also be seen in this light.²³ Israel is both a potential partner for the export of gas but also currently has poor relations with Turkey.

1.4 Exploration offshore Gaza

After acquiring 3D seismic data and drilling two wells 36 km offshore Gaza in 2000, the British Gas (BG) Group estimated that Gaza Marine-1 and Gaza Marine-2 contained 1 tcf (28 bcm) of natural gas.²⁴ The plan was to pipe the gas to shore and build an onshore processing terminal, with a view to selling the gas to Israel. Negotiations took place for several years but BG withdrew from the negotiations in 2007.²⁵ In the meantime, Israel had begun to make its own large discoveries and had started to import gas from Egypt via pipeline (although pipeline sabotage means that deliveries have been suspended since March 2012). The issue remains complex and for the time being it is not clear when Palestinian gas can be exploited.

1.5 Exploration offshore Lebanon

Lebanon is in the early stages of offshore exploration. 2D and 3D seismic surveys have been conducted. Very preliminary estimates put the amount of gas at as high as 25 tcf (708 bcm).²⁶ The next step is to launch tenders for exploration licences. In the meantime, a law on petroleum activities was passed in January 2012 and a Petroleum Administration is in the process of being established.²⁷ Lebanon, which has not ratified the EEZ agreement it signed with the RoC, objects to the EEZ which Israel delimited with the RoC, as one part of it overlaps with Lebanese claims (see Chapter 2).

²² National security was one of the criteria and there were suggestions that the Minister exercised his right to choose different companies than those proposed by the advisory committee. 'Awarding of gas licences could cost billions', Makarios Drousiotis, *Cyprus Mail*, 11 November 2012, <http://www.cyprus-mail.com/cyprus/awarding-gas-licences-could-cost-billions/20121111>, accessed 16 November 2012.

²³ Presidential-level visits took place in 2011. In February 2012 Benjamin Netanyahu became the first Israeli Prime Minister to visit Cyprus since the latter's independence and during that visit an agreement was signed on the coordination of aeronautical and maritime search and rescue services, 'The President of the Republic met with the Prime Minister of Israel', Ministry of Foreign Affairs, 16 February 2012, <http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/B762F4C106A69AB1-C22579A70027033C?OpenDocument&highlight=Christofias>, accessed 26 November 2012.

²⁴ Source: <http://www.bg-group.com/OurBusiness/WhereWeOperate/Pages/AreasOfPalestinianAuthority.aspx>, accessed 29 October 2012.

²⁵ 'Gaza's natural gas, the unreachable treasure', Fares Akram, Xinhua News Agency, 3 June 2012, http://news.xinhuanet.com/english/indepth/2012-06/03/c_131628475.htm, accessed 29 October 2012.

²⁶ Presentation of Roudi Baroudi, CEO, Energy and Environment Holding, Secretary (Lebanon) World Energy Council, given by Samer Najm at the Euro Med Oil & Gas Exploration & Production Summit, 25 September 2012.

²⁷ Speech by the Lebanese Minister of Energy and Water Resources, Gebran Bassil, at the Gulf Intelligence Levant Energy Forum, 26 June 2012.

1.6 Exploration offshore Syria

Syria's offshore exploration is also in its early stages. No licences were awarded after the first offshore licensing round in 2007, in which four blocks were offered but only one British company, Dove Energy, made a bid.²⁸ Plans to license four blocks in late 2010 finally materialised in March 2011 with three blocks and a deadline for submissions of September 2011.²⁹ However, to date no licences have been awarded³⁰ and further progress is likely to remain on hold as a result of the current domestic conflict.

1.7 Exploration offshore Turkey

Turkey has conducted extensive deep-water exploration with other partners in the Black Sea. However, to date there have not been any significant discoveries³¹ and in December 2011 ExxonMobil and the state-owned Turkish Petroleum Corporation (TPAO) ceased exploration activities.³² TPAO says on its website that it is still 'open minded' about cooperation with other companies in exploration in the area, although in September 2012, the TPAO announced that it had discovered an undisclosed quantity of natural gas in the Black Sea.³³ Generally speaking, however, according to statements made by the Minister for Energy and Natural Resources, Taner Yıldız, in October 2011, focus appears to be shifting to the Mediterranean.³⁴ In the Mediterranean area, the TPAO has conducted 2D and 3D seismic surveys in offshore Antalya, Mersin and Iskenderun.³⁵ TPAO signed an agreement with Royal Dutch Shell in November 2011 for exploration offshore Antalya.³⁶ TPAO is also planning exploration in the Mersin and Iskenderun bays north-east of Cyprus.

Turkey also delineated a maritime border between Turkey and the (unrecognised) Turkish Republic of Northern Cyprus (TRNC) in September 2011. So far, it appears that any exploration by Turkish companies in areas around Cyprus will be carried out in the name of the TRNC (see Chapter 5).

²⁸ 'Steady as She Goes', John Dagge, Syria Today, April 2010, <http://www.syria-today.com/index.php/april-2010/545-focus/7687-steady-as-she-goes>, accessed 29 October 2012.

²⁹ 'Syria begins licensing round for offshore blocks', Uchenna Izundu, Penn Energy, 29 June 2011, www.pennenergy.com, accessed 29 October 2012.

³⁰ Licensing rounds held in Syria, http://wiki.openoil.net/index.php?title=Licensing_rounds_held_in_Syria, accessed 29 October 2012.

³¹ There was a gas discovery made in the Akçakoca Basin off the Turkish north-western coast in 2004 by TPAO and a small US independent company, Toreador.

³² 'Exxon Mobil, Turkey End Black-Sea Oil Exploration, Anatolia Says', Ercan Ersoy, 26 December 2011, Bloomberg, <http://mobile.bloomberg.com/news/2011-12-26/exxon-mobil-turkey-end-black-sea-oil-exploration-anatolia-says?category=> [full story available from Bloomberg].

³³ 'State-run company finds gas in Black Sea', Anatolia News Agency, <http://www.hurriyetdailynews.com/state-run-company-finds-gas-in-black-sea.aspx?pageID=238&nID=30372&NewsCatID=348>, accessed 29 October 2012.

³⁴ 'Turkey can shift oil exploration from Black Sea to Mediterranean', 6 October 2011, Today's Zaman, <http://www.todayszaman.com/news-259021-turkey-can-shift-oil-exploration-from-black-sea-to-mediterranean.html>, accessed 29 October 2012.

³⁵ TPAO, http://www.tpao.gov.tr/tp2/sub_en/sub_content.aspx?id=161, accessed 29 October 2012.

³⁶ 'UPDATE 1-Turkey's TPAO, Shell sign exploration deal', Orhan Coşkun, Reuters News Agency, 23 November 2011, <http://www.reuters.com/article/2011/11/23/turkey-shell-idUSL5E7MN1AA20111123>, accessed 29 October 2012.

1.8 How significant are the RoC and Israeli discoveries?

As can be seen from Table 1.1, the 198 bcm of estimated reserves in the RoC's Block 12, and the 300 bcm proven reserves so far discovered in Israel are still tiny when compared with the world's major gas producers, Russia, Iran and Qatar, which hold several trillion cubic metres each.

Table 1.1: Proven reserves

Proven reserves (a) as of 1 January 2011	Billion cubic metres	Billion cubic feet	World Ranking
Top 5 countries			
Russia	44,800	1,582,094	1
Iran	29,610	1,045,665	2
Qatar	25,370	895,931	3
Saudi Arabia	7,807	275,701	4
United States	7,716	272,487	5
Aegean, Eastern Med & North Africa			
Algeria	4,502	158,986	10
Egypt	2,186	77,198	17
Libya	1,548	54,667	22
Syria	241	8,500	43
<i>Israel (b)</i>	198	6,999	46
Tunisia	65	2,300	61
Turkey	6.2	218	87
Jordan	6.0	213	88
Greece	1.0	35	100
Lebanon	0.0	0	195
Total world reserves	186,466	6,584,964	-
Memorandum items			
Cyprus (not yet proven, source: Noble Energy estimate)	198	7,000	-
Cubic feet per cubic metres (source BP)	1.0	35.3	-
Cubic metres per cubic feet (source BP)	0.028	1	-
(a) Authors' note: 'proven' or 'proved' reserves require a greater level of certainty than estimated reserves, therefore may underestimate true potential.			
(b) As of late 2011, the Ministry of Energy of Israel cited proven reserves at 300 bcm.			
Source: CIA World FactBook unless otherwise indicated.			

Moreover, at present, the RoC's entire estimated gas reserves of 198 bcm would only supply less than six months of the annual gas consumption of the European Union (EU), which in 2011 was 400 bcm according to Eurogas.³⁷ Or to express it another way, if one assumes that natural gas could be supplied to the European Union (EU) for 25 years—a typical period for gas supplies—the estimated gas in Block 12 is only enough to supply 2% of the EU27's needs each year. This rises to 5% if one adds Israeli proven reserves (see Table 1.2).

Yet the discoveries have still generated excitement for two reasons. First, because even a small amount helps the EU diversify natural gas sources from dependence on Russia. At present the EU depends on Russia for 25% of its gas imports, and diversifying energy sources and supply routes is one of the EU's priorities.³⁸ Second, because exploration in the Eastern Mediterranean has really only just begun. There may be considerably more gas (and potentially crude oil), therefore it is not inconceivable that gas from Cyprus and Israel could eventually reach perhaps 10% of Europe's annual gas needs.

Table 1.2: Gross reserves as proportion of EU demand

Reserves as proportion of EU demand	
Annual EU27 primary gas consumption in 2011, bcm (source: Eurogas)	400
RoC estimated reserves in Block 12, bcm	198
Block 12 maximum annual production over 25 years, bcm	7.9
as % of EU annual consumption	2.0%
Israel's proven reserves, bcm	300
Israeli maximum annual production over 25 years, bcm	12.0
as % of EU annual consumption	3.0%
Israel & RoC maximum production as % of EU annual consumption	5.0%
Memorandum item	
Turkey annual consumption in 2011, bcm	46
<i>Sources: Eurogas Statistical Report 2012; Noble Energy, Israeli Ministry of Energy.</i>	

³⁷ Eurogas *Statistical Report 2012*.

³⁸ After the Russia / Ukraine gas crisis: what next?, Benita Ferrero-Waldner, Commissioner for External Relations and European Neighbourhood Policy, Chatham House, London, 9 March 2009, SPEECH/09/100, http://europa.eu/rapid/press-release_SPEECH-09-100_en.htm, accessed 25 November 2012.

CHAPTER 2:

THE LEGAL CONTEXT

2.1 The UN Convention on the Law of the Sea

The UN Convention on the Law of the Sea (UNCLOS, also called the Law of the Sea Treaty) is an international treaty that was concluded at the Third UN Conference on the Law of the Sea (UNCLOS III, 1973-1982).³⁹ It was opened for signature on 10 December 1982, and entered into force on 16 November 1994.⁴⁰ Today the Convention stands ratified by over 160 states. The four states which voted against its adoption back in 1982 though—Israel, Turkey, USA and Venezuela—are still not parties to it. However, certain provisions of UNCLOS have acquired customary international law status⁴¹ and hence are binding on all states whether they have ratified it or not. Among these are its provisions on the Exclusive Economic Zone (EEZ) which, since the Convention's entry into force, have generally come to be regarded as part of customary international law.⁴²

2.1.1 The maritime zones

UNCLOS establishes a comprehensive legal regime regulating all uses of the world's seas and oceans and their resources and includes a binding procedure for settlement of disputes between participating states. It divides marine space that is within the limits of national jurisdiction into several zones: the territorial sea (up to 12 nautical miles from the baselines), the contiguous zone (up to an additional 12 nautical miles), the EEZ (up to 200 nautical miles), and the continental shelf (up to 200 nautical miles or 350 in certain circumstances) (see Figure 2.1).⁴³ Internal waters and the territorial sea are subject to coastal state sovereignty, while, within the EEZ and on the continental shelf, the coastal state enjoys certain exclusive rights of exploration and exploitation (see below).

³⁹ UNCLOS superseded for state-parties the 1958 Geneva Conventions on the Law of the Sea: the Convention on the Territorial Sea and the Contiguous Zone (CTS); the Convention on the High Seas (CHS); the Convention on Fishing and Conservation of the Living Resources of the High Seas (CFCLR); the Convention on the Continental Shelf (CCS); and the Optional Protocol of Signature concerning the Compulsory Settlement of Disputes (OPSD).

⁴⁰ The Convention entered into force following the ratification by the sixtieth state, which was Guyana.

⁴¹ Some of its provisions codified certain already existing rules of customary international law, while others introduced new concepts, such as the exclusive economic zone.

⁴² The International Court of Justice, in its judgement on the continental shelf case between Libya and Malta, stated: 'It is in the Court's view incontestable that [...] the institution of the exclusive economic zone [...] is shown by the practice of States to have become a part of customary law' (ICJ 1985: para. 34).

⁴³ As stipulated in UNCLOS, marine space beyond the limits of national jurisdiction has two parts: the 'high seas' and 'the Area'. The high seas comprise 'all parts of the sea that are not included in the EEZ, in the territorial sea or in the internal waters of a State' (Article 86); in other words, the water column beyond the EEZ or, where no EEZ has been declared, beyond the territorial sea. The Area refers to the seabed lying beyond the continental shelf limits. See Kimball (2005).

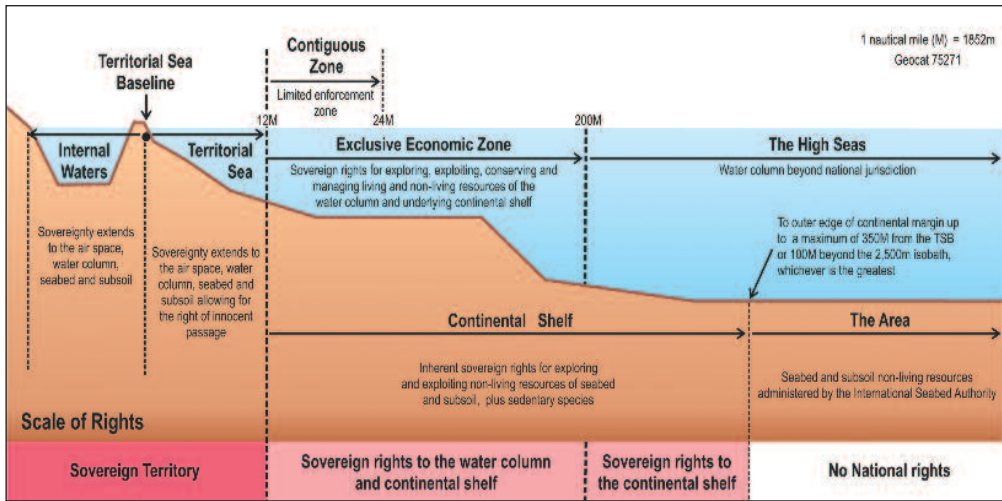



Figure 2.1 Maritime zones and rights under UNCLOS

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2.1.2 Coastal state's rights and responsibilities

The Convention lays down coastal states' rights and responsibilities in these maritime zones and sets limits to the breadth of each zone. It also provides for delimitation of maritime boundaries between states which is necessary when states with opposite or adjacent coasts have overlapping claims. All limits are measured from baselines. A baseline is normally taken to be 'the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State' (Article 5).

A state is sovereign over its territorial sea as it is over its land territory and this sovereignty extends to the air space over the territorial sea as well as to its sea bed and subsoil (Article 2).⁴⁴ Every state has the right to establish its territorial sea up to a limit not exceeding 12 nautical miles (NM) (Article 3).⁴⁵ In delimiting the territorial sea between states with opposite or adjacent coasts, neither state is allowed to extend its territorial sea beyond the median line (also called

⁴⁴ However, sovereignty over the territorial sea is subject to an important restriction: the 'right of innocent passage' of foreign ships. Passage of a foreign ship through the territorial sea is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. (See Article 19, which also describes the types of activity not compatible with innocent passage.) A coastal state has a duty to allow innocent passage and to give warning of any navigational dangers in the territorial sea. See Malanczuk (1997: 176-177).

⁴⁵ 1NM= 1,852 metres.

the equidistance line),⁴⁶ unless they mutually agree on a different arrangement (Article 15). The median line rule does not apply when, because of 'reason of historic title or other special circumstances', it is necessary to use a different delimitation method.⁴⁷

Beyond the territorial sea and up to a limit of 24 NM from the baselines, a contiguous zone can be established, where a state has the right to enforce its customs, fiscal, immigration and sanitary laws and to punish infringement of these laws committed within its territory and the territorial sea (Article 33).

The EEZ and the continental shelf of a coastal state are areas adjacent to and beyond the territorial sea. States' rights in the EEZ and continental shelf are more circumscribed than those in the territorial sea and contiguous zone. Both the EEZ and the continental shelf are "intermediate" areas, in the sense that they are not subject to the state's sovereignty but are zones in which the state enjoys certain exclusive sovereign rights. Thus, each area has its own special regime set out in UNCLOS.

2.1.3 The EEZ regime

Articles 55-75 (Part V) of UNCLOS concern the EEZ. In order to establish an EEZ, a state needs to make a proclamation. Within its proclaimed EEZ, a coastal state has sovereign rights to explore and exploit, conserve and manage all natural resources (living and non-living) of the waters above the seabed and of the seabed and subsoil (Article 56). Rights pertaining to the seabed and subsoil are exercised in accordance with the Convention's continental shelf provisions (Article 56) (see also footnote 52 below). The coastal state also has jurisdiction over artificial islands and installations, marine scientific research, and the protection and preservation of the marine environment (Article 56). The EEZ of a coastal state stretches from the external limit of the territorial sea out to a limit not exceeding 200 NM, measured from the baselines (Article 57). In relation to delimitation of the EEZ between states with opposite or adjacent coasts (as in the case of states surrounding the Mediterranean Sea), Article 74 requires that states seek agreement 'to achieve an equitable solution'.⁴⁸ If they are unable to reach agreement

⁴⁶ The median (or equidistance) line is the line every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea of each state is measured.

⁴⁷ However, the Convention offers no guidelines for identifying a situation of special circumstances nor does it specify any methodology that would apply in such a situation. For a discussion on the vagueness of this and other UNCLOS provisions relating to maritime delimitation, and how this plays out in the Greece-Turkey Aegean dispute, see Oral (2009).

⁴⁸ A reference invariably used when explaining the meaning of 'an equitable solution' in connection with maritime delimitation is the judgment of the International Court of Justice on the *1969 North Sea Continental Shelf Cases*. Here, the Court mentions certain factors that are to be taken into account when seeking an agreement on the basis of equitable principles: the general configuration of the coasts, as well as the presence of any special or unusual features; the physical and geological structure, and natural resources, of the relevant continental shelf areas; and proportionality between the extent of the continental shelf of the coastal state and the length of its sea-frontage (ICJ 1969: para. 101). In practice, however, the majority of bilateral agreements on delimitation use the so-called equidistance/median line method. At any rate, the equidistance line is generally taken as a starting point, and modification of this line is sought if it is found to produce inequitable results (Dundua 2007: 16-17).

within 'a reasonable period of time', to resort to dispute settlement procedures provided for in the Convention (Articles 279-299). Each state has to deposit with the UN Secretary-General lists of geographical coordinates of the outer limits of its exclusive economic zone and any boundaries specified in delimitation agreements with other states (Article 75).

It is important to note that in the EEZ of a given state, other states still enjoy freedoms that they have in high seas (Article 58).⁴⁹ Set out in Article 87, these are freedoms of 'navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms'.

2.1.4 The continental shelf regime

The continental shelf regime under UNCLOS is established by Articles 76-85 (Part VI). The continental shelf of a coastal state extends beyond its territorial sea and comprises the seabed and subsoil of the submarine areas (but not the water column above) throughout the natural prolongation of its land territory to the outer edge of the continental margin (the point where the steeper descent to the deeper ocean floor begins),⁵⁰ or to a distance of 200 NM measured from the baseline, whichever is greater (Article 76). In any case, the breadth of the continental shelf cannot exceed 350 nautical miles from the baselines from which the breadth of the territorial sea is measured.

Delimitation of the continental shelf between states with adjacent or opposite coasts under UNCLOS is regulated by Article 83, which is identical to Article 74 on EEZ delimitation. Also, as in the case of the EEZ, every state is to submit to the UN Secretary-General lists of geographical coordinates of the limits of its continental shelf and any boundaries specified in delimitation agreements with other states (Article 84).

A coastal state has exclusive sovereign rights⁵¹ to explore and exploit the natural resources of its continental shelf (Article 77). The natural resources of the continental shelf comprise the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species (Article 77, para.44).

One important feature of these rights is that, unlike the EEZ rights, they do not depend on 'occupation, effective or notional, or on any express proclamation' by the state (Article 77, para. 3). In other words, as noted by the International Court of Justice (ICJ), they 'exist *ipso facto* and *ab initio*, by virtue of [the state's] sovereignty over the land, and as an extension of it [. . .]

⁴⁹ For the definition of high seas see footnote 43 above.

⁵⁰ The continental margin is that underwater plain connected to continents, separating them from the deep ocean floor. The continental margin consists of the continental shelf, the continental slope, and the continental rise.

⁵¹ These rights are exclusive in the sense that if the coastal state does not explore the continental shelf or exploit its natural resources, no one may undertake these activities without the express consent of the coastal state.

In short, there is here an inherent right. In order to exercise it, no special legal process has to be gone through, nor have any special legal acts to be performed. Its existence can be declared [...] but does not need to be constituted. Furthermore, the right does not depend on its being exercised' (ICJ 1969: para. 19). This means that a coastal state may explore and exploit the natural resources of the seabed and subsoil beyond its territorial sea even when it has not established an EEZ.⁵² All that is needed is for the state to declare in the official gazette specifically that it intends to use its continental shelf.

2.2 The RoC maritime zones and boundaries

The RoC declared a territorial sea of 12 NM through the Territorial Sea Law passed in 1964⁵³ (by which time the Turkish Cypriots had no longer a role in what was originally established as a bicomunal RoC government—see Chapter 3). The law stipulates that territorial sea, extending from the coast and measured from the low-water mark, is considered part of the sovereign territory of the Republic.⁵⁴ Geographical coordinates showing baselines for measuring the territorial sea breadth were submitted to the UN in 1993 and their validity was reconfirmed in 1996.⁵⁵

According to a Continental Shelf Law passed in 1974,⁵⁶ the RoC also has a continental shelf the extent of which is defined, in accordance with the 1958 UN Convention on the Continental

⁵² A later decision by the ICJ states: 'Although the institutions of the continental shelf and the exclusive economic zone are different and distinct, the rights which the exclusive economic zone entails over the sea-bed of the zone are defined by reference to the régime laid down for the continental shelf. Although there can be a continental shelf where there is no exclusive economic zone, there cannot be an exclusive economic zone without a corresponding continental shelf' (ICJ 1985: para. 34).

⁵³ *The Territorial Sea Law*, No. 45/1964; see http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/CYP_1964_Law.pdf.

⁵⁴ However, as defined in the Treaty concerning the Establishment of the Republic of Cyprus (available at <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/CYP.htm>), there is the exception of the waters adjacent to the British Sovereign Base Areas (SBAs) of Akrotiri in the south and Dhekelia in the south-east of the island. Under the provisions of the said Treaty, the RoC has the obligation not to claim, as part of its territorial sea, waters that lie within specified borders off the coasts of the two SBAs (section 3 of the Treaty). The legal status of these sea areas seems to be open to debate. According to Scovazzi (2012), they 'could in principle be either British territorial sea or high seas or even, where they are located beyond the 12-mile limit, the exclusive economic zone of Cyprus'. Scovazzi also notes that '[d]espite the Treaty [of Establishment], the straight baseline system established by Cyprus in 1993 encloses the SBAs, as if they had no coastal waters of their own'. The British government's position on the matter, as communicated by an official of the British High Commission in Nicosia (personal communication to one of the authors by email, 8 July 2012), is summarized in three points as follows: (a) The UK is sovereign over territorial waters that extend from the coast of the Sovereign Base Areas to an extent of three nautical miles. (b) The UK reserves the right to claim up to 12 nautical miles of territorial sea. (c) The UK has expressed on several occasions that were any hydrocarbon reserves to be found within the Sovereign Base Areas or their territorial waters or continental shelf then the UK would not seek to exploit them herself, in line with its declaration at Appendix O to the Treaty establishing the Republic of Cyprus. (Appendix O concerns the Declaration by Her Majesty's Government regarding the administration of the Sovereign Base Areas.)

⁵⁵ See http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/mzn_s/mzn6.pdf.

⁵⁶ *The Continental Shelf Law*, 8/1974; see http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/CYP_1974_Law.pdf.

Shelf,⁵⁷ as ‘the seabed and subsoil of the submarine areas adjacent to the coast of the Republic, but beyond the territorial waters, where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas.’ Already in 1972, Cyprus had notified the UN about the opinion of the Republic’s Attorney-General that ‘the submarine areas beyond the depth of 200 metres may, in the light of the judgment of the International Court of Justice in the North Sea Continental Shelf Case, still be considered by Cyprus as part of the Continental Shelf if they form part of the natural prolongation of the Cyprus land territory into and under the sea.’⁵⁸ The RoC Continental Shelf Law stipulates that, in relation to any state whose coasts lie opposite those of the Republic, the outer boundary of the continental shelf will not extend beyond the median line, unless otherwise agreed between the Republic and that state.

In 1988 the RoC ratified UNCLOS.⁵⁹ Through a law passed in April 2004, the EEZ was proclaimed, in conformity with UNCLOS, up to a limit of 200 NM, measured from the baselines from which the territorial sea is measured.⁶⁰ According to the law, in case of an overlap between the EEZ of the RoC and the EEZ of any other state with coasts opposite those of the RoC, the EEZs will be delimited by agreement between the two states. Otherwise, the delimitation will not extend beyond the median line. The law states that in the EEZ, ‘the Republic has sovereign rights for the purposes of exploring and exploiting, conserving and managing the natural resources [. . .] of the waters superjacent to the seabed and of the sea-bed and its subsoil [. . .]’. It is also specified that any exploration or exploitation of the non-living resources in the EEZ is subject to the permission of the Council of Ministers or any other competent authority as designated by law.

The RoC delimited its EEZ in the south-western, southern and south-eastern directions through separate bilateral agreements, respectively, with Egypt, Lebanon and Israel (see Map 2.1). All three agreements contain more or less identical provisions and in all of them boundaries are delineated in accordance with the median line principle.⁶¹ Also all stipulate that ‘the geographical coordinates of points [defining the maritime boundary] could be reviewed and/or extended and duly revised as necessary in light of future delimitation of the Exclusive Economic Zone with other concerned neighbouring States and in accordance with

⁵⁷ Convention on the Continental Shelf, Geneva, 29 April 1958; entered into force 10 June 1964. Cyprus ratified the Convention in 1974. This convention established the sovereign rights of a coastal state over its continental shelf for the purpose of exploring and exploiting its natural resources. One of three treaties adopted at the first United Nations Convention on the Law of the Sea (UNCLOS I), the convention has since been superseded by a new treaty reached in 1982 at UNCLOS III.

⁵⁸ See ‘Information concerning the outer limit of the continental shelf’ at <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/CYP.htm>.

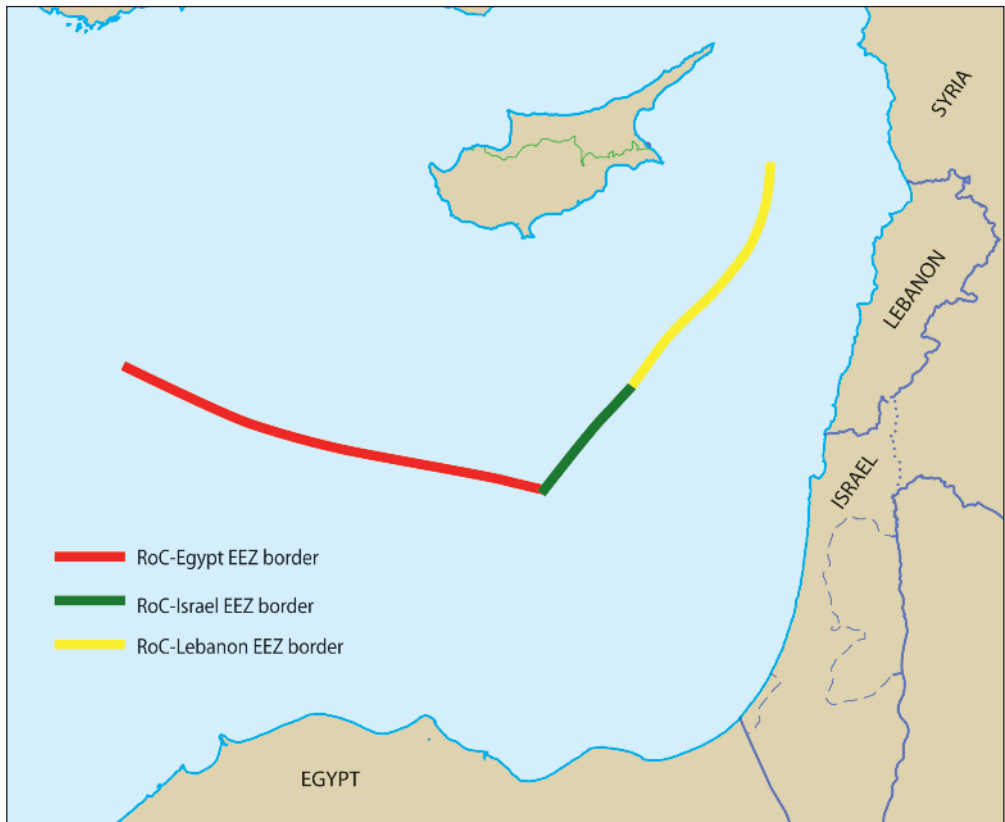
⁵⁹ The UN Convention on the Law of the Sea (Ratification) Law of 1988.

⁶⁰ Exclusive Economic Zone Law of 2004; see at http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/cyp_2004_eez_proclamation.pdf.

⁶¹ Like Cyprus, both Egypt and Lebanon are adherents of UNCLOS. Israel is not.

an agreement to be reached on this matter by the neighbouring States concerned'. In the agreements with Egypt and Lebanon, there is reference to UNCLOS Article 74 and, in the agreement with Israel, to 'the principles of customary international law relating to the delimitation of the Exclusive Economic Zone between States'.

These provisions could in theory be put in practice in two instances. First, if Israel and Lebanon come to an agreement on the delineation of their maritime borders (see below in this section). This is unlikely to alter the coordinates of the eastern border of the RoC EEZ, but may alter which part of the line pertains to Lebanon's border and which part to Israel's border. Second, in the event of a settlement of the Cyprus problem, Turkey will likely seek with Egypt and a post-settlement Cyprus an alteration to the present RoC EEZ border with Egypt. This can be inferred from Turkey's positions (see Section 2.7.1) and its stance during previous attempts to resolve the Cyprus problem (see Section 3.4.1).



Map 2.1 RoC's EEZ boundaries as agreed with Egypt, Lebanon and Israel.

The RoC's agreement with Egypt was signed on 17 February 2003 and entered into force on 7 March 2004.⁶² The RoC and Egypt also concluded in May 2006 a 'Framework Agreement concerning the development of cross-median line resources'. Agreements with Lebanon and Israel were signed in January 2007 and December 2010, respectively. The Cyprus-Israel agreement⁶³ was ratified by both sides and became operative within a few months after signature. In addition, talks are on-going between the RoC and Israeli governments for a 'gas-sharing agreement' relating to exploitation of hydrocarbon reserves that straddle the maritime border separating the EEZs of the two countries.⁶⁴ As for the agreement reached with Lebanon, though ratified by Cyprus, it has yet to enter into force pending ratification by the Lebanese parliament.

Some observers attribute Lebanon's delaying of ratification to pressure from Turkey, which claims that a government made up solely of Greek Cypriots cannot legitimately represent the whole of Cyprus and therefore is not entitled to sign such agreements.⁶⁵ In 2007 Turkey formally requested from the Lebanese government that 'the said agreement is not given effect'.⁶⁶

Another, more critical, reason why Lebanon has not ratified its agreement with Cyprus seems to be that it actually wants to discuss with Cyprus changes to the geographical coordinates of the southern end of the median line specified in their agreement.⁶⁷ The geographical coordinates of Lebanon's proposed southern EEZ boundary with Israel and western boundary with Cyprus differ both from what Israel considers as its maritime boundary with Lebanon and from what was established in the 2007 Cyprus-Lebanon agreement, respectively.⁶⁸ In this connection, Lebanon is asking Cyprus to reconsider its EEZ agreement with Israel.⁶⁹ This is because that agreement establishes a maritime boundary beginning at the so-called Point 1, instead of another point proposed by Lebanon, the so-called Point 23, which is 17 km further south-west and coinciding with the area claimed by Israel (see Map 2.2).

⁶² The text of the agreement is available at <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/EGY-CYP2003EEZ.pdf>. Incidentally, all this had taken place about a year before the RoC law that established the EEZ was passed. This explains why the EEZ Law, which was passed on 2 April 2004, was made to enter into force retroactively on 21 April 2003, shortly before the agreement with Egypt was ratified by the RoC House of Representatives.

⁶³ See at http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/TREATIES/cyp_isr_eez_2010.pdf

⁶⁴ 'Cyprus-Israel close to gas-sharing deal', George Psyllides, *Cyprus Mail*, 18 April 2012.

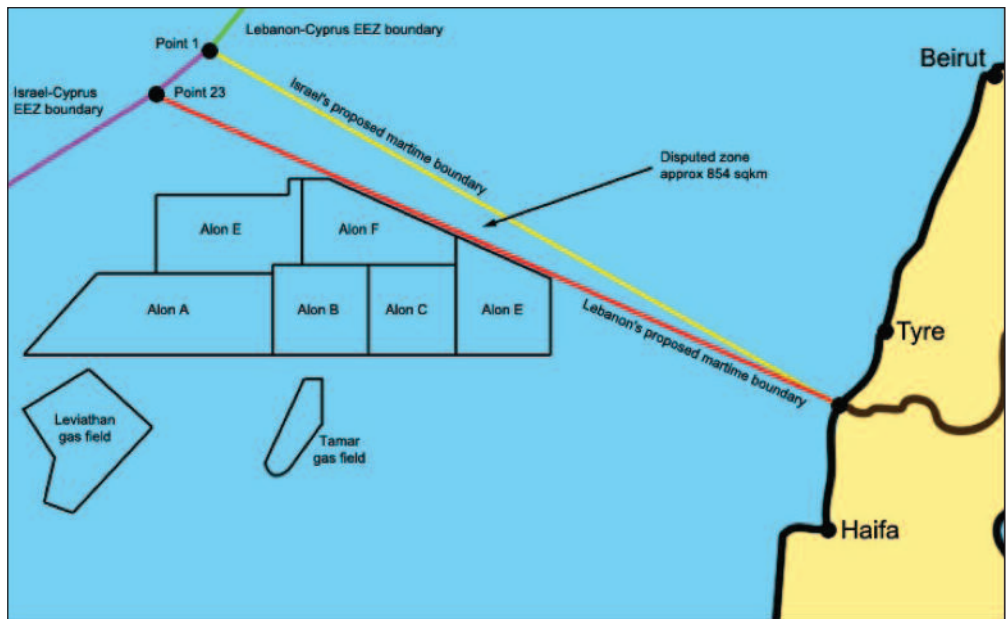
⁶⁵ See Başeren (2010) and 'Lebanon Government Moves to Form Petroleum Administration, Launch Licensing Round', Near Eastern Energy Associates, 8 January 2012, <http://www.neeas.net/blog2/files/36b36f184af202157d74094e486f0baf-16.html>, accessed 14 May 2012.

⁶⁶ See Turkish MFA (2007). Note that Turkey also formally objected to the RoC's agreements both with Egypt and Israel. The details of these objections are given in Sections 2.7.1 and 4.3.

⁶⁷ See Lakes (2012) and 'Lebanon will ratify EEZ deal when issues resolved with Israel', Stefanos Evripidou, *Cyprus Mail*, 1 March 2012, <http://www.cyprus-mail.com/cyprus/lebanon-will-ratify-eez-deal-when-issues-resolved-israel/20120301>, accessed 20 May 2012.

⁶⁸ See 'Originals of deposited geographical coordinates of points' at <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/LBN.htm>.

⁶⁹ 'Lebanon presses Cyprus to revise Israeli EEZ agreement', *The Daily Star*, 4 April 2012, <http://www.dailystar.com.lb/News/Politics/2012/Apr-04/169160-lebanon-presses-cyprus-to-revise-israeli-eez-agreement.ashx#axzz1vDG1rgk2>, accessed 5 December 2012.



Map 2.2 The differing maritime boundary claims of Israel and Lebanon. [Source: *Daily Star*]

These differences are in fact part of a border dispute between Lebanon and Israel relating to their maritime boundaries:⁷⁰ the aforementioned two points, together with the coastal point of the Israeli-Lebanese land border, define a triangular sea area of 860 square-kilometres, where the EEZs claimed by the two countries overlap. In a letter sent to the UN on 20 June 2011, Lebanon protested against the Cyprus-Israel delimitation agreement and argued that the zones demarcated in it ‘absorb part of the exclusive economic zone of Lebanon’, and that this ‘constitutes a flagrant attack on Lebanon’s sovereign rights over that zone’.⁷¹ Lebanon maintained that ‘Point 1 does not [. . .] represent the southern end of the median between [Lebanon] and [Cyprus] [. . .] and can only be viewed as a point that is shared by Lebanon and Cyprus. It is not a terminal point and therefore may not be taken as a starting point between Cyprus and any other country, particularly given the fact that it is just one point like any of the others on this line’. On 12 June 2011, Israel deposited with the UN the geographical coordinates of its proposed maritime boundaries based on the 2010 Israel-Cyprus delimitation agreement. Upon this, Lebanon sent the UN another letter where it was stated that ‘the geographical

⁷⁰ For a concise and informative analysis of this dispute, see Wählisch (2011).

⁷¹ Letter from the Minister for Foreign Affairs and Emigrants of Lebanon addressed to the Secretary-General of the United Nations, UN Doc. 2082.11D, 20 June 2011, http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/communications/lbn_re_cyp_isr_agreement2010.pdf.

coordinates that were deposited [. . .] by Israel violate the sovereign and economic rights of Lebanon over its territorial waters and exclusive economic zone, the coordinates of which are given in the attachment, and cut from those waters and that zone some 860 square kilometres.⁷²

Consequently, Cyprus, which negotiated maritime boundaries with both Israel and Lebanon, now finds itself a potential party in a complex diplomatic row. It appears that Lebanon will not ratify its agreement with Cyprus until it has been renegotiated. However, this cannot happen unless Cyprus manages first to renegotiate its boundary with Israel, which is unlikely, as Israel would not accept such a revision. Alternatively, ratification will become possible if the dispute between Israel and Lebanon is settled.⁷³ And, although the two countries are formally at war and without diplomatic relations, there do appear to be moves afoot to try to negotiate under UN auspices and even with RoC facilitation.⁷⁴ To date no such agreement has been reached.

2.3 RoC's legal framework for development of hydrocarbon resources

The hydrocarbon exploration and exploitation activities in the RoC are subject to the Hydrocarbons (Prospecting, Exploration and Exploitation) Law (Law 4(1)/2007) and two regulations made under this law (Nos. 51/2007 and 113/2009).⁷⁵ Adopted to transpose EC Directive 94/22⁷⁶ into national law, the law stipulates that '[t]he ownership of hydrocarbons wherever they are found in Cyprus, including the Territorial Waters, the Continental Shelf and the Exclusive Economic Zone of the Republic, shall be deemed to be and always to have been vested in the Republic' (section 3, para. 1). According to the law, the powers to determine, within the territory of the Republic and the relevant offshore zones, the areas to be made available for prospecting, exploring for and exploiting hydrocarbons (section 4, para. 1), and to grant authorization for the prospecting and/or exploration and/or exploitation of hydrocarbons in a geographical area, after due process set out in the law, rest with the Council of Ministers. The law sets out the rules of the procedure for applications for the grant of such authorization, the criteria for the evaluation of the applications, and the conditions and requirements for granting authorizations.

⁷² Letter from the Minister for Foreign Affairs and Emigrants of Lebanon addressed to the Secretary-General of the United Nations, UN Doc. 3372.11D, 3 September 2011, http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/communications/lbn_re_isr_listofcoordinates_e.pdf.

⁷³ According to the Speaker of the Lebanese Parliament, Nabih Berri, who was visiting Cyprus on 30 April 2012, if their dispute with Israel were settled, the agreement between Cyprus and Lebanon would be ratified by the Lebanese Parliament 'at most within 15 days': 'Lebanon Speaker on EEZ: Our problem is with Israel not Cyprus', *Ya Libnan*, 1 March 2012, <http://www.yalibnan.com/2012/03/01/lebanon-speaker-on-eez-our-problem-is-with-israel-not-cyprus/>.

⁷⁴ 'Maritime gas feud moves toward resolution', Nicholas Blanford, Daily Star, 5 April 2012, <http://www.dailystar.com.lb/News/Politics/2012/Apr-05/169297-maritime-gas-feud-moves-toward-resolution.ashx#axzz29596ccFV>, accessed 5 December 2012.

⁷⁵ Available at <http://www.mcit.gov.cy/mcit/mcit.nsf/All/A6D222B09D72E659C2257441002EE9BE?OpenDocument>.

⁷⁶ 'Directive 94/22/EC of the European Parliament and of the Council of 30 May 1994 on the conditions for granting and using authorizations for the prospecting, exploration and production of hydrocarbons', <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31994L0022:EN:HTML>.

Detailed rules on the types of licences available and procedural requirements that need to be satisfied by applicants in each case are provided in the two Hydrocarbons (Prospection, Exploration and Exploitation) Regulations of 2007 and 2009. A prospection licence (authorization) gives its holder the right to carry out work in the relevant area for the purpose of locating hydrocarbons using appropriate geophysical methods other than drilling. The maximum duration of a prospection licence is one year. Exploration licences, granted for an initial period of three years and renewable for up to two terms, each term not exceeding two years, give authorization to search for hydrocarbons by any appropriate method including two- and three-dimensional seismic surveys and exploratory drilling. Exploitation licences are issued for a maximum period of 25 years and renewable for another maximum ten-year period. Exploitation licences are given for development and production of hydrocarbons, for any treatment (excluding refining) in order to make them marketable and for the storage and the transportation of the hydrocarbons and their by-products.

In the law, an Advisory Committee is established to evaluate the applications and report to the Minister of Commerce, Industry and Tourism (section 6). The Minister submits his or her opinion on the applications and the preparatory report of the Advisory Committee to the Council of Ministers, which takes the final decision. The State's participation in the activities of prospecting, exploring for and exploiting hydrocarbons is provided for in section 16 of the law.

2.4 Turkey's maritime zones

Turkey is not a party to UNCLOS. It has a territorial sea law, which generally sets the breadth of its territorial sea at 6 NM with a proviso authorizing the Council of Ministers (CoM) 'to establish the breadth of the territorial sea, in certain seas, up to a limit exceeding six nautical miles, under reservation to take into account all special circumstances and relevant situations therein, and in conformity with the equity principle.'⁷⁷ Presently, a 6 NM limit applies to the territorial sea in the Aegean Sea while the limit in the Mediterranean Sea and the Black Sea is 12 NM as determined in a CoM decree.⁷⁸ Turkey has no continental shelf- or EEZ-related legislation. A CoM decree established the Turkish EEZ in the Black Sea at 200 NM⁷⁹ but no EEZ proclamation exists for the Mediterranean or the Aegean Seas.

⁷⁷ Act No. 2674 of 20 May 1982, on the Territorial Sea of the Republic of Turkey, <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/TUR.htm>, accessed 23 August 2012.

⁷⁸ Decree No. 8/4742, <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/TUR.htm>. This decree preserved the erstwhile limits in the Mediterranean and Black Seas which applied in accordance with a previous law (Act 476 of 1964; repealed by Act 2674 of 1982) and were determined on the basis of 'reciprocity' (see footnote 146 below) vis-à-vis other states with greater territorial sea limits in the relevant sea. See Başeren (2010: 27-28).

⁷⁹ Decree No. 86/11264 of 17 December 1986, <http://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/TUR.htm>.

2.5 Why Turkey has not signed UNCLOS: the Aegean dispute

Although it participated in the UNCLOS III negotiations, Turkey has not signed and ratified UNCLOS, primarily because of its conflict with Greece over maritime boundaries in the Aegean Sea.⁸⁰ The Turkish perspective is that certain provisions of UNCLOS, specifically Articles 3, 33, and 121, jeopardize vital interests of Turkey in the Aegean.⁸¹

The Aegean conflict, on-going since the early 1970s, is about a number of interrelated issues, two of which concern the breadth of the territorial sea and delimitation of the continental shelf.⁸² Other issues relate to questions of unresolved sovereignty and demilitarization of certain islands in the Aegean Sea, the extent of national airspace, and delimitation of 'Flight Information Regions' (FIR). Indeed, it is important to recall that the differences between Greece and Turkey came to a head in 1996, after a Turkish cargo vessel became stranded near the uninhabited Aegean islets of Imia/Kardak in late 1995. A disagreement over who was responsible for rescuing the ship eventually developed into a dispute over the sovereignty of the islets and rapid military escalation on both sides. It appears that war was only averted as a result of the heavy intervention by the United States (Ker-Lindsay 2007).

Greece and Turkey are the only coastal states separated by the Aegean Sea, which, it could be argued, has the features of a semi-enclosed sea,⁸³ and whose width between the mainland coasts never exceeds 400 NM. The two countries continue to have overlapping maritime claims in the area. The dispute between them is further complicated by the fact that an overwhelming number of the many islands, islets and rocks (over 2,000), dispersed throughout the Aegean Sea, belong to Greece and some of these lie in very close proximity to the Turkish mainland.

2.5.1 Issues relating to the breadth of the territorial sea

At present, the breadth of the territorial sea of Greece is set at 6 NM. At the same time, however, Greece maintains that customary international law, as also codified in Article 3 of UNCLOS, gives it the right to extend its territorial waters to 12 NM (Greek MFA 2012b). Turkey keeps a territorial limit of 6 NM in the Aegean Sea, while its territorial sea limits in the Black Sea and the

⁸⁰ See Oral (2009) and Kariotis (2011).

⁸¹ 'We will stay out [of UNCLOS] until the settlement of the Aegean dispute.' Interview with Turkish MFA officials, November 2011.

⁸² It must be added, however, that Greece and Turkey also disagree as to what constitutes the dispute between them. Greece's official position is that its only outstanding dispute with Turkey concerns the delimitation of the continental shelf and that this dispute is of a purely legal nature therefore necessitating a judicial solution (Greek MFA 2012a; Tzimitras 2012). Turkey, on the other hand, argues against what it calls Greece's 'one problem-one solution' position. It maintains that the various problems that exist 'should be addressed as a whole' and that the two countries should 'work towards settlement of the Aegean issues through peaceful means in accordance with international law [. . .] including, if necessary, through the International Court of Justice or other third party solutions based on the mutual consent' (Turkish MFA 2012c). See also ICG (2011).

⁸³ Under Article 122, 'enclosed or semi-enclosed sea' means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.

Mediterranean Sea are set at 12 NM. Turkey's view is that, given the geographic characteristics of the Aegean Sea, '[e]xtension of territorial waters to 12 nautical miles will disproportionately alter the balance of interests in the Aegean Sea to the detriment of Turkey' (Turkish MFA 2012c). A 12 NM limit was adopted in the Black Sea and the Mediterranean and Turkey says that this is because of the absence of special geographic circumstances and on the basis of rule of reciprocity.⁸⁴

In the Aegean Sea, even with the limit of 6 NM, Turkey feels rather restricted by Greece, as the latter controls about 43.5 per cent of the area. Turkey's territorial sea covers 7.5 per cent and the remaining 49 per cent is high seas. If both countries extended their territorial seas to 12 NM, this would result in Greece acquiring 71.5 per cent and Turkey 8.8 per cent of the area, with the proportion of the high seas shrinking to 19.7 per cent. Thus, for Turkey, a 12 NM limit would imply losing access to international waters and Turkish ships (particularly military vessels) having to go through Greek territorial waters when sailing between Turkish Aegean ports and the Mediterranean Sea. An extension of the territorial sea of Greece would also reduce the continental shelf area claimed by Turkey. Thus, although Turkey is not categorically against the 12 NM limit in principle, it regards any extension beyond 6 NM in the Aegean, where, in its view, special circumstances exist, as totally unacceptable.

Turkey has therefore repeatedly warned that extension by Greece of its territorial waters to 12 NM would constitute a *casus belli* (i.e., reason to go to war). This stance was endorsed by a declaration of the Turkish Parliament adopted in June 1995, shortly before Greece's ratification of UNCLOS. The resolution authorized the Turkish government to take 'all necessary measures, including military steps, deemed necessary to protect the vital interests' of Turkey (Williams 1996).⁸⁵

For these reasons, Turkey objected at the negotiations stage⁸⁶ to the present 12 NM provision of Article 3 of UNCLOS. It made proposals—that failed to be adopted—that would have made it compulsory for coastal states bordering enclosed or semi-enclosed seas to determine the breadth of their territorial seas by agreement (Bahcheli 1990: 142). Since then, Turkey has maintained that it has been a persistent objector⁸⁷ to 'extension of territorial sea in areas, more specifically in the Aegean, where special and unique geographic circumstances prevail' and that, consequently, the 12 NM limit cannot be claimed by Greece vis-à-vis Turkey in the Aegean Sea (Bölükbaşı 2004: 204-206).

For the same reasons, Turkey is opposed to the application of Article 33 of UNCLOS (concerning the contiguous zone).

⁸⁴ See footnote 146 below.

⁸⁵ See also Greek MFA (2012b).

⁸⁶ These are the Third UN Conference on the Law of the Sea (UNCLOS III) negotiations held from 1973 to 1982.

⁸⁷ A rule of customary international law is binding upon all states. The rule of persistent objector stipulates that a state which has persistently objected to such a rule in the early stages of its formation and did so constantly thereafter is not bound by it. See Bölükbaşı (2004: 2006-211) and Dumberry (2010).

2.5.2 Issues relating to islands and the continental shelf dispute

The third article of UNCLOS about which Turkey has serious misgivings, Article 121, concerns the regime of islands. It provides that the territorial sea, the contiguous zone, the EEZ and the continental shelf of an island are determined in the same manner as 'other land territory' (except for 'rocks which cannot sustain human habitation or economic life of their own'). Turkey is uncomfortable with this provision because of its Aegean continental shelf dispute with Greece.

The Aegean continental shelf dispute first surfaced in 1973, when Turkey started to search for oil beyond its territorial waters in the Aegean, following the example of Greece, which had been conducting its own explorations outside its territorial sea since 1960 (Bahcheli 1990: 130-141). The dispute is about the two countries' overlapping claims to the continental shelf and their inability to agree on: (a) the relevant rules and principles on which delimitation should be based; and (b) the method of dispute settlement to be used.

Greece's position is that islands are entitled to generate their own continental shelf, as provided in Article 121 of UNCLOS⁸⁸ (and before that, in Article 1 of the 1958 Geneva Convention on the Continental Shelf).⁸⁹ Under this approach, full entitlement of islands to continental shelf would render most of the Aegean continental shelf Greek. Especially a median delimitation line between the easternmost Greek islands and the Anatolian coastline would nearly leave Turkey only a narrow strip of continental shelf along the Turkish mainland coast (in addition of course to the Turkish Aegean islands' continental shelf) (Wilson 1980 cited in Bahcheli 1990).

According to the Turkish view, delimitation of the Aegean maritime boundaries should be based on equitable principles, taking into account the special circumstances in the Aegean Sea, in particular the presence of the easternmost Greek islands close to the Turkish mainland. Turkey has claimed that these islands lie on the Turkish continental shelf, which is a natural prolongation of the Anatolian land mass, and therefore do not have a continental shelf of their own. Thus Turkey has suggested that the median line delimiting the two countries' continental shelves should be drawn midway between the two mainland coasts (excluding the territorial seas of the eastern Greek islands, which would remain as Greek enclaves within the Turkish continental shelf).

During UNCLOS III deliberations, Turkey argued against the approach that was eventually adopted in Article 121 by making proposals such as:

islands which constitute a source of distortion or inequity in drawing boundaries between opposite or adjacent states shall have marine spaces only to the extent compatible with equitable principles and all geographic and other relevant circumstances. (Marsh 1987 cited in Bahcheli 1990)

⁸⁸ Greece signed UNCLOS in 1982 and ratified it in 1995.

⁸⁹ Greece is a party to the 1958 Geneva Convention while Turkey is not.

In a clear reference to smaller islands in the Aegean, Turkey also proposed that an island should not possess an economic zone (i.e., continental shelf or EEZ) if its land area was less than 'one-tenth of the nations to which it belonged' and if it was 'situated on the continental shelf of another state' (Van Dyke 1987 cited in Bahcheli 1990). None of these proposals found enough support at the conference to be included in the Convention.

2.5.3 International jurisprudence on islands

While UNCLOS provisions appear to be more on the side of Greece's rather than Turkey's claims, a look at international jurisprudence relating to maritime delimitation in situations involving islands reveals a different picture. In a number of court decisions over the last four decades there has been a marked tendency towards compromise solutions achieved through restricting islands' maritime zones, including disregarding islands or giving partial effect to them.⁹⁰

The above-mentioned approach adopted by the ICJ and other tribunals in nearly all decisions concerning maritime zones of islands may also have implications for maritime delimitation in the Eastern Mediterranean, in particular between Cyprus and Turkey. This problematic precedent, coupled with the overall stance [. . .] on achieving an equitable result as an outcome of balancing an indeterminate number of factors, raises concern regarding the possible outcome of a potential delimitation exercise in the area. For instance, on the basis of previous cases, at least the ratio between the coastlines of Turkey and Cyprus is likely to be taken into consideration as a key factor and this will probably prove disadvantageous for Cyprus.' (Tzimitras 2012)

2.6 Turkish Cypriot acts relating to maritime zones

Under the present circumstances, the RoC is administered solely by the Greek Cypriot community, with its control restricted to the southern part of the island (see Chapter 3). In the northern part of the island, the Turkish Cypriot community unilaterally declared in 1983 the Turkish Republic of Northern Cyprus (TRNC), which is recognized only by Turkey. Thus, in addition to the RoC legal framework relating to maritime spaces of Cyprus, the TRNC has also put in place its own arrangements.

⁹⁰ Commonly cited examples of such cases concerning delimitation of continental shelf include: the North Sea Continental Shelf cases (Denmark–Federal Republic of Germany and The Netherlands–Federal Republic of Germany) (ICJ 1969); the case between the UK and France (Court of Arbitration 1977); the case between Tunisia and Libya (ICJ 1982); the case between Libya and Malta (ICJ 1985); the case between Eritrea and Yemen (Court of Arbitration 1999); and the case between Romania and Ukraine (ICJ 2009). For a detailed critical analysis of these and other relevant cases, see Lymperas (2011). The 'distributive' approach employed by the courts at the expense of islands' entitlement to continental shelf have been criticized by some scholars as problematic and controversial. See, for example, Tzimitras (2012).

Under the TRNC Territorial Sea Law, No. 42/2002, the breadth of the territorial sea is 12 NM.⁹¹ In addition, there is the TRNC Maritime Jurisdiction Areas Law, No. 63/2005, which provides for the proclamation of the EEZ up to 200 NM as well as for its delimitation by agreement with neighbouring coastal states. In the same law, the continental shelf is defined, in accordance with international norms, as the seabed and the subsoil of the submarine areas that extend to the outer edge of the natural prolongation of Cyprus, or up to the continental margin or 200 NM, whichever is greater.

On 21 September 2011 the TRNC signed a continental shelf delimitation agreement with Turkey. The agreement was ratified by the TRNC Parliament on 9 January 2012 and by the Turkish Parliament on 29 June 2012. It draws a boundary between the northern coast of Cyprus and the southern coast of Turkey (see Map 2.3). Made up of 27 coordinates, the boundary is declared to be not a median/equidistance line but a line 'determined on the basis of international law and equitable principles' (Turkish MFA 2011a). The signing of this continental shelf agreement came as a reaction to the commencement, a few days earlier, of exploratory drilling authorized by the RoC government off the island's southern coast (see Chapter 5).⁹² The agreement was denounced as illegal and hence as invalid by both the RoC and Greece.⁹³

⁹¹ The law entered into force in June 2002.

⁹² The Turkish Prime Minister Recep Tayyip Erdoğan stated: 'We had previously brought to the international community's attention in a clear manner [...] that if the Greek Cypriots started drilling, we would take a number of concrete steps together with the Turkish Republic of Northern Cyprus [...] To reflect this commitment, Turkey and the Turkish Republic of Northern Cyprus today in New York signed a continental shelf agreement.' 'Turkey-North Cyprus gas deal set to raise regional tensions', Jonathon Burch, Reuters, 21 September 2011, <http://uk.reuters.com/article/2011/09/21/uk-turkey-cyprus-idUKTRE78K6Y120110921>, accessed 8 June 2012.

⁹³ *Ibid.* It could, of course, be argued that, since the TRNC is not internationally recognized, this agreement lacks legal validity under international law. However, two points are pertinent here: (i) the agreement is consistent with the fact that the parties who signed it recognize each other; and (ii) as part of the on-going negotiations for a comprehensive settlement of the Cyprus problem, the two sides have established a 'treaties committee' whose purpose is to list all the treaties and agreements which both sides concluded with third parties in the pre-settlement period and which will be binding on the united Cyprus post-settlement. A ground rule of the said committee is the presumption that all such treaties and agreements will be included in the list, unless they are contrary to the provisions of the prospective settlement. In this sense, therefore, the Turkey-TRNC continental shelf agreement could come to have legal consequences within the scope of a future settlement just as the delimitation agreements concluded between the RoC and Egypt, Lebanon and Israel presumably would (see Section 2.4.1).



Map 2.3 Maritime border defined in the continental shelf agreement signed between the TRNC and Turkey. [Source: Agreement Concerning the Delimitation of the Continental Shelf in the Mediterranean Sea between the Turkish Republic of Northern Cyprus and the Republic of Turkey, 21 September 2011]

2.7 Maritime delimitation issues in the Eastern Mediterranean

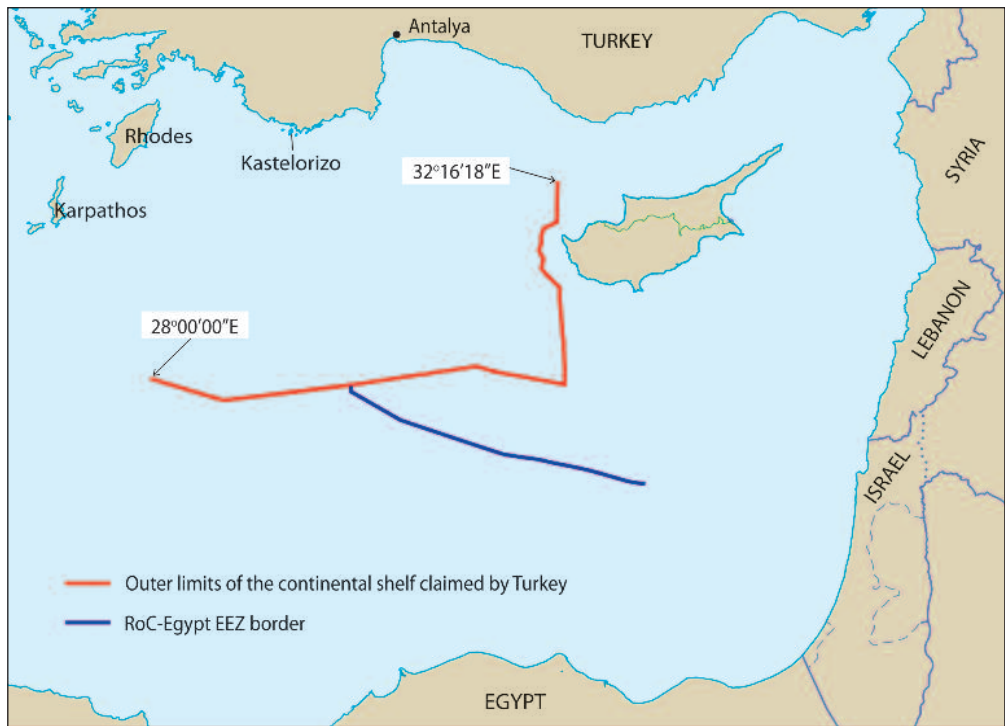
As mentioned earlier, an EEZ delimitation agreement has been in place between Egypt and the RoC since 2003. As a result of the Aegean dispute, Greece has to date not delimited its maritime boundaries in the Eastern Mediterranean while Turkey's only agreement in the region is with the TRNC, made in 2011 to delimit the continental shelf (see Section 2.6 and Chapter 5).

2.7.1 Why Turkey disputes the RoC-Egypt boundary

Turkey disputes the boundary agreed between the RoC and Egypt because of its own continental shelf claims in the region extending from Cyprus in the east, to the Greek island of Rhodes (Rodos) in the west. Specifically, as depicted in a map published by the Turkish MFA, Turkey claims as part of its continental shelf the area off the southern Anatolian coast limited in the east by 32° 16' 18" E longitude, in the west by 28° 00' 00" E longitude and in the south by the equidistance/median line between the coasts of Turkey and Egypt. The basis for Turkey's claims here, as in the Aegean Sea, is its position that the capacity of an island (in this case, Cyprus) to generate maritime zones should be restricted when the island's competition for these zones is with a continental coastal state (in this case, Turkey) and hence the equidistance/median line is not applicable.⁹⁴ Accordingly, Turkey maintains that (a) the continental shelf/EEZ of the island of Cyprus should not extend to those areas in the west of the island where Turkey's and the RoC's claims overlap; and (b) the small Greek island of Megisti (Kastelorizo/Meis), due to its geographic proximity to Anatolia,⁹⁵ should be treated as 'enclaved' in the Turkish continental shelf (i.e., not given any effect in terms of generating a continental shelf/EEZ for Greece). Such a proposed limitation of the two islands' maritime areas would allow the extension of Turkey's continental shelf/EEZ southward towards Egypt. Then, in Turkey's view, continental shelf/EEZ delimitation could be effected between the opposite coasts of Turkey and Egypt (which are about 280 NM apart) by an equidistant line in the east-west direction touching 32° 16' 18" E longitude in the east and 28° 00' 00" E longitude in the west (see Map 2.4).

⁹⁴ In Turkey's view, in delimiting the continental shelf and/or EEZ, the equidistance/median line needs to be altered by taking into account various geographical and non-geographical circumstances 'in order to produce an equitable result'. Such circumstances include, among others: general configuration of the coasts, length of coastlines, presence of islands and their size and positions, navigational rights and interests, defence and security interests, and economic conditions. Turkey's perception is that this approach to delimitation is supported by state practice and jurisprudence of international courts'. See Erciyas (2012) for a presentation of the Turkish MFA's official stance.

⁹⁵ The island is 1.3 km from Turkey's south coast, and 110 km east of the Greek island of Rhodes.



Map 2.4 Turkish view of maritime delimitation between Turkey and Egypt. If Turkey's claim were to be effected, Turkey and Egypt would become neighbours in the sea (coastal states with opposite coasts), which would as a result affect the agreed EEZ boundary between Egypt and the RoC. [Source: Erciyas (2012)]

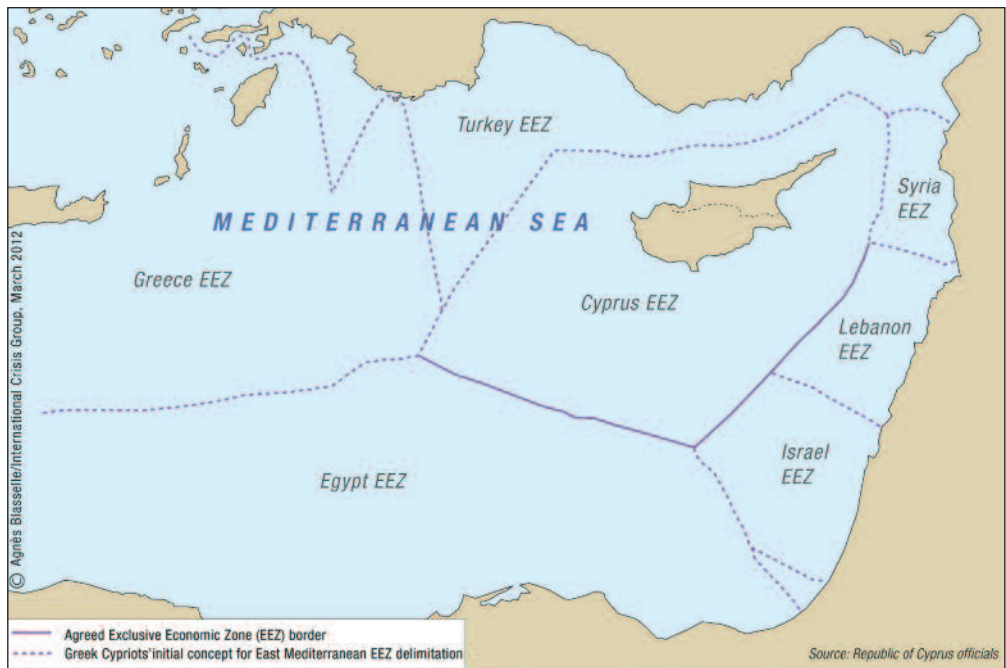
Turkey's objection to the RoC-Egypt agreement was registered with the UN through an information note submitted in March 2004 (Turkey 2004). In this communication, Turkey stated that it 'does not recognize the said agreement and reserves all its legal rights related to the delimitation of [continental shelf and EEZ] in the west of the longitude 32° 16' 18\". The basis of this objection was said to be 'legal reasons which arise from the established principles of international law', namely that maritime delimitation in the Eastern Mediterranean, 'especially in areas falling beyond the western part of the longitude 32° 16' 18\", also concerns Turkey's ipso facto and ab initio legal and sovereign rights' and that, therefore, delimitation in these areas 'should be effected by agreement between the related states [...] based on principles of equity'.

Turkey's arguments contained in its March 2004 communication to the UN were rejected both by the RoC and Greece.

The RoC's rejection of the Turkish position was communicated to the UN in a *note verbale* dated 28 December 2004 (RoC 2004). In the note it was maintained that Turkey had tacitly recognized the RoC's entitlement to legitimate claims of maritime zones by failing to raise any objections when the RoC submitted to the UN, in 1974, its continental shelf law and, in 1993, a set of coordinates depicting its baselines. Moreover, Turkey's claim that delimitation in the western part of the longitude 32° 16' 18" E should be effected by agreement was dismissed on the grounds that such a claim would be 'tantamount to accepting that islands and even more so a sovereign island State, in this case the Republic of Cyprus, is deprived of any maritime zones, contrary to customary international law, the Convention (Articles 56, 77 and 121) and the International Court of Justice rulings'.

In a note verbale of 24 February 2005 addressed to the UN 'as one of the "related States"', Greece clarified its own stance in relation to maritime delimitation in the disputed area, i.e., the west of longitude 32° 16' 18" E (Greece 2005). This came as a reiteration of 'its long-standing position that the delimitation of [maritime zones] between States with opposite coasts (both continental and insular) should take place in accordance with the pertinent rules of international law on the basis of the principle of equidistance/median line' (emphasis added). This position, which according to Greece, 'is confirmed by widespread, long-standing State practice' is, as explained above, exactly what Turkey disputes. The Greek position would entail drawing the continental shelf/EEZ boundary between Turkey and Greece as the median line between the nearby Greek islands of Megisti (Kastelorizo/Meis) and Rhodes, on the one side, and mainland Turkey, on the other. Turkey's objection to this proposed arrangement is that Turkey's maritime zones would be entirely cut off from those of Egypt. Instead, Greece and Egypt would have opposite coasts, their potential boundary to be determined somewhere between the line connecting the Greek coasts of Crete (Kriti/Girit), Kassos (Kasos/Kaşot), Karpathos (Karpathos/Kerpe), Rhodes (Rodos) and Megisti (Kastelorizo/Meis) and the northern shores of Egypt (Başeren 2010).

If maritime boundaries were drawn in accordance with the positions of the RoC and Greece, they would be as in Map 2.5. Map 2.6 shows the boundaries that would be drawn in accordance with Turkey's position. A detail in Map 2.5, namely the fact that the EEZs of Greece and Cyprus are contiguous, is considered by some commentators to be significant. Indeed, it was noted in Pipes (2012) that a scenario whereby Megisti (Kastelorizo/Meis) is given full effect in terms of generating an EEZ (for Greece) 'benefits the emerging Greece-Cyprus-Israel alliance by making it possible to transport either Cypriot and Israeli natural gas (via pipeline) or electricity (via cable) to Western Europe without Turkish permission'.



Map 2.5 Turkish continental shelf and EEZ boundaries calculated as median lines as proposed by the RoC and Greece. [Source and copyright: International Crisis Group]



Map 2.6 Potential Turkish continental shelf/EEZ in the Eastern Mediterranean Sea 'according to the equitable principles' as proposed by Turkey. [Source: Turkish Marine Research Foundation at <http://www.tudav.org/>]

CHAPTER 3:

HISTORICAL AND POLITICAL BACKGROUND & THE SOVEREIGNTY DISPUTE

3.1 Establishment of the Republic of Cyprus

The Republic of Cyprus was created as an independent state in 1960, when Britain relinquished its sovereignty over the island. It was established through a series of international accords concluded during 1959 and 1960.⁹⁶ The first group of these is the so-called Zurich-London Agreements of 1959. Originally drawn up and initialled in Zurich by Greece and Turkey, they were later signed jointly by Greece, Turkey and the UK, following endorsement by both ‘the representative of the Greek Cypriot Community’ (Archbishop Makarios) and ‘the representative of the Turkish Cypriot Community’ (Dr Fazıl Küçük). One of the documents accepted as part of these agreements, entitled ‘Basic Structure of the Republic of Cyprus’, laid out in 27 paragraphs what were to be incorporated in the 1960 Constitution of the Republic as the Basic Articles. These Basic Articles could not be amended ‘whether by way of variation, addition or repeal’ (see Article 182(1) of the Constitution). Other documents included the Treaty of Guarantee (to be signed by the RoC, Greece, Turkey and the UK), and the Treaty of Alliance (to be signed by the RoC, Greece and Turkey). The second group of accords, by virtue of which the RoC came into being, was signed in Nicosia on 16 August 1960 and contained the RoC Constitution, the Treaties of Guarantee and Alliance and, additionally, the Treaty concerning the Establishment of the RoC (signed by the RoC, Greece, Turkey and the UK).

The three Treaties and the Constitution were designed as interlinked documents. Under the Treaty of Guarantee, Greece, Turkey and the UK ‘recognize and guarantee the independence, territorial integrity and security of the Republic of Cyprus, and also the state of affairs established by the Basic Articles of its Constitution’. In the event of a breach, the three guarantor

⁹⁶ Essentially imposed on the Cypriots by the governments of Greece and Turkey, independence actually came as a compromise between the Greek Cypriot quest for *enosis* (political union of the island with Greece) and Turkish Cypriot counter demand of *taksim* (the island’s partition between Greece and Turkey). Throughout the second half of the 1950s, Greek Cypriots, with support from “motherland” Greece, had formed a militia (EOKA—the National Organization of Cypriot Fighters) and conducted an armed campaign against British rule in pursuit of *enosis*. In response to this, Turkish Cypriots, backed by “motherland” Turkey, had created their own armed organization (TMT—Turkish Resistance Organization) in order to oppose *enosis* and push for *taksim*.

countries were afforded the right to take action—jointly or, if that proved impossible, individually—for the restoration of the guaranteed regime. The Treaty concerning the Establishment of the RoC distinguished between the territory of the Republic and the two areas of Akrotiri and Dhekelia (totalling 99 square miles) that remained under the full sovereignty of the UK, a feature also covered in the Treaty of Guarantee. The Treaty of Alliance concerned a military alliance of the RoC, Greece and Turkey for the purpose of defending Cyprus against any aggression. Article 181—one of the Basic Articles—of the Constitution stated that the Treaties of Guarantee and Alliance ‘have constitutional force’.

The Republic was conceived as a bicomunal state where power would be shared between its two constituent communities: the Greek Cypriots and the Turkish Cypriots.⁹⁷ The Cyprus Constitution, which was devised to implement the 1959 Zurich-London Agreements, afforded the two communities partial communal autonomy⁹⁸ as well as equal treatment in terms of their participation in the state organs. The latter was designed to balance power between the two communities with a view to preventing domination of the smaller Turkish Cypriot community by the majority Greek Cypriots.⁹⁹

The Constitution provided for a presidential system with a Greek Cypriot President and a Turkish Cypriot Vice-President, elected respectively by the Greek Cypriots and the Turkish Cypriots on separate electoral rolls. The central government, legislature, judiciary and public service of the RoC were formed by members of the two communities in a ratio of seven Greek Cypriots to three Turkish Cypriots. The seven Greek Cypriot and three Turkish Cypriot members of the Council of Ministers were appointed, separately and respectively, by the President and the Vice-President. The President and the Vice-President had, separately or conjointly, the right of final veto on any law or decision of the House of Representatives, as well as on any decision of the Council of Ministers, concerning foreign affairs, defence or security. Legislative power was exercised by the House of Representatives in all matters not expressly reserved for the Communal Chambers. The Greek Cypriot and Turkish Cypriot members of the House were elected, separately and respectively, by the Greek Cypriots and the Turkish Cypriots. The House of Representatives took its decisions by simple majority except in the case of those concerning taxation, elections and municipalities, which required a separate majority of the Greek Cypriot and Turkish Cypriot members of the House.

⁹⁷ While the London and Zurich agreements referred to the Greek-Cypriot and Turkish-Cypriot communities, the Constitution refers to Greek and Turkish communities.

⁹⁸ A Communal Chamber was established for each community with a mandate to exercise legislative and administrative power on certain restricted communal matters (relating to e.g., religion, education and culture). They also had the power to collect communal taxes in order to provide for the needs of communal bodies and institutions.

⁹⁹ The population ratio between the two communities stood roughly at 4:1 in 1960.

3.2 Disintegration and division

Three years after the establishment of the RoC, a constitutional dispute emerged leading to inter-communal strife which brought about the collapse of the bicomunal power-sharing structures.¹⁰⁰ Relations between the two communities had been tense from the start because of serious disagreements on the implementation of certain provisions of the Constitution.¹⁰¹ The situation turned into a crisis when on 30 November 1963 the Greek Cypriot President, Archbishop Makarios, arguing that it would improve the functionality of the state, publicly announced proposals to revise the Constitution, including some of its basic- formally unalterable- provisions (so-called Basic Articles). The Turkish Cypriot Vice-President, Küçük, had not been consulted on the proposals. The proposed changes would have enabled the Greek Cypriot majority to rule without impediment and they were immediately rejected by the Turkish Cypriot leadership as well as by Turkey. Following this, on 21 December 1963, violence broke out between the two communities and shortly after that, in early 1964, Turkish Cypriot elected representatives, ministers and officials generally ceased to participate in the organs of the Republic. Most of the Turkish Cypriot community retreated into several guarded enclaves (Ker-Lindsay 2011), where they were to remain administering their own affairs until 1974. Meanwhile, the Greek Cypriot community assumed sole governance of the RoC,¹⁰² which thus started functioning as a unitary state. In 1964 a UN peacekeeping force was installed on the island and has remained there ever since.

In 1974, the junta in Greece engineered a coup by Greek and Greek Cypriot forces against President Makarios with the ultimate aim of effecting *enosis* (union with Greece). Turkey, invoking the Treaty of Guarantee, militarily intervened and, negotiations for a settlement having failed, divided the island. As perceived by the Greek Cypriots, this operation was an illegal invasion and occupation by an expansionist foreign army of a substantial territory of the RoC, while as perceived by the Turkish Cypriots, it was a legitimate action by guarantor Turkey that ended their suffering of 1963–1974 and brought peace to the island. The generally accepted view of the international community is that Cyprus' north is occupied by the Turkish army.

¹⁰⁰ See Kyle (1997: 5-15). For a detailed account of the events that followed the crisis that began in December 1963, see Patrick (1976: 45-88).

¹⁰¹ Turkish Cypriots, were generally content with the power-sharing arrangements which gave them equal partner status in the Republic, notwithstanding the fact that they constituted just under one-fifth of the island's total population. Thus they were determined to defend and exercise to the end the rights given to them under the Constitution. Greek Cypriots, in contrast, were generally not only upset that Cyprus was given independence instead of being allowed to unite with Greece, they were also deeply resentful that the Turkish Cypriot minority was granted significant power in the running of the Republic.

¹⁰² From 1963 onwards, the Greek Cypriot leadership stopped recognizing the Turkish Cypriot Vice-President and in 1965 made the return of the Turkish Cypriot members of the House of Representatives conditional on their first accepting certain constitutional changes and legislative enactments which would have reduced the Turkish Cypriots' constitutionally guaranteed status of political equality. See UN (1965).

Since then, the northern 36 per cent of the Republic's territory has been under Turkish Cypriot administration and Turkey has kept around 35,000 troops on the island, arguing that this is needed for security reasons, until an overall agreement is reached. Greek Cypriots (recognized as the RoC) administer the southern 62 per cent and the rest is the UN-controlled Buffer Zone (see Map 3.1). Almost all of the Greek Cypriot residents of the north fled during the war or later moved to the south with the exception of a few hundred people enclaved in the Karpas area. Similarly virtually all of the Turkish Cypriots living in the south relocated to the north.



Map 3.1 Cyprus as divided since 1974. [Source: World Factbook, CIA, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/cy.html>]

3.3 The status of the RoC and the TRNC

Following the division, the parallel administration which the Turkish Cypriots had run in 1964–74 evolved to govern in the north, eventually becoming, upon the Turkish Cypriot declaration of independence in 1983, the present Turkish Republic of Northern Cyprus (TRNC), which is recognized only by Turkey. The declaration also contained statements regarding Turkish Cypriot commitment to achieving a bi-zonal federal settlement through negotiations under the auspices of the UN Secretary-General.¹⁰³

¹⁰³ In the declaration it was announced that the TRNC 'shall continue to adhere to the Treaties of Establishment, Guarantee and Alliance'. Text of the declaration available in English at <http://www.atcanews.org/archive/declarationofindependence.pdf>, accessed 24 June 2012. The then Turkish Cypriot leader, Rauf Denktaş, in his address to the UN Security Council on 18 November 1983, stressed that, in declaring the TRNC, the Turkish Cypriots are not seceding [...] from Republic of Cyprus, or will not do so if the chance is given to us to re-establish a bizonal federal system. But if the robbers of my rights [...] insist that they are the legitimate Government of Cyprus, we shall be as legitimate as they [...] as sovereign as they in the northern State of Cyprus [...].

The Turkish Cypriots and Turkey insist that the Greek Cypriots alone cannot legitimately represent the RoC as this would be contrary to the 1959-1960 Cyprus accords and Constitution. The Greek Cypriots deny this and assert that their government, notwithstanding the absence of Turkish Cypriot participation, lawfully represents the RoC on the basis of the 'doctrine of necessity'.¹⁰⁴

Despite the objections of the Turkish Cypriots and Turkey, the Greek Cypriot government gradually came to be internationally accepted as the government of the RoC and the sole legitimate government on the island.¹⁰⁵

In the view of the Security Council (UNSC), the creation of the TRNC is 'legally invalid' on the grounds that the Turkish Cypriot declaration in 1983 'to create an independent state in northern Cyprus' is deemed to be 'incompatible with the 1960 Treaty concerning the establishment of the Republic of Cyprus and the 1960 Treaty of Guarantee'¹⁰⁶ (UNSC 1983; 1984). The European Union's recognition of the Greek Cypriot-led government as the sole representative of the RoC is also implicit in the Act of Accession of the RoC to the European Union.¹⁰⁷

Turkey and Turkish Cypriots thus continue to differ from the rest of the world in not recognizing the Greek Cypriot government in the south as the legitimate RoC government (i.e., capable of representing both Greek Cypriots and Turkish Cypriots), referring to it as 'the Greek Cypriot Administration (of Southern Cyprus)'. Greek Cypriots, in their turn, consider the north to be RoC territory "illegally occupied by Turkey" and the TRNC its "puppet state".

¹⁰⁴ The doctrine of necessity (used in law as basis for justification of extra-legal government actions in situations of public emergency) was first invoked in the 1964 case of *The Attorney General of the Republic v. Mustafa Ibrahim and Others* which has become the landmark case in relation to the application in Cyprus of this rule. In that case, the Supreme Court justified, based on the concept of 'state necessity', its jurisdiction to hear the case (despite the absence of a Turkish Cypriot judge, as provided for in the Constitution) and the suspension or inapplicability of certain provisions of the RoC Constitution, which in turn enabled the continued functioning of the state organs with Greek Cypriot members only. For a comprehensive examination of the topic, see Markides (2006) and Hakkı (2007: chapter 15). For a general discussion on the doctrine of necessity, as well as a critical assessment of its application in Cyprus and the consequences of this for the Turkish Cypriot community, see Özersay (2005). Also see Constantinou (2008), looking at the Cypriot application of the doctrine within the broader context of 'states of exception'.

¹⁰⁵ This happened without any formalities—such as a renegotiation of the internationally approved 1960 Cyprus accords—having taken place.

¹⁰⁶ In Resolution 541 (1983) the Security Council called upon 'all States not to recognize any other Cypriot State other than the Republic of Cyprus'. In Resolution 550 (1984), 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 called upon them 'not to facilitate or in any way assist the aforesaid secessionist entity'.

¹⁰⁷ 'The application of the *acquis* shall be suspended in those areas of the Republic of Cyprus in which the Government of the Republic of Cyprus does not exercise effective control'. Protocol No 10 on Cyprus of the Treaty and the Act of Accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic, *Official Journal of the European Union*, L236, 23.9.2003.

3.4 Attempts to resolve the Cyprus problem

During the period 1964–1968 the UN attempted unsuccessfully to resolve the political problem in Cyprus through mediation. In 1968 the two communities began negotiating for a (Cyprus) settlement within the framework of the good offices of the UN Secretary-General.¹⁰⁸ Having been interrupted by the 1974 events, the talks between the two communities recommenced in 1975 under the auspices of the UN. In what came to be known as the High Level Agreements, the parties agreed in 1977, and later confirmed in 1979, that they were seeking a ‘bi-communal, Federal Republic’ with two territories each of which would be administered by one community.¹⁰⁹

Many rounds of direct and indirect inter-communal negotiations have since been held. In 2002–2004, the parties appeared to have come close to a settlement on the basis of *The Comprehensive Settlement of the Cyprus Problem* proposed by the UN (dubbed the Annan Plan after the then UN Secretary-General Kofi Annan).¹¹⁰ The Plan provided for reunification of Cyprus under a bi-zonal, bicommunal federal government and two politically equal constituent states, a “Greek Cypriot State” and a “Turkish Cypriot State”. It was strongly backed by the UN, the EU and most of the rest of the international community.¹¹¹ Talks on the Annan Plan took place at the same time as the RoC government, formally acting on behalf of the whole island, was conducting negotiations for Cyprus’s accession to the EU. Had the Plan been adopted, Cyprus would have joined the EU united. In simultaneous referenda held in April 2004, the Plan was overwhelmingly accepted by the Turkish Cypriots but overwhelmingly rejected by the Greek Cypriots. Nonetheless, since a settlement had not been made a precondition of EU membership, the EU incorporated a divided Cyprus as a member in May 2004. In EU parlance, northern Cyprus is referred to as ‘those areas of the Republic of Cyprus in which the Government of Republic of Cyprus does not exercise effective control’. The application of the EU’s *acquis communautaire* (body of EU laws) is suspended in northern Cyprus.¹¹²

¹⁰⁸ As stated in the United Nations Multilingual Terminology Database—UNTERM, ‘[a] theoretical distinction exists between good offices and mediation. The difference between them is that whereas good offices consist in various kinds of action tending to call negotiations between the conflicting States into existence, mediation consists in direct conduct of negotiations between the parties at issue on the basis of proposals made by the mediator.’ See <http://unterm.un.org/dgaacs/unterm.nsf/8fa942046ff7601c85256983007ca4d8/b2260de27a79958685256a0000076168?OpenDocument>, accessed 11 January 2013.

¹⁰⁹ These are the 1977–1979 High Level Agreements (UNSG 1977; 1979). In 1990, the UN Security Council passed a resolution which called upon ‘the leaders of the two communities to pursue their efforts to reach [...] a solution providing for the establishment of a federation that would be bi-communal as regards the constitutional aspects and bi-zonal as regards the territorial aspects, in line with [...] their 1977 and 1979 high-level agreements [...]’ (UNSC 1990).

¹¹⁰ For the text of the Annan Plan and related documents, see <http://www.hri.org/docs/annan/>, accessed 17 July 2012.

¹¹¹ In April 2003, the UN Security Council announced that it ‘[g]ives its full support to the Secretary-General’s carefully balanced plan of 26 February 2003 as a unique basis for further negotiations, and calls on all concerned to negotiate within the framework of the Secretary-General’s Good Offices, using the plan to reach a comprehensive settlement as set forth in [...] the Secretary-General’s report.’ See UNSC (2003).

¹¹² Protocol 10 to the 2003 EU Accession Treaty. Available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12003T/PRO/10:EN:NOT>, accessed 17 July 2012.

The latest attempt to resolve the dispute began in 2008, with the expressed goal of the parties described as follows: 'a bi-zonal, bi-communal federation with political equality, as defined by relevant Security Council resolutions [. . .] [that] will have a Federal Government with a single international personality, as well as a Turkish Cypriot Constituent State and a Greek Cypriot Constituent State, which will be of equal status.'¹¹³ Subject to the general understanding that 'nothing will be considered as agreed until everything is agreed'¹¹⁴ the sides have agreed that natural resources would be a federal competence (see Section 4.1). To date, the talks have not led to a settlement and at the time of writing talks at the leader level had been in effect suspended since late March 2012. They are expected to resume after the election of a new Greek Cypriot leader in the presidential elections in February 2013.

3.4.1 The Annan Plan on natural resources

As already mentioned, since the Annan Plan was rejected by one of the communities it did not enter into force. However, its provisions are worth considering because in the negotiations to date, at least as regards competence for natural resources, the sides appear to have largely followed the same approach as the Annan Plan.

Under Article 14(1)(e) of the Annan Plan, natural resources fell under the competence of the federal government,¹¹⁵ which implied that the management, at least, of natural resources would be under the joint mandate of Greek Cypriots and Turkish Cypriots. Article 4(1) of the annexed Law on Hydrocarbons vested the power in the Presidential Council (the federal executive) to decide where to explore.

The Presidential Council retains the right to determine within the territory of Cyprus or in areas where it can claim exclusive rights as far as prospecting, exploration and exploitation concerns, according to the Convention, the areas that are available for the exercise of the activities of prospecting, exploration and exploitation of hydrocarbons.¹¹⁶

¹¹³ See 'Joint Statement by Greek Cypriot Leader Demetris Christofias and Turkish Cypriot Leader Mehmet Ali Talat, 23 May 2008'. Available at <http://www.moi.gov.cy/moi/pio/pio.nsf/All/32EA5AF09120DE02C225746300291825?OpenDocument>, accessed 17 July 2012.

¹¹⁴ 'Opening statement by the President of the Republic, Mr Demetris Christofias, at the launch of negotiations on Cyprus', Ministry of Foreign Affairs, <http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/B8C794DCED1A4937C22574B900363672?OpenDocument>, accessed 23 December 2012.

¹¹⁵ The Comprehensive Settlement of the Cyprus Problem, Foundation Agreement, Main Articles, 31 March 2004.

¹¹⁶ Foundation Agreement Annex III, Attachment 13, Law 1, Federal Law to Provide for the Prospecting, Exploration and Exploitation of Hydrocarbons.

The Annan Plan makes no explicit reference to ownership of offshore natural resources. In Article 3(a), the hydrocarbons law mentions only ownership of natural resources within the territorial boundaries of the constituent states. These boundaries were defined on land.¹¹⁷

3. (a) The ownership of hydrocarbons wherever *within the territorial boundaries of the constituent states belongs to the constituent state where the hydrocarbons are located.*¹¹⁸

However, the reference in Article 3(b) to an exclusive economic zone and continental shelf rights in UNCLOS implies that sovereignty over offshore resources would be conceived as vested in the state and therefore in the federal government.

(b) Where an exclusive economic zone has been declared, according to the provisions of the Convention, the rights in the ownership of the hydrocarbons that are situated within it shall be exercised in conjunction with the rights in the continental shelf as they are defined in the Convention.¹¹⁹

As discussed in Chapter 2, in an exclusive economic zone, under Article 56 of UNCLOS, the coastal state has 'sovereign rights for the purpose of exploring and exploiting [. . .] the natural resources [. . .] of the seabed and its subsoil [. . .]'¹²⁰ and under Article 77 'The coastal State exercises over the continental shelf sovereign rights for the purpose of exploring it and exploiting its natural resources.' Thus, since the state (the federal state in the case of Cyprus) has the right to explore, ownership as such is perhaps not an issue.

It can also be inferred from the Annexes to the Annan Plan that, in keeping with its continental shelf claims (see Section 2.7.1), Turkey would probably seek to negotiate with Egypt and post-settlement Cyprus an alteration of the EEZ boundaries in the western part of the island.¹²¹

¹¹⁷ Annex VI, Territorial Arrangements, Attachment 1, Detailed description of the course of the boundary between the constituent states.

¹¹⁸ Foundation Agreement Annex III, Attachment 13, Law 1, Federal Law to Provide for the Prospecting, Exploration and Exploitation of Hydrocarbons. The text in italics was in blue in the original and denotes text proposed by the UN, where no agreement was possible between the parties.

¹¹⁹ *Id.*

¹²⁰ UNCLOS, Article 56.

¹²¹ In the 'List of International Treaties and Instruments Binding on the United Cyprus Republic', a footnote to the Agreement on the Delimitation of the Exclusive Economic Zone, 17 February 2003, reads 'Turkey's accession to the Treaty on Matters Related to the New State of Affairs in Cyprus in no way indicates her acceptance of the validity or legality of this instrument': Annan Plan, Annex V, document reference 541, footnote 2.

3.5 Impact of the Cyprus problem on Turkey's EU accession negotiations

At this point, it is important to complete the picture by recalling that the EU, to which Cyprus acceded in 2004, already had as its members two of the island's guarantors, namely Greece and the UK but not the third one, Turkey. Having been granted candidate status for EU membership in 1999, Turkey itself started accession negotiations with the EU in October 2005. Shortly before that, it had signed an additional protocol extending its Customs Union agreement with the EU to the new 10 members of the EU that joined in 2010, including the RoC.¹²² However, Turkey simultaneously declared that its signing of the protocol did not entail diplomatic recognition of the RoC in its present (post-1964) form.¹²³ This declaration was countered by an EU Council declaration which stated that the EU recognized only the RoC, one of its members since 1 May 2004, as a 'subject of international law', and stressed that the progress of accession negotiations depended on 'Turkey's implementation of its contractual obligations to all Member States'.¹²⁴ In practice, Turkey has not extended the customs union agreement to the RoC.

Indeed, Turkey's non-recognition of the RoC remains a major obstacle in Turkey's route to EU membership. In the negotiations so far, only 13 out of the 35 chapters of the EU *acquis* have been opened, and of these only one has provisionally been closed. In 2006, because of Turkey's refusal to apply the Additional Protocol to Cyprus, the EU Council decided that eight relevant chapters will not be opened to negotiations and, until Turkey implements the protocol vis-à-vis Cyprus, no chapter will be provisionally closed.¹²⁵ The protocol entails an obligation by Turkey to open its seaports, airports and airspace to RoC-flagged ships and aircraft. Since 2006 Turkey has made its fulfilment of this obligation conditional on the EU's keeping of its 2004 pledge to end the isolation of Turkish Cypriots.¹²⁶ The opening of five more chapters was blocked by France in 2007, and in 2009 the RoC vetoed the opening of 4 additional chapters, including the chapter on energy. The veto on the latter is specifically linked to Turkey's persistent objections to the RoC's offshore hydrocarbon exploration activities.

¹²² 'Additional Protocol to the Agreement Establishing an Association Agreement between the European Economic Community and Turkey following the Enlargement of the European Union' (29 July 2005).

¹²³ The Turkish declaration of 29 July 2005 stated that the RoC referred to in the protocol was not 'the original partnership state founded in 1960' and that Turkey was ready 'to establish relations with the new partnership state that would result from a comprehensive settlement in Cyprus'. For the text of the declaration see <http://www.mfa.gov.tr/ek-protokol-ve-deklarasyon-metni.tr.mfa>, accessed 18 July 2012.

¹²⁴ Enlargement: Turkey – Declaration by the European Community and Its Member States, Council of the European Union (21 September 2005). For the text of the declaration see http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/misc/86300.pdf, accessed 18 July 2012.

¹²⁵ The eight 'frozen' chapters are: Free Movement of Goods, Right of Establishment and Freedom to Provide Services, Financial Services, Agriculture and Rural Development, Fisheries, Transport Policy, Customs Union and External Relations. See http://ec.europa.eu/enlargement/candidate-countries/turkey/eu_turkey_relations_en.htm.

¹²⁶ The EU General Council conclusions on 26 April 2004, just before the RoC's accession to the EU, stated: 'The Council is determined to put an end to the isolation of the Turkish Cypriot community and to facilitate the reunification of Cyprus by encouraging the economic development of the Turkish Cypriot community'. See at http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/gena/80142.pdf, accessed 22 July 2012.

CHAPTER 4:

CURRENT POSITIONS OF THE PARTIES

As discussed in Chapters 2 and 3, the parties involved in the Cyprus problem clearly approach the issue from different perspectives, which in turn affect their positions on hydrocarbons exploration and exploitation. In this chapter we shall consider each of the positions in turn: those of the Greek Cypriots, the Turkish Cypriots, Turkey, and the international actors.

4.1 The Greek Cypriot position

The Greek Cypriot position on hydrocarbons exploration has three aspects. The first relates to rights of exploration, the second relates to the distribution of revenues from hydrocarbons exploitation and the third relates to whether or not any of these issues should be discussed within the context of the UN-facilitated negotiations to resolve the Cyprus problem. As explained below, stated positions on the first have been more consistent in the recent past than positions on the second, while positions on the third appear to be non-negotiable.

4.1.1 Greek Cypriot position on exploration

As regards exploration, the Greek Cypriots base their arguments on international law. In this they rely on the fact that their government has come to be accepted (see Chapter 3) by the international community as the legitimate government of the RoC, the only recognized state on the island.

Thus, in the words of the Minister of Foreign Affairs, Erato Kozakou-Marcoullis, speaking in Helsinki in May 2012,

Throughout this period, as a member of the United Nations, we have steadfastly held on to positions of principle, insisting on the application and *primacy of international law* in the conduct of nations based on the UN Charter. [Emphasis added]

For a country like Cyprus, which is not a party to any alliances and does not possess military strength, its only shield remains the scrupulous observance of international law. [Emphasis added]

The Minister went on to say,

The decisions and actions of the Republic of Cyprus to explore and exploit its natural resources within its EEZ fall squarely within its sovereign rights, *which are in full conformity with international law*, as these are recognized by the UN Convention on the Law of the Sea, of which Cyprus is a state party.¹²⁷ [Emphasis added]

Similarly, the RoC President, Demetris Christofias, addressing the UN General Assembly on 22 September 2011, said,

In recent years, the Republic of Cyprus has started the process of exploration and potential extraction of hydrocarbons within its Exclusive Economic Zone. This was preceded by Agreements to delimit the Exclusive Economic Zone with neighbouring countries, *always within the framework of international law*, particularly the United Nations Convention on the Law of the Sea, which the Republic of Cyprus has ratified.¹²⁸ [Emphasis added]

In sum, the argument is that since Greek Cypriots are internationally recognised as representing government of the RoC, they have the right to explore for natural resources as long as it is within the bounds of international law. As explained in Section 4.4, this is a position that has the general support of the international community.

4.1.2 Greek Cypriot position on revenue distribution

The official position on how any revenues from hydrocarbons might be distributed was initially less clear-cut, primarily because of the above-mentioned speech by Christofias at the UN General Assembly. In the 'check against delivery' copy distributed before his speech by the RoC's permanent mission to the United Nations, Christofias was due to have said,

We anticipate that this effort will contribute to the discovery of new energy resources, particularly for Europe, and of course for the shared benefit of our people, Greek Cypriots and Turkish Cypriots alike.

¹²⁷ Address by the Minister of Foreign Affairs, Dr Erato Kozakou-Marcoullis, on 'New Challenges and Prospects in the Eastern Mediterranean: The Cyprus Perspective', at the Paasikivi Society think tank, Helsinki, 10 May 2012, <http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/D84D4728AA0EA83CC22579FB002C0F51?OpenDocument>, accessed 29 October 2012.

¹²⁸ Speech (as delivered) of the President of the Republic of Cyprus Demetris Christofias at the 66th Session of the United Nations General Assembly in New York, 22 September 2011, <http://www.presidency.gov.cy/presidency/presidency.nsf/All/33BF6BDC085EF373C2257917001B9962?OpenDocument>, accessed 29 October 2012.

We believe that the possible discovery and extraction of hydrocarbons shall constitute yet another strong motive for Greek Cypriots and Turkish Cypriots to expedite a just, functional and viable solution to the Cyprus problem, so that both communities can enjoy the natural wealth of our country in conditions of peace, security and prosperity.¹²⁹

However, while the first paragraph remained the same, in the speech as delivered, Christofias said,

We believe that the possible discovery and extraction of hydrocarbons shall constitute yet another motive for Greek Cypriots and Turkish Cypriots to expedite a just, functional and viable solution to the Cyprus problem, so that both communities can enjoy the natural wealth of our country in conditions of peace, security and prosperity. *I wish to reassure our Turkish Cypriot compatriots that regardless of the circumstances, they will benefit from the possible discovery and extraction of hydrocarbons.*¹³⁰ [Emphasis added]

Christofias repeated the notion afterwards to the Cyprus News Agency after a meeting in New York with Greek Foreign Minister Stavros Lambrinides:

*Even if there is no political settlement to reunite the country—if Turkey does not show good will—and we do have an income from oil exploitation, we will use it for the common good of both communities.*¹³¹ [Emphasis added]

Christofias also confirmed in the same interview that natural resources would be a federal competence.

I can assure the Turkish Cypriots that they have nothing to lose, on the contrary they will gain a great deal, because all these issues relating to the exploitation of hydrocarbons will be handled by the central government in a federal Cyprus [. . .] the central government will then distribute all income from the exploitation to the two constituent states.

Christofias' unexpected remarks were made two days after Noble Energy had started drilling in Block 12 and seven days after Turkey had announced its intention to conclude a continental shelf delimitation agreement with the TRNC 'should the Greek Cypriot Administration proceed with offshore drilling activities in the south of the Island' (Turkish MFA 2011b). Thus, they might

¹²⁹ Statement by H.E. Mr. Demetris Christofias President of the Republic of Cyprus At the 66th Session of the United Nations General Assembly New York, 22 September 2011, Permanent Mission of the Republic of Cyprus to the United Nations, 'check against delivery'.

¹³⁰ Speech (as delivered), <http://www.presidency.gov.cy/presidency/presidency.nsf/All/33BF6BDC085EF373C2257917001B9962?OpenDocument>, accessed 29 October 2012.

¹³¹ Cyprus News Agency, 22 September 2012, also available at <http://www.accessmylibrary.com/article-1G1-267701631/cyprus-says-northern-region.html>, accessed 29 October 2012.

reflect pressure from the international community to defuse tensions by making a significant gesture towards the Turkish Cypriots. However, his remarks were criticized by all opposition parties back home¹³² and since then, there has been no suggestion that revenues should be shared before a solution. Citing Christofias, the then Minister of Commerce, Industry and Tourism, Praxoula Antoniadou-Kyriacou, said in January 2012:

I would like to reiterate the words of President Christofias that the Turkish Cypriots are citizens of the Republic of Cyprus and as such they can enjoy *within the framework of a reunited homeland* the benefits of any natural wealth that Cyprus has.¹³³ [Emphasis added]

The next Commerce Minister, Sylikiotis, noted that a 'large portion' of gas revenue would be placed in a fund for future generations but it was 'difficult to talk about sharing benefits before a solution.'¹³⁴

Finally, in the General Assembly speech of September 2012, Christofias made it clear that any sharing of revenues would come after a solution.

I repeat at the same time that in a reunified Cyprus the natural resources, including hydrocarbons, will be common wealth for all Cypriots, Greek Cypriots and Turkish Cypriots alike.¹³⁵

4.1.3 Greek Cypriot position on discussing the issue in the negotiations

The Greek Cypriots have acknowledged that the Turkish Cypriots can share in the profits of hydrocarbons exploration, and, as confirmed by UN statements,¹³⁶ they have accepted that natural resources will be a federal (and therefore shared) competence in a united Cyprus. However, the Greek Cypriots are adamant that any other discussion of hydrocarbons, be it how revenue might be shared in a future united Cyprus, or joint management of exploration or future exploitation, is not a matter for the negotiations or for any kind of UN role. In the context of suggestions in 2011 that the UN could act as mediator, the government spokesman, Stephanos

¹³² Translated media summaries for 27 September 2011 from private source.

¹³³ 'Prospects created in the Eastern Mediterranean area by the discovery and exploitation of natural gas,' Speech at the Business Forum in Tel Aviv, 26 January 2011, <http://www.moi.gov.cy/moi/pio/pio.nsf/6b9f0caeb3b94ec2257076004d01ca/cb520e6b0acda1dcc225798f00641707?OpenDocument>, accessed 29 October 2012.

¹³⁴ ERPIC seminar of 15 May 2012.

¹³⁵ Statement by President Christofias before the General Assembly of the UN, 25 September 2012, <http://www.moi.gov.cy/moi/pio/pio.nsf/All/015F3753AA24C8BFC2257A84005566A0?OpenDocument>.

¹³⁶ 'It should be understood that natural resources, if they are discovered, would be for the benefit of all Cypriots—Greek Cypriots and Turkish Cypriots—under the framework of a federal united Cyprus,' Transcript of Remarks by Lisa M Buttenheim, Special Representative of the Secretary-General in Cyprus, following the meeting of Cyprus Leaders, United Nations Protected Area, Nicosia, 16 September 2011, http://www.uncyprustalks.org/nqcontent.cfm?a_id=4985&tt=graphic&lang=11, accessed 29 October 2012.

Stephanou, said on 28 September 2011, 'exploration and exploitation of our natural resources constitutes a sovereign right of the Republic of Cyprus [. . .] Our sovereign right is not negotiable. This is clear.'¹³⁷ Similarly, after the Turkish Cypriot proposal of September 2012 (see Section 4.2 below), he was reported (in indirect speech) as saying that the RoC government 'had never committed itself to the promotion of exploration and exploitation in Cyprus' EEZ only after a solution of the Cyprus problem.'¹³⁸

In sum, although the Greek Cypriots accept that the Turkish Cypriots have a right to share natural resources after a settlement, they do not accept the notion that the Turkish Cypriots have any say over how a sovereign state (in this case, the Republic of Cyprus) should exploit or manage its natural resources before, or in the absence of, a settlement. This issue of sovereignty explains why the Greek Cypriots generally do not comment officially on Turkish Cypriot proposals for management or discussion of hydrocarbons. There is of course, another, less explicitly stated, reason for not discussing any aspect of hydrocarbons with Turkish Cypriots, namely that they believe it provides an incentive for Turkish Cypriots to come to a solution. This approach is implied, *inter alia*, in the above-cited references by Christofias to 'motive' in his speech of 22 September 2011 and to how the Turkish Cypriots will 'gain a great deal' in his interview with the Cyprus News Agency on the same day.

4.2 The Turkish Cypriot position

On the basis of their objections to the exclusively Greek Cypriot government of the RoC (see Chapter 3), the Turkish Cypriots object to all RoC actions relating to maritime zones. This includes concluding agreements with third countries for EEZ delimitation or for joint development of cross-boundary resources, organizing international tenders to give licences for hydrocarbon prospecting and exploration as well as authorizing exploration and drilling operations offshore Cyprus. They regard such actions as involving exercise of sovereign rights at the international level, which the Turkish Cypriots and Greek Cypriots jointly possess by virtue of their being the equal constituent communities of the 1960 RoC. So from the Turkish Cypriot perspective, any unilateral Greek Cypriot action in this field now—i.e., while the Cyprus problem is still unsolved—amounts to ignoring the legitimate rights and interests of the Turkish Cypriots and creating *faits accomplis* in this regard before a comprehensive settlement and off the negotiating table.

Notwithstanding the international community's apparent position to the contrary (with Turkey as the only exception), the Turkish Cypriots contend that since the breakdown, in the

¹³⁷ 'Spokesman: Cyprus' sovereign rights are non-negotiable', 28 September 2011, Cyprus News Agency. See also 'Downer: my statement was lost in translation', 28 September 2011, Cyprus News Agency.

¹³⁸ 'Cyprus solution not a prerequisite for exploitation of natural gas, Spokesman says', Cyprus News Agency, 3 October 2012.

1960s, of the bicomunal power-sharing structures of the RoC, no single authority has existed on the island that is constitutionally competent to represent Cyprus as a whole, that is, the Greek Cypriots and Turkish Cypriots together.

Therefore, the Turkish Cypriot position essentially is that initiatives concerning Cyprus offshore hydrocarbons should wait until a political settlement is reached and a bicomunal federal authority (i.e., a joint government of Turkish Cypriots and Greek Cypriots) competent to engage in such initiatives is established. Pending this anticipated outcome of the current UN-sponsored negotiations between them, the officially stated position of the Turkish Cypriots is that the two sides should suspend their presently on-going unilateral operations and plans in this field. If not, they should cooperate to bring them under the authority of a provisional joint (i.e., bicomunal) body which the two sides will specifically establish together for this purpose, and which will also decide about how the two sides will share the revenues.¹³⁹ In other words, the Turkish Cypriots' *main* concern is not sharing of wealth but sharing of sovereignty. Thus they are not primarily seeking a share of the prospective hydrocarbon revenues, be it before or after a settlement. Rather what they want is that the Greek Cypriots as well as the international community acknowledge their equal share with the Greek Cypriots in rights concerning maritime jurisdiction and hydrocarbon exploration and development, notwithstanding the lack of a negotiated settlement. In the words of a Turkish Cypriot negotiator:

Now as for the talk on the Greek Cypriot side about setting up a heritage fund for the gas revenues, with the proceeds to be shared with the Turkish Cypriots in the event of a solution; that's not the real issue [. . .] Money is not the issue [. . .] [W]hat matters is to *generate the wealth together* [. . .] Having a heritage fund or not, or giving a share to the Turkish Cypriots or not—that's not really germane. (Hazou 2012: 96) [Emphasis added]

¹³⁹ In September 2011 this position was presented by the Turkish Cypriot Leader, Derviş Eroğlu, first to the UN Secretary-General and through the UN to the Greek Cypriot side. Specifically, Eroğlu's proposal, as published in the Turkish Cypriot newspapers of 25 September 2011, comprised the following four points:

1. Let us suspend all exploration efforts concurrently until a comprehensive solution is established on the island.
2. If the Greek Cypriot side insists on exploring before a comprehensive solution, then let's establish a bi-communal ad-hoc committee: (a) the ad-hoc committee will seek approval and demand written consent on treaties and licenses from authorities on both sides of the island; and (b) let's agree on how to share distribution areas (utilization of) of the wealth.
3. The revenues made from the wealth would never be used for armaments or similar activities even if we are using it for the financing needs of the comprehensive solution.
4. Agreement on the proposed [solution] plan would not change the conditions of the proposal made here.

Not surprisingly, the Greek Cypriot response to the proposal was negative. According to the RoC government spokesman Stephanos Stephanou, the Turkish Cypriot proposal 'is seeking [. . .] to downgrade a sovereign right of a UN and EU member state, namely the Republic of Cyprus, to a bicomunal matter. This cannot be accepted and it is rejected'. (See Cyprus News Agency: News in English, 11-09-26 at http://www.hri.org/news/cyprus/cna/2011/11-09-26_1.cna.html, accessed 5 October 2012.)

Thus the Turkish Cypriots do not seem to deny the Greek Cypriots' right to exploration *per se*. Their core objection is to the Greek Cypriots' venturing to exercise this right all on their own and hence creation of *faits accomplis* vis-à-vis the prospective state of affairs after a settlement.

The protests by the Turkish Cypriots in the face of what they regard as unilateral initiatives by the Greek Cypriot side go back to the early 2000s. This is when the Greek Cypriots, acting as the RoC—and hence formally on behalf of both communities—began negotiations with Egypt and Syria for maritime delimitation and joint development of offshore hydrocarbons. The Turkish Cypriot opposition to these developments was stated at the time by the then Turkish Cypriot Leader, Rauf Denktaş, in a language which emphasized the TRNC as the formal embodiment of the Turkish Cypriots:

The administration in the south [. . .] does not have the right to unilaterally sign a delimitation agreement. The Greek Cypriot administration is obliged to act in cooperation with the TRNC on the issue. Otherwise, it is evident that the TRNC will defend its rights as required. We hope that the Greek Cypriot administration will not adopt a negative stand that might become a new source of crisis in the region and that the concerned countries will not permit such a move.¹⁴⁰

Similar language was used later in 2003 when the Turkish Cypriot Foreign Minister of the time informed the Egyptian Ambassador in Nicosia that the TRNC did not recognize the EEZ delimitation agreement which Egypt signed with the Greek Cypriots.¹⁴¹

In 2007, when the RoC signed an EEZ delimitation agreement with Lebanon, the Turkish Cypriots objected again. The then Turkish Cypriot Leader, Mehmet Ali Talat, explained the Turkish Cypriot position in a letter to the UN Security Council,¹⁴² where he maintained that the

agreement signed by the Greek Cypriot Administration under its purported capacity as the "Government of the Republic of Cyprus" is null and void and is not, in any way, binding on the Turkish Cypriot people or the island as a whole.

Although basically the same as before, the position was argued here in somewhat different and more elaborate terms. Moreover, now the subject was the Turkish Cypriots or the Turkish Cypriot side/people, rather than the TRNC. The defence of Turkish Cypriot rights was premised on the Turkish Cypriots' status as one of the two "constitutional partners" of the 1960 RoC, and the related fact that the Turkish Cypriots have a say in all matters pertaining to the prospective permanent state of affairs on the island that will result from an anticipated political settlement. According to Talat,

¹⁴⁰ Quoted in Cyprus Press and Information Office: Turkish Cypriot Press Review; <http://www.hri.org/news/cyprus/tcpr/2001/01-08-10.tcpr.html#02>.

¹⁴¹ See Başeren (2010: 37).

¹⁴² Letter signed by Mehmet Ali Talat as President and transmitted as 'Annex to the letter dated 2 February 2007 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General', UN Doc. A/61/727-S/2007/54; included *ibid.* pp. 114-115.

the Greek Cypriot Administration does not represent the entire island and the Turkish Cypriot people. It neither has the legal right nor the legitimacy [. . .] to represent or act on behalf of Turkish Cypriots who are represented by their own elected representatives and live under their own administration.

The letter went on to say that ‘the Turkish Cypriot people’

who were the equal partner of the 1960 Republic of Cyprus and would again be the political equal of the Greek Cypriot people in a future comprehensive agreement [. . .] *have equal right [to] and say on the natural resources* on the land and sea areas of [. . .] Cyprus. [Emphasis added]

As regards the consequences of the relevant Greek Cypriot actions (in this case, the signing of delimitation agreements with third countries), the letter warned that such actions ‘continue to undermine stability in the whole Eastern Mediterranean Region’.

The Turkish Cypriot side raised and registered with the UN its objections to the RoC’s holding of their first international tender for offshore hydrocarbon exploration in 2007 and 2008, and negotiating a delimitation agreement with Israel in 2009 and 2010.¹⁴³ Mehmet Ali Talat’s April 2009 letter to the UN noted that such unilateral activities before a settlement ‘are aimed at prejudging and violating the fundamental rights and interests of the Turkish Cypriot people’. It maintained that the issue of maritime jurisdiction areas of Cyprus was a topic of the negotiations for a comprehensive settlement. Describing the Greek Cypriot steps on the matter as ‘unacceptable and provocative’, it warned that they ‘not only deepen the gap of confidence between the two sides but could also lead to an escalation of tension between them’.

In the run-up to the first RoC offshore drilling operation in September 2011 once again the Turkish Cypriot stance was explained at length by Kudret Özersay, the then special representative of the Turkish Cypriot Leader, Derviş Eroğlu.¹⁴⁴

For the Turkish Cypriots, the backing by the international community, and especially the EU, of the unilateral Greek Cypriot activities related to hydrocarbons exploration is a huge error of judgement; a mistake like the more fundamental one the EU made in 2004 by accepting the Greek Cypriots alone into the Union on behalf of the island as a whole, before the Cyprus problem was solved and the island reunified. As in 2004, the Turkish Cypriots argue, the support

¹⁴³ E.g., Letter signed by the Representative of the TRNC in New York and transmitted as ‘Annex to the letter dated 8 August 2007 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General’, UN Doc. A/61/1027-S/2007/407; included *ibid.* p. 123; and letter signed by Mehmet Ali Talat as President and transmitted as enclosure of ‘Annex to the letter dated 17 April 2009 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General’, UN Doc. A/63/828-S/2009/216; included *ibid.* pp. 127-129.

¹⁴⁴ Interview Kudret Özersay gave to the Turkish Cypriot news agency TAK in Nicosia on 17 August 2011. A transcription of the interview (in Turkish) is available at http://www.kibrispostasi.com/index.php/cat/35/news/60213/PageName/KIBRIS_HABERLERI and its English translation at <http://www.kudretozersay.com/?m=201108>.

given to the Greek Cypriot side helps strengthen the myth that, so long as there is no solution, Cyprus can be represented by them alone. And the consequent boost of confidence they thus experience can only render the UN-sponsored negotiations harder. Moreover, given the consequent disregard for the rights and interests of the Turkish Cypriots now as well as in the context of a prospective settlement, 'the Greek Cypriot side's [present] defiant persistence to go ahead with oil and gas exploration activities serves only to reduce trust between the [negotiating sides]'. According to Özersay,

the modality of the on-going negotiations and the fact that the solution to be reached will be put to a vote in separate and simultaneous referenda shows that [...] the political will of the Turkish Cypriots is just as necessary as the political will of the Greek Cypriots [...] if a lasting 'new state of affairs' is to be created.

The Greek Cypriot side's maritime jurisdiction- and hydrocarbon-related activities concern

not only the future of the island but also the very foundations of the permanent order that will be created [...] [S]uch moves serve to place the future of the island under Greek Cypriot domination. [The maritime delimitation and licensing] agreements [the Greek Cypriots] signed here are directly related to the issue of sovereignty, and may cause the creation of a permanent situation concerning the future of the island [...] On the one hand, [the two sides] are conducting negotiations for determining a common future, while on the other, [one of the sides] the Greek Cypriot side, is trying to determine this future exclusively by itself [...] [These] sovereignty-related agreements undermine the rights and political will of the Turkish Cypriots and could create international undertakings concerning the island's natural wealth which belongs to both sides.

The Greek Cypriot initiatives in question, Özersay maintained, also rendered meaningless one of the "convergences" reached between the two sides at the negotiations; namely the convergence that after a solution the country's natural wealth would come under the authority of the federal government and would not belong to just one constituent state.

Özersay announced that, in view of all of the above, and given how little note has been taken so far of the Turkish Cypriot stance internationally, the Turkish Cypriot side had no option but to defend its rights by taking 'similar reciprocal steps of equal significance' (see Chapter 5). More specifically, this means that if the Greek Cypriot side persists in its refusal to consider the Turkish Cypriot proposal (formally presented in September 2011—of mutual suspension by both sides or alternatively their cooperation including jointly deciding as to how to share the revenues),¹⁴⁵ then the Turkish Cypriot side will be forced to, in a sense, retaliate. Like the Greek Cypriots, the Turkish Cypriots will also go ahead unilaterally and sign agreements and start hydrocarbon exploration in the maritime areas of Cyprus as a whole. This is thus the logic behind Turkish Cypriot exploration activities.

¹⁴⁵ See footnote 139 above.

This policy, which is described as being based on the 'principle of reciprocity',¹⁴⁶ appears to be a shift in the Turkish Cypriot-Turkish approach to the matter. Before that, the Turkish Cypriots and Turkey had been reacting to the Greek Cypriot moves not by taking action but by protests and warnings that such moves would be stopped, if necessary through use of force, by Turkey as a guarantor country. With the new action-oriented policy, the message given to the Greek Cypriot side now seems to be: 'I will do as you are doing. If you try to use force to prevent me, then I will respond—with Turkey's help—as necessary in legitimate self-defence.' The Turkish Cypriots and Turkey have since taken steps compatible with this new approach (see Chapter 5).

Having thus, in cooperation with Turkey, got underway their own hydrocarbons exploration, on 29 September 2012 the Turkish Cypriot side handed to the UN Secretary-General Ban Ki-moon a new proposal.¹⁴⁷ The Turkish Cypriot proposal is for the Turkish Cypriot and Greek Cypriot sides to agree, 'without prejudice to their legal and political positions on the Cyprus problem', on a plan 'regarding the activities related to hydrocarbon resources off the coastlines of the island of Cyprus (both North and South)'. According to this plan:

- (i) the UN Secretary-General would appoint 'a facilitator' to chair a new bicomunal 'technical committee' with members appointed by the two sides.
- (ii) the technical committee would be mandated (a) to obtain 'the written mutual consent of the two sides on the international treaties concluded and the licenses issued unilaterally by either side'; and (b) to determine 'the shares of the two sides related to hydrocarbon resources off the coast of the island of Cyprus'.
- (iii) The technical committee would govern the account where the total revenue of hydrocarbon resources would be kept. The revenue would be used 'primarily for financing the implementation of the provisions of the comprehensive settlement' and also for different—non-military—purposes about which the two sides would 'decide conjointly through the technical committee'.

The proposal also contains a suggestion that the hydrocarbon resources, extracted by both sides, should be 'transported through a pipeline via Turkey'; something which Turkey seems to be willing to accept and which, according to the Turkish Cypriot side, has been described by experts as 'the most feasible and profitable [way] to transport these resources to the European and other markets'. It is also claimed, in the relevant Turkish Cypriot "Talking Paper", that 'Other [transport] alternatives so far discussed, such as building an LNG plant or a pipeline via Greece, lack economic feasibility'.

¹⁴⁶ According to the *Oxford Dictionary of Law* (1997), 'reciprocity' is 'the principle that one will treat someone in a particular way if one is so treated by them'. A notion used in the contexts of international law and international relations, it is also defined as: 'exchanges of roughly equivalent values in which actions of each party are contingent upon the prior actions of the others in such a way that good is returned for good, and bad is for bad' (quoted in the Penguin Dictionary of International Relations [1998]).

¹⁴⁷ [Turkish Cypriot] Talking paper on the Hydrocarbon reserves around the island of Cyprus (29 September 2012). Made available online by *Inner City Press* at <http://www.innercitypress.com/trnc1hydrobkm092912.pdf>, accessed 1 October 2012.

4.3 The Turkish position

Turkey has two primary objections to Greek Cypriot hydrocarbons exploration. First, it objects to the 'GCA [Greek Cypriot Administration] activities aiming at unilaterally establishing maritime jurisdiction areas, granting off-shore licenses to international oil companies and conducting off-shore hydrocarbon exploration and exploitation' (Turkish MFA 2012a) for reasons primarily related to the Cyprus problem. Second, as explained in Chapter 2, Turkey's continental shelf claims in the Eastern Mediterranean clash with the EEZ proclaimed by the Greek Cypriots.

As for the Cyprus problem, as explained in Chapter 3, Turkey does not recognize the Greek Cypriot government on the island as the legitimate, constitutional RoC government. It maintains, like the Turkish Cypriots, that 'there is no single authority which in law or in fact is competent to represent jointly the Turkish Cypriots and the Greek Cypriots, consequently Cyprus as a whole'.¹⁴⁸ Turkey also says that the Turkish Cypriots, or equivalently the TRNC, have 'inherent equal rights and interests' in the maritime zones of Cyprus. Thus from Turkey's point of view, the EEZ delimitation agreements between what is internationally regarded as the RoC and Egypt, Lebanon and Israel have no validity as they have been signed by the Greek Cypriots alone with disregard for the Turkish Cypriots' equal rights. Similarly, Turkey announced that it does not recognize the legal framework created and authorizations issued for hydrocarbon exploration in the name of the RoC because these are acts by the Greek Cypriots alone and ignore the Turkish Cypriot rights in the maritime zones and natural resources of Cyprus.¹⁴⁹

The Turkish position follows the Turkish Cypriot stance in maintaining that the unilateral Greek Cypriot initiatives in question are inconsistent with the spirit of the UN-sponsored negotiations for a solution of the Cyprus problem. In addition they create *faits accomplis* that prejudice the terms of a prospective solution to the disadvantage of the Turkish Cypriot side and serve only to complicate matters at the negotiating table. Hence they are unacceptable and must be suspended until the resolution of the Cyprus problem. Accordingly, in 2007 the Turkish MFA stated:

¹⁴⁸ See notes sent by Turkey to the UN, e.g., Turkey (2004 and 2005), and Letter dated 23 July 2007 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General, UN Doc. A/61/1011-S/2007/456 (included in Başeren (2010: 118-119)); and various statements by the Turkish MFA, e.g., Turkish MFA (2007, 2010, 2012a and 2012b). This Turkish (and Turkish Cypriot) position was in fact spelled out more specifically in a letter the Turkish government sent to the UN in 2007 (Turkey 2007). There it was argued that:

At the core of the problem stands the unlawful claim of the Greek Cypriot side to be the legitimate successor of the Government of "the Republic of Cyprus" of 1960. Since the adoption of Security Council resolution 186 (1964) which, in paragraph 4, recommended the creation, "with the consent of the Government of Cyprus", of a United Nations peacekeeping force in Cyprus, the Greek Cypriot side has been portraying itself as the sole owner of the title of "Government of Cyprus" and is conducting day-to-day business in international forums as if it represented the island and its peoples as a whole.

¹⁴⁹ See, e.g., Turkish MFA (2007 and 2012a).

[W]e would like to remind those countries and companies that might consider conducting research for oil and gas exploration, based on invalid licenses Greek Cypriot Authorities may contemplate to issue for maritime areas around the Island of Cyprus, to take into account the sensitivity of the situation as well as the will of the Turkish Cypriots, the other constituent people of the Island, and expect them to refrain from any endeavor that might negatively affect the settlement process of the Cyprus issue and to act accordingly. (Turkish MFA 2007)

In 2010, upon the signing of a delimitation agreement between the RoC and Israel, Turkey protested by issuing a press release which argued that agreements of this kind

are directly linked to the sovereignty issue which is one of the indispensable components of the ongoing comprehensive settlement negotiations and due to the agreement in principle, they have been left to the discretion of the new partnership government. By ignoring Turkish Cypriots' rights, Greek Cypriots' efforts for concluding such agreements, are highly untimely and raise questions as to their real intentions and sincerity regarding the settlement process. (Turkish MFA 2010)

In 2011 Turkey again strongly reacted to the RoC's authorization of the US-based company Noble Energy to start drilling in Block 12 which is adjacent to the RoC-Israel EEZ boundary in Cyprus' south-east. This time the response went beyond mere issuing of statements. Turkey signed with the Turkish Cypriots, i.e., the TRNC, an agreement to delimit the continental shelf between the southern Turkish coast and the northern coast of Cyprus. The agreement marked the beginning of the above-mentioned Turkish-Turkish Cypriot collaborative policy, which involves responding to Greek Cypriot steps concerning offshore hydrocarbon exploration and extraction activities by 'reciprocal steps' (see Chapter 5).

In a press release protesting against the RoC's announcement of its second international tender for offshore hydrocarbon exploration in February 2012, Turkey maintained that:

The two peoples of the Island should benefit together from the off-shore natural resources of the island. These natural resources should be explored and exploited upon the common will and consent of the two sides. If this cannot be achieved, then the so-called concession blocs will remain as disputed areas in terms of their ownership.

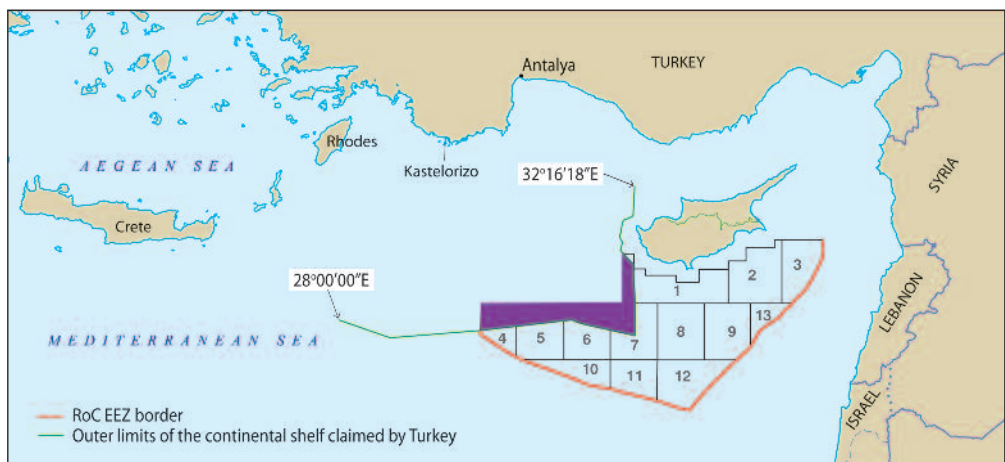
It went on to suggest that

this issue should either be left to the aftermath of the comprehensive settlement or the two sides should be brought together exclusively on this matter under the auspices of the UN Secretary General so that they could determine jointly the future course of off-shore hydrocarbon exploration and exploitation activities around the island. (Turkish MFA 2012a)

The above reference to the Turkish Cypriot idea was repeated by Turkey in another press release denouncing the second RoC tender:

The two peoples of the Island should jointly decide on how to use the off-shore natural gas and oil resources. TRNC President Eroğlu's proposal made on 24 September 2011 to this end is still valid and on the table. (Turkish MFA 2012b)

Turkey's other reason for objecting to Greek Cypriot initiatives related to offshore hydrocarbon exploration is its maritime claims in the Eastern Mediterranean. As discussed in Chapter 2, Turkey has disputed the RoC-Egypt EEZ delimitation agreement from the time it was signed in 2003, insisting that this agreement ignores Turkey's continental shelf rights in the area to the west of longitude $32^{\circ} 12' 18''$. The continental shelf that Turkey claims in this area covers almost all of the EEZ which the RoC claims in the west of Cyprus (subject to agreement on delimitation with Turkey) as well as some of the RoC EEZ in the island's south-west. Specifically, the Turkish claim overlaps with parts of the RoC EEZ concession blocks that were announced in the context of the two international tenders for offshore hydrocarbon exploration licensing opened in 2007 and 2012, namely parts of Blocks 1, 4, 5, 6, and 7 (see Map 4.1) (Turkish MFA 2012a).



Map 4.1 The overlap between the continental shelf claimed by Turkey and the RoC concession blocks in the south-west of the island. [Source: Erciyas (2012)]

This issue was included in the Turkish protests against the RoC's second hydrocarbon exploration licensing round of 2012. Judging by the strong expressions of determination in the relevant Turkish official statements (Turkish MFA 2012a and 2012b) to do what it would take to stop any activity in these 'overlapping areas', it can be said that Turkey's position here is qualitatively different from its stance regarding exploration in other areas which it says belong jointly to Turkish Cypriots and Greek Cypriots. See Chapter 5 for a fuller discussion of this.

Of course, ultimately this issue of overlapping claims is also related to the Cyprus problem. For pending a solution, and as long as Turkey does not recognize the Greek Cypriot government as legitimately representing the RoC, it is difficult to see the claimants coming together to discuss a negotiated solution or resorting to an international adjudicative mechanism or tribunal for a resolution of their claims.¹⁵⁰

4.4 Responses of the international actors

It is no exaggeration to say that the positions of the Turkish Cypriots and Turkey have largely fallen on deaf ears among the main players in the international community.

4.4.1 The response of the UN Secretariat

The position of the UN needs to be differentiated between the UN Secretariat, that is, the Secretary-General and his staff, and the UN Security Council (UNSC), in particular the five permanent members, China, France, Russia, the UK and the US (the P5). The Secretary-General, Ban Ki-moon, has called on the parties to avoid raising tensions and noted that the natural resources belong to 'all Cypriots'.¹⁵¹ The Special Representative of the Secretary-General (SRSG) on Cyprus, Lisa Buttenheim, also reported before drilling began that the two sides had already agreed that natural resources would be a federal (therefore shared) competence in the event of a settlement.¹⁵² However, as regards discussing hydrocarbons any further, the UN, in particular the good offices mission charged with facilitating negotiations on a settlement of the Cyprus problem, has clearly been keen to keep the issue well away from the negotiations.

It is likely that this stems partly from UN general policy on disputes between member states about boundaries. While the UN accepts letters and protests from member states about boundary disputes, its policy is not to comment on them. The UN can act as arbiter in a dispute but only if requested to do so by both member states.¹⁵³ Therefore, in so far as exploration touches on a boundary dispute between member states Turkey and the RoC, the UN appears to have followed this line. Thus, neither the Secretary-General, nor the Secretary-General's Special Adviser (SASG) on Cyprus, Alexander Downer, has commented on the RoC's right to explore.

Moreover, the UN also appears to have followed its policy on disputes between *member states* in its response to proposals for UN facilitation between the Greek Cypriot and Turkish

¹⁵⁰ For a discussion on the prospects at present of a peaceful settlement of this maritime dispute between Turkey and the RoC, see Constantinou (2011).

¹⁵¹ Report of the Secretary-General on the United Nations operation in Cyprus, S/2012/507, 29 June 2012.

¹⁵² Transcript of Remarks by Lisa M Buttenheim, Special Representative of the Secretary-General in Cyprus, following the meeting of Cyprus Leaders, United Nations Protected Area, Nicosia, 16 September 2011, http://www.uncyprustalks.org/nqcontent.cfm?a_id=4985&tt=graphic&lang=1, accessed 29 October 2012.

¹⁵³ Information obtained from a diplomatic source.

Cypriot *communities*. A proposal for facilitation was put forward by the Turkish Cypriot Leader, Derviş Eroğlu, to the UN Secretary-General in September 2011 (see Section 4.2).¹⁵⁴ In remarks to the press on 27 September 2011, Downer said,

If the two sides came together and asked us to play some sort of mediating role the Secretary-General would have a look at that and we'd discuss it and look at what we could do. But the two sides would have to come to us; we're not trying to impose ourselves on them.¹⁵⁵

Thus, the UN could act as arbiter but only if asked to do so by *both* parties, which in this case are not two member states but the two Cypriot communities. Another reason preventing UN involvement in the hydrocarbons issue is the fact that the subjects to be discussed during this round of negotiations were agreed on by both sides only after many months of discussions that began even before Christofias assumed power about what should be on the agenda.¹⁵⁶

Another motive for not pushing discussion of hydrocarbons seems to have been a fear that it would 'derail' the negotiations. This is clear from other remarks made by Downer in the same press briefing on 27 September:

[...] we don't want to see anything happen that would derail the talks [...] But I think if they allowed these meetings to be overwhelmed by this issue [...] it would, of course [...] be derailing the talks, because we'd be talking about hydrocarbon instead of talking about the chapters that we are trying to work through [...] we don't want the controversy over hydrocarbons to derail these talks.

Even a discussion of how revenues might be shared appears to be off the agenda. When asked in the same briefing whether there was agreement on how to share the revenues, Mr Downer replied,

No, the federal government would have to work that out [...] and what to do with the revenue. That's something that the federal government, somewhere off into the future would have to deal with.

Since the UN seems to be following a policy of seeking the agreement of both sides before a subject can be discussed, and the Greek Cypriots are determined not to discuss the hydrocarbons issue, it seems that the issue will remain off the negotiating table for the foreseeable future. Given the strength of feelings about the hydrocarbons issue, one can assume that the absence of discussions about it will make finding a comprehensive settlement even harder.

¹⁵⁴ 'Genel Sekreter, Hem Al-Ver Sürecine Başlama Zamanı Gelmiştir Deyişimizden, Hem De Böyle Bir Öneri Sunuşumuzdan Memnun Olmuştur', Kuzey Kıbrıs Türk Cumhuriyeti Cumhurbaşkanlığı, <http://www.kktcb.org/content02.aspx?id=3&sayfa=48&content=1286&select=>, accessed on 21 December 2012.

¹⁵⁵ Remarks by SASG Downer following meeting of Cyprus Leaders, 27 September 2011, United Nations Good Offices Mission, http://www.uncyprustalks.org/nqcontent.cfm?a_id=4998&tt=graphic&lang=1, accessed 29 October 2012.

¹⁵⁶ Diplomatic source.

4.4.2 Responses of the UN Security Council P5

The UN Security Council as a body has not commented on the hydrocarbons issue in its regular resolutions to renew the mandate of the United Nations Peacekeeping Force in Cyprus (UNFICYP). However, its permanent members (P5) individually have done so. Apart from China, which has a policy of not commenting on other countries' disputes, the other members of the P5 have all answered questions from the press about the issue. While differing in length and range of subject matter, all of them have supported the RoC's right to explore.

4.4.2.1 *Russia*

Russia, Cyprus' closest ally on the UNSC, followed the Greek Cypriot approach of emphasizing international law while making no mention of revenue-sharing. In response to questions, the Russian Foreign Ministry spokesman, Alexander Lukashevich, said,

With regard to the Republic of Cyprus's activities in its exclusive economic zone (EEZ), I would like to recall that in accordance with the 1982 UN Convention on the Law of the Sea, to which Cyprus is a party along with the other 162 states, a coastal state has sovereign rights in its EEZ for exploring, developing and preserving the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil (subparagraph 1(a) of Article 56 of the Convention). At the same time, sovereign rights for exploring and developing the resources of the continental shelf of a coastal state are exclusive (paragraph 2 of Article 77 of the Convention).

[. . .]

Thus, if the Cypriot side is planning to undertake mineral exploration and production activities within those areas of its EEZ that on the basis of international treaties are delimited with the opposite states, such activities are consistent with international law and the scope of sovereign rights available to the Republic of Cyprus in accordance with the UN Convention on the Law of the Sea.¹⁵⁷

4.4.2.2 *The United States*

Remarks by the United States (US) on the issue reflect the fact that the US has an interest in protecting its own companies, but also expects revenues to be shared in the event of a settlement. At the 2011 Annual Conference on US-Turkey Relations, around five weeks after Noble had started drilling, the US Secretary of State, Hillary Rodham Clinton, said,

¹⁵⁷ Russian Foreign Ministry Spokesman Alexander Lukashevich Answers a Media Question Regarding the Republic of Cyprus's Pursuit of Mineral Exploration and Exploitation Activities in Its Exclusive Economic Zone, 1228-19-08-2011, 19 August 2011, http://www.mid.ru/bdomp/brp_4.nsf/e78a48070f128a7b43256999005bcbb3/b104fcc31f6810aec32578f40037701eOpenDocument, accessed 29 October 2012.

And while we recognize the right of the Republic of Cyprus to explore for natural resources in its exclusive economic zone, including with the assistance of U.S. companies, we look forward to both sides benefiting from shared resources in the context of an overall agreement.¹⁵⁸

The US also initially expressed support for UN mediation on the issue of revenue-sharing when it was first suggested by the Turkish Cypriots. In answer to questions prompted by a Turkish seismic research vessel operating close to Block 12, the US State Department spokeswoman, Victoria Nuland, said,

I would note that there has recently been a request for the UN to engage in some sort of mediation on a revenue-sharing agreement for natural gas developed off of Cyprus, and we understand that the UN is considering that request, and we would consider that it would be quite constructive if the two communities could begin to work on deescalating tensions in a way similar to that.

[. . .]

I think we've spoken to this many times. We want to see a peaceful settlement of this issue under UN mediation. We want to see the island's resources shared between the communities. We are interested in this proposal for UN mediation of revenue-sharing. Overall, though, we would like to see a de-escalation of rhetoric and tension so that the UN process can move forward in a good environment.¹⁵⁹

The US does not appear to have repeated its support for UN mediation since it was rejected by the Greek Cypriots and the UN said it would act only if approached by both parties. However, there are signs that the US is increasingly worried about military conflict. During a visit to Cyprus in July 2012, the Assistant Secretary of European and Eurasian Affairs at the US State Department, Philip Gordon, went to some lengths to point out the risks and to urge all parties involved to come to an agreement.

Yes, I discussed it with both of them and with my other interlocutors throughout the day because it looms so large. I think it underscores even more the need for a comprehensive settlement that would entail sharing of the revenues that would come from this development, and it could really facilitate a settlement.

It equally has the potential to be divisive and I was clear with those I spoke to about that as well. There are risks associated with energy finds as there have been in other parts of the world if there is a dispute as to who gets to benefit from that energy and from those

¹⁵⁸ Remarks at the 2011 Annual Conference on U.S.-Turkey Relations, 31 October 2011, <http://www.state.gov/secretary/rm/2011/10/176445.htm>, accessed 29 October 2012.

¹⁵⁹ Daily Press Briefing, 9 September 2011, <http://www.state.gov/r/pa/prs/dpb/2011/09/174549.htm>, accessed 29 October 2012.

resources. So we are strongly urging all of the parties involved, and that's the Republic of Cyprus, it's Turkey, it's Israel, it's everyone on this island, to work even harder to make the political agreements necessary so that everyone can benefit from the energy.

This really is—as I say you could focus on or emphasize the risks, but I would prefer to look at it as a huge opportunity. First of all, there are still some questions about what will be found and how long it will take to reap the benefits, but there is in a sense a certain deadline to that process. I would just urge everyone to really think about that and see this as an opportunity for everyone to benefit from.¹⁶⁰

The remarks in July were made the day after the RoC government announced that it had protested to the UN about Turkey conducting a military exercise without notification. The exercise was conducted in international waters but within the RoC EEZ, and included exercises with live fire in Block 12.¹⁶¹ It may be argued, therefore, that the US is not comfortable with the absence of any discussions on the issue.

In September Gordon argued that natural resources could act as a catalyst for peace, and put forward the idea of a pipeline to Turkey:

It is a pool of potential resources that could facilitate a settlement and make it easier and if you really want to have a positive vision for the future you can picture these resources being developed and even exported through a pipeline to Turkey.¹⁶²

4.4.2.3 The United Kingdom

Support from the UK first came indirectly via the Communiqué of the Commonwealth Heads of Government Meeting in October 2011.

The Heads of State and Government of the commonwealth also extended their full support and solidarity to the Republic of Cyprus in the exercise of its sovereign rights under international law, including the United Nations Convention on the Law of the Sea to explore and exploit the natural resources in its Exclusive Economic Zone.¹⁶³

¹⁶⁰ Press Conference by Philip H. Gordon, Assistant Secretary, Bureau of European and Eurasian Affairs in Nicosia, Cyprus, 13 July 2012, <http://www.state.gov/p/eur/rls/rm/2012/195058.htm>, accessed 29 October 2012.

¹⁶¹ 'Government protests Turkish war games', Elias Hazou, 13 July 2012, *Cyprus Mail*, <http://www.cyprus-mail.com/cyprus/government-protests-turkish-war-games/20120713> (no longer accessible online).

¹⁶² 'Gordon stresses US willingness to help get Cyprus talks process move forward', Apostolis Zoupaniotis, Cyprus News Agency, 28 September 2012, available at <http://famagusta-gazette.com/gordon-stresses-us-willingness-to-help-get-cyprus-talks-process-move-forward-p16801-69.htm>, accessed 16 November 2012.

¹⁶³ References to Cyprus in the Communiqué of the Commonwealth Heads of Government Meeting, 31 October 2011, <http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/DE87147D61A4A5A7C225793A002BB331?OpenDocument&highlight=explore,exploration>, accessed 29 October 2012.

UK support was then made more explicit by the Foreign Secretary, William Hague, during a visit of the RoC Minister of Foreign Affairs, Erato Kozakou-Marcoullis, to London in November 2011. Hague said,

As the Minister has said we support fully and unequivocally the rights of Cyprus to its EEZ. That has been reaffirmed in the Commonwealth and it has been reaffirmed in the EU on many occasions in the past. So, we support that without any qualification and we want that to be well-known and understood in all countries. We support the right to develop such a zone and to enjoy the resources of it. We welcome the statement by President Christofias that measures will be taken to make sure that the proceeds of it can be shared by all Cypriots in the future. We think that this is the right way to approach the matter. And, of course, we will urge on any other countries concerned, a moderate and sensible course of action.¹⁶⁴

4.4.2.4 France

In answers to questions on 3 October 2011, France followed the European Commission line (see below) in the following statement,

France shares the position set out, on 27 September last, by the European Commissioner, Stefan Füle, on the litigation concerning gas prospecting rights in the maritime zones of the Mediterranean: the Member States have the sovereign right to sign bilateral agreements with third-party countries, in line with Community acquis of the European Union and international law, including in particular the international convention on maritime law.

Within the framework of international law, France, in common with the European Union, only recognises [the] Republic of Cyprus.

Differences can only be settled by discussion. We disapprove any declaration or action going against this approach.¹⁶⁵

¹⁶⁴ Statements by the Minister of Foreign Affairs Dr Erato Kozakou-Marcoullis and the British Foreign Secretary Mr William Hague, 9 November 2011, [http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/97E40BF97864EBF1C2257944002315C0?OpenDocument&highlight=United Kingdom](http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/97E40BF97864EBF1C2257944002315C0?OpenDocument&highlight=United+Kingdom), accessed 29 October 2012.

¹⁶⁵ Cyprus - litigation concerning gas prospecting rights, France Diplomatie, 3 October 2011, <http://www.diplomatie.gouv.fr/en/country-files/cyprus/france-and-cyprus/political-relations-6168/article/cyprus-litigation-concerning-gas>, accessed 29 October 2012. The original question and answers in French are also available at http://basedoc.diplomatie.gouv.fr/exl-php/cadcgp.php?CMD=CHERCHE&QUERY=1&MODELE=vues/mae_internet_recherche_avancee/home.html&VUE=mae_internet_recherche_avancee&NOM=cadic_anonyme&FROM_LOGIN=1.

4.4.3 Response of EU institutions

Support for the RoC's right to explore came from the highest level from the conclusions of the European Council, the member state heads of government, in December 2011.

21. In line with the Negotiating Framework and previous European Council and Council conclusions, the Council underlines that Turkey needs to commit itself unequivocally to good neighbourly relations and to the peaceful settlement of disputes in accordance with the United Nations Charter, having recourse, if necessary, to the International Court of Justice. In this context, the Union expresses serious concern and urges the avoidance of any kind of threat or action directed against a Member State, or source of friction or actions, which could damage good neighbourly relations and the peaceful settlement of disputes. Furthermore, the EU stresses again all the sovereign rights of EU Member States which include, *inter alia*, *entering into bilateral agreements, and to explore and exploit their natural resources in accordance with the EU acquis and international law, including the UN Convention on the Law of the Sea*.¹⁶⁶ [Emphasis added]

The European Commission's Commissioner for Enlargement, Štefan Füle, also underlines the European Commission's support during a debate in the European Parliament,

Moreover, as the Council has stressed on several occasions, our Member States have the sovereign right to conclude bilateral agreements with third countries, in accordance with the European Union acquis and international law, including the United Nations Convention on the Law of the Sea. Let me recall that under international law the European Union and its Member States only recognise the Republic of Cyprus on the island. The European Union has also repeatedly underlined the importance of progress in the normalisation of relations between Turkey and all European Union Member States, including the Republic of Cyprus.¹⁶⁷

4.4.4 Summary of the international community's response

As discussed, the international community clearly stands strongly behind the RoC when it comes to the right to explore but, with the exception of Russia, it has made clear that the benefits of exploration should be shared. For the moment, no one, including the UN, is pushing the Greek Cypriots to discuss the issue. However, the US, which currently has the most to lose with a US-based company already having drilled, appears to be increasingly concerned about the absence of a settlement and its impact on the hydrocarbons issue.

¹⁶⁶ Council conclusions on enlargement and stabilisation and association process, 3132nd GENERAL AFFAIRS Council meeting Brussels, 5 December 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/genaff/126577.pdf, accessed 29 October 2012.

¹⁶⁷ Štefan Füle European Commissioner for Enlargement and European Neighbourhood Policy Intervention on Turkey-Cyprus in the European Parliament European Parliament Plenary Session Strasbourg, SPEECH/11/610, 27 September 2011, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/610&format=HTML&aged=0&language=EN&guiLanguage=en>. Also available as delivered on YouTube, <http://www.youtube.com/watch?v=7p7tWBTELes>, both accessed 29 October 2012.

CHAPTER 5:

TURKISH AND TURKISH CYPRIOT RESPONSE TO ROC EXPLORATION

Turkey and the Turkish Cypriots have consistently kept up their opposition to the RoC's offshore hydrocarbon exploration activities through letters communicated to the UN, official public pronouncements, and officials' statements to the media. Some of the Turkish statements, particularly since September 2011 (when the RoC's first exploratory drilling commenced), have regularly included harsh sounding warnings (some might say 'threats'). Drawing attention to the possibility of rising tension or crisis in the region, these generally conveyed Turkey's determination to do what it takes to stop 'unilateral Greek Cypriot activities' in the maritime areas of Cyprus that Turkey and the Turkish Cypriots consider to be disputed.

For example, Turkish EU Minister and Chief Negotiator Egemen Bağış, commenting on 2 September 2011 on the then impending first RoC offshore drilling operation, said:

The kinds of things that have happened in the past¹⁶⁸ whenever the Greek Cypriots have made such attempts may well happen again. That is how serious Turkey is. Doing this in waters where they have no jurisdiction is illegal. Turkey will rely on international law to pursue its rights to the fullest extent.

This is what we have the navy for. We have trained our marines for this; we have equipped the navy for this. All options are on the table; anything can be done. (Yanatma 2011)

What the Turkish Deputy Prime Minister and State Minister, Bülent Arınç promised would be Turkey's response in the face of this crisis sounded even more severe. Speaking on 20 September 2011, Arınç said:

¹⁶⁸ This is likely to be a reference to the incident that occurred on 13 November 2008 as two foreign-flagged exploratory ships were conducting surveys offshore Cyprus on behalf of the RoC government. According to a letter of 14 November which President Christofias sent to the UN, the vessels were intercepted by a Turkish warship when they were operating in the RoC's EEZ, and they 'were forced, by the Turkish warship, to cease their operations and withdraw within the territorial waters of the Republic of Cyprus'. The incident was publicly acknowledged by the Greek Cypriot authorities days later on 24 November 2008, following a Turkish MFA official statement, referring to the incident, that 'We have taken necessary diplomatic action after finding out that the oil exploration ship was operating within Turkey's continental shelf'. (Reported by *Cyprus PIO*: Turkish Press and Other Media, 25 November 2008. Available at <http://www.hri.org/news/cyprus/tcpr/2008/08-11-25.tcpr.html#03>, accessed 1 August 2012.)

If the Greek Cypriot administration continues to explore petrol in the sea by forming some alliances [referring to the currently developing Greek Cypriot-Israel cooperation], Turkey will absolutely retaliate [. . .] Everyone must know that we will not hesitate to use/utilize our capabilities.¹⁶⁹

In the words of the Turkish Prime Minister Recep Tayyip Erdoğan, 'The Greek-Cypriot administration and Israel are engaging in oil exploration madness in the Mediterranean'. This was said on 20 September 2011, a day after the start of Greek Cypriot exploratory drilling when he spoke in New York at a press conference following his meeting with the US President, Barack Obama. There the Turkish Prime Minister was reported as saying:

The Greek Cypriot side's insistence to explore for petrol in the Mediterranean only sabotages the on-going negotiations [. . .] the Turkish Cypriot community has rights over there—over the natural resources of the island. We, as a guarantor state, are doing our best to protect the rights of the Turks there [. . .] We will also enter into the picture with the [continental shelf] agreement we will sign either later tonight or tomorrow. After signing the agreement, Turkish exploration vessels will be dispatched to the area swiftly. We already have our assault boats and frigates monitoring the area.¹⁷⁰

However, despite his—and his ministers'—aggressive rhetoric, Prime Minister Erdoğan ruled out, during the above-mentioned press conference, the possibility of Turkey using force at the current stage of the crisis. 'Military intervention is not an option for the time being', he said, adding that, rather than stop the Greek Cypriot drilling, 'Turkey¹⁷¹ will conduct its own hydrocarbon exploration in the area'.

Here references by Prime Minister Erdoğan to 'agreement' and 'own hydrocarbon exploration in the area' are, of course, actions that follow from the reciprocity-based—apparently originally Turkish Cypriot-inspired¹⁷²—new policy, which had already been heralded about a month before in an interview given by Kudret Özersay, the then Special Representative of the Turkish Cypriot Leader, Derviş Eroğlu (see Section 4.2). Another aspect of Turkey's response is its greater visibility through enhanced efforts to explore in what Turkey considers to be its own territorial sea and continental shelf (see Section 5.2).

¹⁶⁹ Various Turkish Cypriot newspapers on 21 September 2011.

¹⁷⁰ *Kıbrıs Postası* (Turkish Cypriot news portal), 21 September 2011. Available at http://www.kibrispostasi.com/index.php/cat/35/news/62360/PageName/KIBRIS_HABERLERI, accessed 2 August 2012.

¹⁷¹ This appears to be a 'slip of the tongue'—a not infrequent sign of how difficult it is often to distinguish between Turkish and Turkish Cypriot actions; here what is in fact meant is not Turkey, but its national oil company TPAO exploring based on licences given by and on behalf of the TRNC.

¹⁷² Interview with a member of the Turkish Cypriot negotiating team, 11 June 2012.

Notwithstanding Erdoğan's ruling out of the use of force for the time being, it is worth mentioning that Turkey appears to make a distinction between the action it would take if there were any exploration in the area west of the island which it claims to be its continental shelf and the action it would take in the blocks which the TRNC licensed to TPAO on 22 September 2011 and which overlap many of the blocks of the RoC exploration area in the south of the island (see Section 5.1.2). This distinction is most apparent in a Ministry of Foreign Affairs statement on 15 February 2012 (Turkish MFA 2012a), issued one day after the RoC invited bids for the remaining unlicensed blocks in the EEZ (Blocks 1 to 11 and 13).

Once the concession blocks geographically described in this so-called tender are examined, it appears that certain sections of some of these blocks namely the so-called 1st, 4th, 5th, 6th and 7th blocks are overlapping with Turkey's continental shelf areas in the Eastern Mediterranean.

Turkey, as it was [the case] before,¹⁷³ *will not allow under any circumstances* foreign oil companies to conduct unauthorized oil/natural gas exploration and exploitation activities in these overlapping areas and *will take all necessary measures* to protect its rights and interests in the maritime areas falling within its continental shelf. [Emphasis added]

Referring to the other RoC blocks which 'overlap, in the south of the island, with the Turkish Cypriots' concession blocks granted to the Turkish Petroleum Company (TPAO) by the TRNC on 22 September 2011', the same statement said:

This situation would bring those international companies that might be interested in bidding for this illegal tender into confrontation with the TRNC and the TPAO, and thus would lead to an undesired tension in the region. Turkey, in such eventuality, acting upon its responsibilities as a motherland and a guarantor power, *will give every support to the TRNC* to prevent possible violations of Turkish Cypriot concession blocks and *thus to protect their rights and interests in maritime areas*. [Emphasis added]

Referring to the continental shelf claims, another Ministry of Foreign Affairs press release dated 18 May 2012 (Turkish MFA 2012b), just after the bidders for the second licensing round had been announced, said:

Certain parts of the maritime areas in the west of the Island included in the so-called tender opened by GCA overlap with Turkey's continental shelf in the Mediterranean Sea. Turkey, as was already declared before, *will not allow any activity over these areas*. [Emphasis added]

¹⁷³ This is probably a reference again to the incident of 13 November 2008. See footnote 168 above.

Referring to the TPAO licences issued by the TRNC, the same statement says:

Any activity of international oil companies in these areas in future would bring them into confrontation with [the] TRNC and TPAO and cause undesired tension. Turkey, as was already declared before, acting upon its responsibilities as a motherland and a guarantor power, *will give every support to [the] TRNC*. [Emphasis added]

In the press release, ‘countries concerned and the relevant oil companies’ were advised to ‘refrain from any activity in these areas which are disputed especially due to the Cyprus issue, and withdraw from the said tender.’¹⁷⁴ Also noted was that ‘those companies cooperating with GCA will in no way be allowed to take part in Turkey’s future energy projects’.

The difference in language is subtle but—especially because of the reference to taking ‘all necessary measures’—it has generally been taken to mean that Turkey would respond more aggressively (perhaps not excluding military action) to any exploration in Blocks 1, 4, 5, 6, and 7 than it would to exploration in the areas that overlap the TPAO concessions,¹⁷⁵ and indeed it is noteworthy that the RoC has to date not licensed any of these blocks. For the time being, however, Turkey seems to have settled on reciprocal steps in both areas (see below).

5.1 Reciprocal steps by Turkish Cypriots

5.1.1 Continental shelf delimitation agreement between Turkey and the TRNC

The first step of the Turkish-Turkish Cypriot response to the Greek Cypriot exploratory drilling in Block 12 was a continental shelf delimitation agreement between Turkey and the TRNC, which was co-signed by the Turkish Prime Minister, Erdoğan, and the Turkish Cypriot President, Derviş Eroğlu, on 21 September 2011.¹⁷⁶ The agreement draws in the east-west direction in Cyprus’s north ‘a continental shelf boundary between the Turkish Republic of Northern Cyprus and Turkey.’¹⁷⁷

This development was described by Mr Eroğlu as ‘a preventive measure for our collocutors to cease their activities.’¹⁷⁸ Some Greek Cypriot commentators interpreted the move as indicative of a change in Turkey’s attitude from threatening with military intervention to diplomatic and political retaliation.¹⁷⁹ Following the signing of the above-mentioned agreement, in a meeting with the UN Secretary-General, Erdoğan was reported to have said:

¹⁷⁴ This advice seems to be inconsistent with what Turkey itself is doing in connection with these ‘disputed areas’; namely its allowing of its national petroleum company TPAO to engage, on behalf of the Turkish Cypriots, in hydrocarbon exploration activities in the same disputed waters.

¹⁷⁵ Conclusions drawn from off-the-record conversations with members of the diplomatic community.

¹⁷⁶ This happened in front of the eyes of the international community, as it were, when the two men were in New York for the occasion of the annual meeting of the UN General Assembly.

¹⁷⁷ ‘Kuzey Kıbrıs Türk Cumhuriyeti ile Türkiye Cumhuriyeti arasında Akdeniz’de Kıta Sahaneliği Sınırlandırması Hakkında Anlaşma’ [Agreement Concerning the Delimitation of the Continental Shelf in the Mediterranean Sea between the Turkish Republic of Northern Cyprus and the Republic of Turkey]. See Section 2.6.

¹⁷⁸ Turkish Cypriot newspapers on 22 September 2011.

¹⁷⁹ E.g., *Simerini* on 22 September 2011.

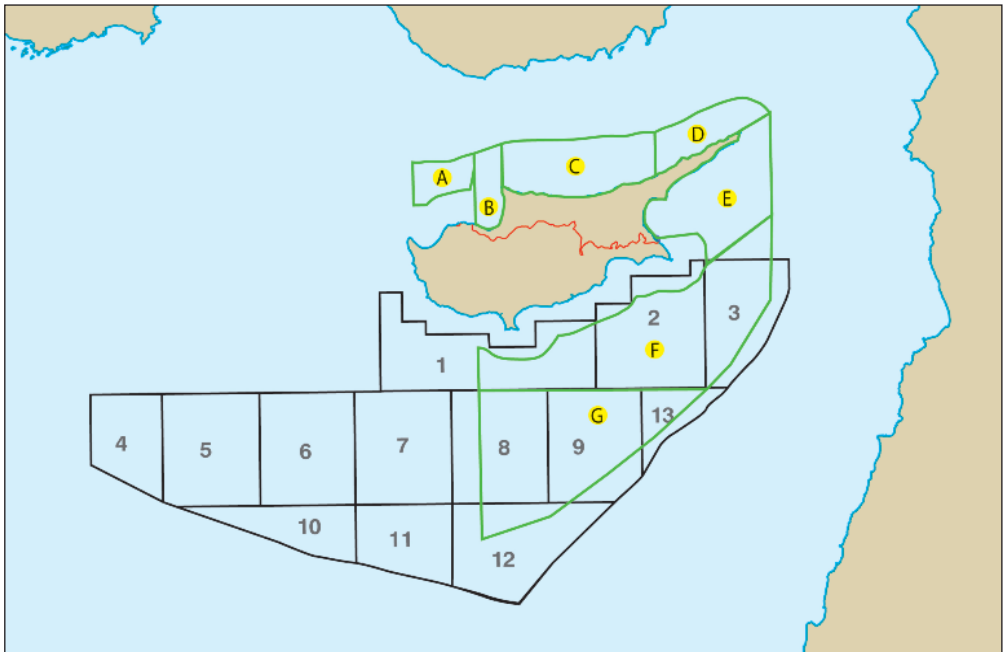
Turkey's move is only a reciprocal decision. If the Greek Cypriot side decides to cease its activities in the Mediterranean, I can assure you that Turkey will also stop all its activities.¹⁸⁰

If not, the next step of the Turkish-Turkish Cypriot reciprocal action, as announced by the Turkish MFA, was to be

the issuance of the licenses for the exploration and exploitation of oil and gas reserves around the Island to the Turkish Petroleum Corporation by the Government of the Turkish Republic of Northern Cyprus. In fact, necessary consultation and coordination to this end are being carried out by the relevant authorities of the both countries. (Turkish MFA 2011a)

5.1.2 TRNC's issuance of oil and gas exploration licences to TPAO

On 22 September 2011 the TRNC Council of Ministers decided to grant to the Turkish state petroleum company, TPAO, oil and gas exploration licences for certain sea areas in the north, east and south of Cyprus.¹⁸¹ In the decision the areas are identified as Blocks A, B, C and D (north); E (east); and F and G (south). Blocks F and G actually partly coincide with some of the RoC licensing blocks, namely Blocks 1, 2, 3, 8, 9, 12 and 13 in the south (see Map 5.1).



Map 5.1 The TRNC licensing blocks overlapping with some of the RoC licensing blocks. [Source: Turkish MFA]

¹⁸⁰ From *Kıbrıs Postası*, 23 September 2011. Available at http://www.kibrispostasi.com/index.php/cat/35/news/62592/PageName/KIBRIS_HABERLERI.

¹⁸¹ Decision of the TRNC Council of Ministers, No. K(II)1195-2011, 22 September 2011.

The logic behind the Turkish Cypriot claim here seems to be as follows. The Turkish Cypriots have as much inherent right as the Greek Cypriots to explore in the maritime jurisdiction areas of RoC. This right is based on the Turkish Cypriots' equal political status with the Greek Cypriots, i.e., as a constitutional partner of the 1960 RoC, a status enshrined in the international accords of 1959-60 that created the RoC. The Turkish Cypriots and Greek Cypriots still hold this sovereign right together as there has been no formal agreement as to its division between them. (In fact, the two sides have been in negotiations since 1968 seeking agreement as to how to come together again in exercising such common rights.) So, as part of their promised reciprocal action, the Turkish Cypriots have now issued—like the Greek Cypriots have done and are in the process of doing at the moment—exploration licences in the maritime areas around Cyprus.¹⁸² The licences were granted to the Turkish National company TPAO whose undertaking of exploration under such circumstances was the result of an essentially political decision by Turkey.¹⁸³ This was confirmed by the Turkish Energy Minister Taner Yıldız, who, referring to the on-going preparations, talked about his belief that 'the political aspect of the current operations are more prominent'.¹⁸⁴

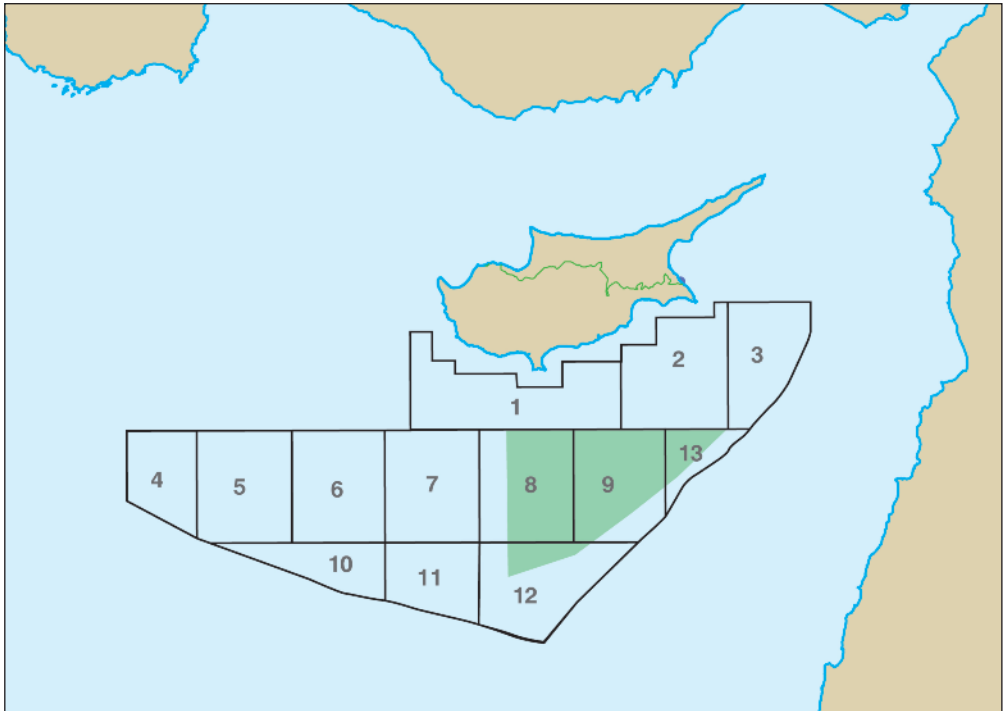
5.1.3 TPAO's seismic survey offshore Cyprus carried out on behalf of the TRNC

On 23 September 2011 the Turkish exploration vessel Piri Reis set sail for the Eastern Mediterranean with technical personnel from the TPAO included among the staff on board. From 26 September to 1 November 2011, it carried out surveys collecting 2-D seismic data in the so-called Turkish Cypriot Block G off the island's southern coast, which include parts of the RoC's Block 12 (see Map 5.2).

¹⁸² Interview with Kudret Özersay, 24 July 2012. See also the interview he gave on 17 August 2011 (cited in footnote 144 above).

¹⁸³ Needless to say, under the circumstances no *non-Turkish* oil company could be expected to accept doing exploration work for the Turkish Cypriots.

¹⁸⁴ *Kıbrıs Postası*, 21 September 2011. See at http://www.kibrispostasi.com/index.php/cat/35/news/62352/PageName/KIBRIS_HABERLERI, accessed 4 August 2012.



Map 5.2 The areas surveyed by Piri Reis during 26 September-1 November. [Sources: TPAO and Erciyas (2012)]

5.1.4 Turkish military patrols offshore Cyprus

In the run-up to Noble Energy's commencement of drilling on behalf of the RoC in the Aphrodite field of Block 12 and for a while afterwards, there was a lot of talk about the Turkish navy ships patrolling the area and concern about what this might lead to. Several Turkish officials publicly stated that Turkish warships would be accompanying the Turkish research vessel Piri Reis as it explored in the Cyprus seas on behalf of the TRNC.¹⁸⁵

However, on 30 September 2011 it was reported that, according to the Marine Sciences and Technologies Institute at the 9th September University in Izmir, which owns Piri Reis and was TPAO's partner in the TRNC survey operation offshore Cyprus, 'Neither the Turkish navy nor fighter jet planes have accompanied Piri Reis since it has started its research assignment'.¹⁸⁶

¹⁸⁵ E.g., Reuters on 22 September 2011; *Hürriyet Daily News* on 21 September 2011; and *Kıbrıs Postası* (Turkish Cypriot news portal) on 21 September 2011 (see footnote 170 above). Also see statements by the Turkish Energy Minister Taner Yıldız, reported in all the Turkish Cypriot Newspapers of 20 September, that: 'TPAO will initiate its seismic research by next week [...] the seismic research ship will be accompanied by the Turkish navy'.

¹⁸⁶ "'Navy ships never accompanied Piri Reis', Professor Benli announces on SIM TV; *Yeni Düzen*, 30 September 2011.

Whether Piri Reis was accompanied by them or not, the presence of Turkish military vessels and aircraft and their exercises in and above the international waters (close to but outside the territorial sea) of Cyprus was a fact announced by the Turkish General Staff¹⁸⁷ and confirmed by the Turkish Prime Minister.¹⁸⁸ Indeed this presence was then linked with the possibility of Turkey intervening to stop the drilling at the Aphrodite field. Yet *Phileleftheros* on 19 September 2011 reported that

Despite the public threats by members of the Turkish government, no substantively threatening moves were observed up to yesterday beyond the monitoring of the rig from a distance by lightweight Turkish navy vessels.

As promised by the Turkish Prime Minister,¹⁸⁹ throughout the crisis Turkey seems not to have gone any further than this. This fact conforms with the prediction of a prominent Greek Cypriot politician that

The danger existed that the Turkish Navy would intervene and prevent the platform from arriving at the point where it set anchor. From the moment there was no such intervention I cannot imagine that the Turks will proceed to take such actions in the sea off Cyprus that will bring them in confrontation with the US.¹⁹⁰

5.1.5 Production sharing contract between TRNC and TPAO and first drilling onshore

On 2 November 2011, TRNC Ministry of Economy and Energy and TPAO signed a 'Petroleum Services and Production Sharing Contract' in connection with these 7 offshore licences and an additional onshore licence (marked as zone H) for a location near the village of Sınırüstü/Syngراسي in the north of the Famagusta district.¹⁹¹ The contract authorized the Turkish state oil company to carry out exploratory research for oil and gas, as well as drill and operate wells in the relevant areas. According to the contract, all costs would be borne by the TPAO and any profit would be shared between the two parties to the contract.

The Turkish Energy Minister, Taner Yıldız, announced on 26 November 2011 that the TPAO would soon launch its first drilling operation to look for oil and gas at the location near Sınırüstü for which it had licence from the TRNC. TPAO's promised drilling was inaugurated with an

¹⁸⁷ *Phileleftheros* on 25 September 2011, ran a report about an announcement by the Turkish General Staff that 'Turkey will carry out permanent patrols with its warships in areas which it considers as its maritime areas' (and which the RoC has declared as its exclusive economic zone). See also *Phileleftheros* on 22 September 2011.

¹⁸⁸ Reported in all the Turkish Cypriot Newspapers of 20 September 2011 was Erdoğan's statement that: 'This EEZ [declared by the RoC] is disputable and we had told them before that it is not right to make a move in a disputable area. Nonetheless, from the security point of view, we will continue to monitor the area with our assault boats, frigates and other navy vessels'.

¹⁸⁹ 'Erdogan assures Fule that Turkish ships will not harass Noble', Elias Hazou. *Cyprus Mail*, 18 November 2011.

¹⁹⁰ Nicos Anastasiades in an interview with *Phileleftheros*, 18 September 2011.

¹⁹¹ See at http://www.tpa.gov.tr/tp2/sub_en/sub_news.aspx?id=28, accessed 6 August 2012.

official ceremony on 26 April 2012. According to the Turkish Energy Minister Yıldız, this operation, a step in the Turkish-Turkish Cypriot counterplan against the Greek Cypriot offshore exploration activities,

is part of a wider exploration effort which will provide us [...] with a detailed underground map of northern Cyprus [...] We may not extract oil or gas from this well, but drilling is part of a wider package [...] This work has strategic significance and we attribute great importance to it.¹⁹²

The commencement of the operation was described by Eroğlu as an 'historic moment' which increased the 'Turkish Cypriots' strategic significance.¹⁹³ The well, named Türkyurdu-1 (meaning homeland of Turks), was originally planned to go as deep as 3,000 m. In an update about the status of the operation, the Turkish Cypriot Minister of Energy and Commerce, Sunat Atun, announced on 29 September 2012 that the drilling had been concluded on 24 September at a depth of 4,125 m and that it had provided important new data which suggest the presence of hydrocarbon source rock formation there and also reveal information about the hydrocarbon potential of the nearby sea areas.¹⁹⁴ The Minister also talked about plans for the TPAO to carry out 2-D seismic surveys offshore in Famagusta Bay alongside continuing with exploratory research in another onshore location in the north of Güzelyurt/Morphou in the west of northern Cyprus. According to the Minister, 'gravity and magnetic' surveys would begin in the Güzelyurt/Morphou area in October 2012. This would be followed from December 2012 onwards by seismic surveys, and exploratory drilling is projected for end of 2013. Earlier in July, it was reported that the TRNC had issued a new oil and gas exploration licence to the TPAO in that area.¹⁹⁵

5.1.6 How much exploration can the TPAO actually undertake?

While the TRNC has licensed TPAO to explore in areas that overlap part of the offshore exploratory area demarcated by the RoC (see Map 5.1), questions have been asked about whether the TPAO has the financial or technical resources to undertake exploration in such deep waters.¹⁹⁶ Deep-water exploration is expensive, requires specialist rigs and waiting times for rigs can be

¹⁹² 'Turkey's TPAO starts oil, natural gas search in northern Cyprus', *Today's Zaman*, 26 April 2012. Available at <http://www.todayszaman.com/news-278643-turkeys-tpao-starts-oil-natural-gas-search-in-northern-cyprus.html>, accessed 9 September 2012.

¹⁹³ *Ibid.*

¹⁹⁴ 'Sirada Güzelyurt var (Güzelyurt is next)', *Kıbrıs*, 29 September 2012.

¹⁹⁵ *Anadolu Agency*, 9 July 2012. Available at <http://www.aa.com.tr/en/news/63597-trnc-issues-new-license-to-tpao>, accessed 9 September 2012.

¹⁹⁶ 'Turkish-Cypriots, Turkey keen to halt Cyprus offshore exploration', *Global LNG Monitor*, Issue 240, 11 October 2012.

more than a year.¹⁹⁷ TPAO notes that it has drilled in very deep waters in the Black Sea and that it wants to be ready to conduct such exploration in five years 'if the international climate is ready'.¹⁹⁸ However, TPAO might find it difficult to find a company willing to rent a rig for exploration in what is internationally recognized as the RoC's EEZ. In this case, Turkey might have no alternative than to build or buy its own rig. On the basis of the value in 2010 of the deep-water Perdido oil rig offshore Mexico, this would cost at least \$3 billion.¹⁹⁹ Renting rigs is also expensive. The highest charge-out rate for Noble Corporation's Homer Ferrington rig (the one used for Block 12) is cited at \$500,000 per day,²⁰⁰ and we understand that this excludes additional contractor costs. Some of our interviewees in Turkey suggested that the Turkish government would be prepared to make such an investment.²⁰¹ Even then, it would be challenging. It has been noted that it would be difficult to find companies to work on rigs unless they are built to "Norwegian" standards and that Turkey does not currently have a shipyard with the capacity to build one.²⁰² Much may depend on future political developments and on how determined Turkey and the Turkish Cypriots will be to make a point about Turkish Cypriots' rights in the area.

5.2 Turkey's own exploration activities in the Eastern Mediterranean Sea

Increased activity for exploration of oil and gas in the Eastern Mediterranean by the RoC has induced Turkey to become more assertive as a relevant coastal state in the area. Turkey has been doing this by increasing its presence there not only through patrols and exercises by its navy and air force but also by way of expanding its oil and gas exploration activities in what it regards as its continental shelf in the Eastern Mediterranean.

As distinct from the licences given to it by the TRNC (see Section 5.1.2 above), the Turkish state petroleum company TPAO appears to have licence from the Turkish government to explore in an area off the southern coast of Turkey extending from a line in the east of Rhodes in the west to the Gulf of Iskenderun in the east. The area (see Map 5.3) where exploratory surveys are currently underway is bounded by the TRNC-Turkey continental shelf border in the north of Cyprus, and in the west of Cyprus by what Turkey considers to be its continental shelf border with Egypt, which lies within the EEZ claimed by the RoC (see Section 2.7).

¹⁹⁷ For example, Noble Energy cited the availability of rigs as the reason why the second exploratory well in Block 12 would not be drilled until the first half of 2013 (around a year and a half after the first well was drilled): John Tomich, Cyprus Country Manager, Noble Energy, speaking at the Euro Med Oil & Gas Exploration & Production Summit, 15 September 2012.

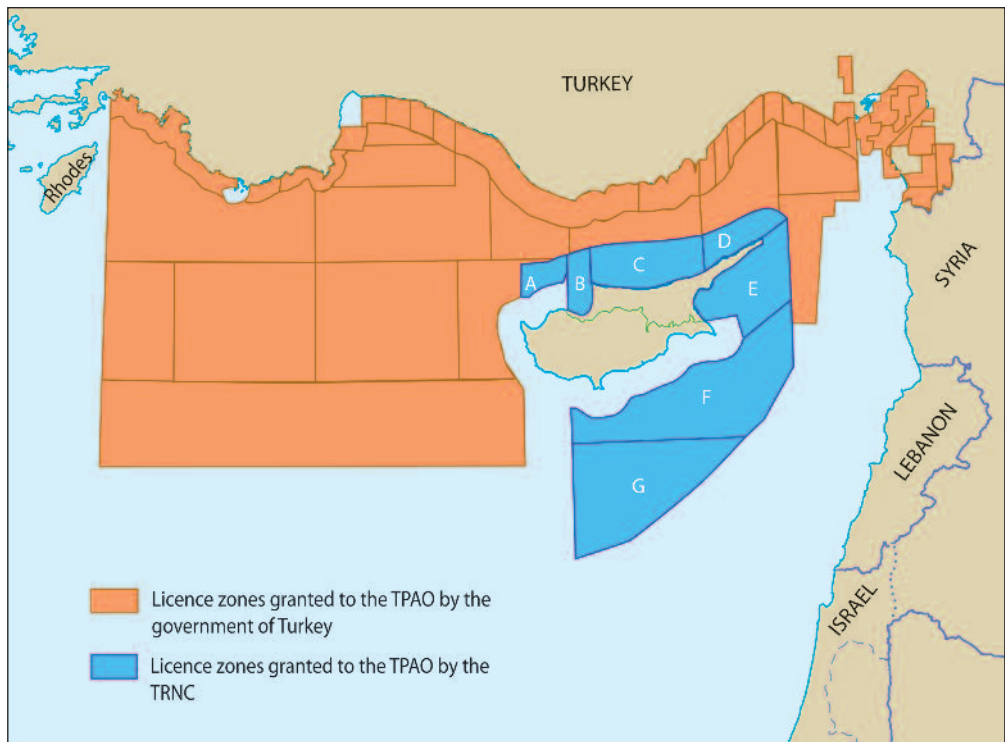
¹⁹⁸ Interview with Mehmet Uysal, Chief Executive Officer of TPAO, 6 December 2011.

¹⁹⁹ 'UPDATE 1-Shell starts production at Perdido', Kristen Hays, 31 March 2010, Reuters, <http://www.reuters.com/article/2010/03/31/shell-perdido-idUSN3123683920100331>, accessed 16 November 2012.

²⁰⁰ Noble Corporation Fleet Status Report, 4 October 2012, <http://www.noblecorp.com/IR/FleetStatus.asp>.

²⁰¹ Interviews with the International Strategic Research Organization (USAK), 7 December 2011, and Erdal Aksoy, Executive Group Chairman of Turcas, 8 December 2011.

²⁰² Interview with Gilles Valentin, Editor-in-Chief, *The Oil & Gas Year*, 9 December 2011.



Map 5.3 TPAO exploration licences in the Eastern Mediterranean Sea. [Source: TPAO]

According to the RoC's objection registered with the UN on 15 June 2012, four licences issued by the Turkish Council of Ministers (as published in the Turkish Official Gazette of 27 April 2012) were for areas 'which fall either partly or wholly within the exclusive economic zone (EEZ) and continental shelf of the Republic of Cyprus' (RoC 2012). The RoC maintains that one of the licences, which is for an area in the south of Adana outside the Turkish territorial sea and touching the TRNC-Turkey continental shelf border (block 5011), 'lies (more than 40 per cent) within the EEZ and continental shelf' of the RoC; the second one, which is for a block in the south east of the latter block (block 5029), 'lies (more than 60 per cent) within the EEZ and continental shelf' of the RoC; the third one, which is for a block in the west of Cyprus south of Antalya (block 5027), 'lies in its entirety (100 per cent) within the EEZ and Continental shelf' of the RoC; and the fourth, which is for a block in the south-west of Cyprus (block 5028) 'lies (more than 90 per cent) within the EEZ and continental shelf' of the RoC. In the RoC government's view, Turkey's granting of these licences 'is the concrete expression of unreasonable claims by Turkey with respect to its maritime borders with the Republic of Cyprus'.

On 5 September 2012 Turkey submitted a letter to the UN in answer to the RoC's objection of 15 June 2012 (Turkey 2012). The letter stated that the relevant Council of Minister decrees

were for renewing licences already issued by the Turkish government in 2007 and 2008. It was maintained that the said licence areas

fall entirely within the Turkish continental shelf where Turkey exercises exclusive sovereign rights for the purpose of exploring and exploiting its natural resources of the seabed and subsoil under international law, both customary and case.

According to the letter, Turkey was currently engaged in talks with ‘the relevant coastal States’ for the purpose of determining ‘the outer limits of the Turkish continental shelf in the Mediterranean’, and ‘the first continental shelf delimitation agreement between Turkey and the Turkish Republic of Northern Cyprus was concluded on 21 September 2011’. As for the delimitation in the west of Cyprus, Turkey held that this issue was ‘related to the comprehensive settlement of the Cyprus question’, after which the maritime boundaries would be determined through negotiations.

5.3 Turkish warnings to companies bidding in the second RoC tender

According to media reports on 31 July 2012, the governments of the 15 countries whose oil companies are bidding in the second RoC tender for offshore licences were warned by Turkey via their embassies in Ankara. They were notified that some of the areas included in the tender were disputed (because of overlaps with Turkey’s claimed continental shelf in the west of the island and with the zones which the TRNC licensed to the TPAO in the island’s south), and that Turkey would ‘not permit drilling in this controversial zone’. Turkey’s message to these countries and their oil companies was: ‘If you do not want our ties to deteriorate, withdraw from the tender.’²⁰³

Similar warnings were repeated by a Turkish MFA spokesperson in a press conference of 7 August 2012.²⁰⁴

On 30 October 2012, the RoC government announced its decision to grant licences to four bidders for Blocks 2, 3, 9, and 11. Blocks 9 and 11 are adjacent to the already licensed Block 12, Block 9 being adjacent to the latter in the north and Block 11 in the east. All four blocks lie outside the area claimed by Turkey as its continental shelf but Blocks 2, 3 and 9 coincide with the areas which the Turkish Cypriots licensed to TPAO in September 2011. The Turkish and the TRNC MFAs both reacted to this development by issuing separate statements. The TRNC MFA’s statement²⁰⁵ pointed out that the Turkish Cypriots had ‘equal and inseparable rights’ in the

²⁰³ ‘Türkiye 15 ülkeyi uyardı: “Gaza gelmeyin” [Turkey warns 15 countries: “Don’t rise to the bait”]; *Milliyet*, 31 July 2012. Available at <http://dunya.milliyet.com.tr/turkiye-15-ulkeyi-uyardi-gaza-gelmeyin-dunya/dunyadetay/31.07.2012/1574164/default.htm>, accessed 9 September 2012.

²⁰⁴ Virtual press conference held on 7 August 2012 via Twitter by the Turkish MFA spokesperson Selçuk Ünal. Available at http://www.mfa.gov.tr/disisleri-bakanligi-sozcusu-selcuk-unal_in-twitter-uzerinden-duzenledigi-sanal-basin-toplantisi_-7-agustos-2012.tr.mfa, accessed 9 September 2012.

²⁰⁵ ‘Haklarımızın gaspına izin vermeyeceğiz (Our rights are not to be usurped); *Kıbrıs*, 3 November 2012.

natural gas resources in the maritime areas of Cyprus and that they would not allow these to be usurped by the Greek Cypriots. It also called on the Greek Cypriot side to respond positively to the Turkish Cypriot proposal of 29 September 2012 (see Section 4.2). The Turkish MFA statement supported the TRNC MFA's statement and repeated an earlier Turkish warning that 'those companies cooperating with the GCA [Greek Cypriot Administration] will not be allowed to take part in new energy projects in Turkey' (Turkish MFA 2012d). It also contained a call

to the relevant countries and oil companies to act with common sense, not to engage in activities in these areas which are disputed especially due to the Cyprus issue and to withdraw from the said tender.

On 2 November 2012 the Turkish Minister of Energy, Taner Yıldız, warned the Italian oil and gas company ENI which, together with the South Korean company KOGAS, was initially asked to negotiate licences in the RoC's Blocks 2 and 3. According to the Minister, Turkey would reconsider ENI's investments in Turkey if the company cooperated with the Greek Cypriots.²⁰⁶ ENI is a partner in Turkey's Samsun-Ceyhan crude oil pipeline project (other partners are Russia's Rosneft and Transneft and Turkey's Çalık). It is also a partner (together with Russia's Gazprom) in the Blue Stream Pipeline—a transport system that supplies Russian natural gas to Turkey via the Black Sea.²⁰⁷

²⁰⁶ 'Turkey may "reconsider" local Eni investments over Greek Cyprus ties'. *Hürriyet Daily News*, 3 November 2012.

²⁰⁷ *Ibid.*

CHAPTER 6:

THE ENERGY MARKET AND ECONOMIC CONTEXT

6.1 Developments in the global and regional gas markets

6.1.1 Demand side developments

Global gas markets are currently influenced by conflicting pressures. On the demand side, the pressure is upward. The earthquake and tsunami in Japan that led to the meltdown of three nuclear reactors at the power plant in Fukushima in March 2011²⁰⁸ have increased demand for natural gas in Japan and will increase demand in future for natural gas in Germany, the European Union's largest country. Germany had initially put back its decision to phase out its nuclear power plants. But after the Fukushima disaster it closed eight of its 17 nuclear power stations and brought the date for full phase-out forward from 2036 to 2022.²⁰⁹

The major influence on demand, however, is China, where rapid economic growth and urbanization among its population of 1.3 billion combine to create ever greater demand for energy. According to the US Energy Information Administration's World Energy Outlook 2011, energy consumption in China surpassed that of the United States in 2009. Demand in Asia, led by China and India, which now account for 10% of global demand, is projected to grow much faster than in the West, rising by 2.9% per year in 2008-2035, compared with just 0.6% for OECD countries. Moreover, consumption of natural gas is expected to be the fastest growing among fossil fuels. It is predicted to rise by 1.6% per year in the forecast period, to 169 trillion cubic feet by 2035 (around 24 times the estimated reserves in Block 12), from 111 in 2008.²¹⁰

²⁰⁸ 'Fukushima Disaster Was Man-Made, Investigation Finds', Tsuyoshi Inajima, Jacob Adelman and Yuji Okada, Bloomberg BusinessWeek, 5 July 2012, <http://www.bloomberg.com/news/2012-07-05/fukushima-nuclear-disaster-was-man-made-investigation-rules.html>, accessed 29 October 2012.

²⁰⁹ 'Eon seeks €8bn over nuclear phase-out', Gerrit Wiesmann, *Financial Times*, 13 June 2012, <http://www.ft.com/intl/cms/s/0/485529b0-b559-11e1-ad93-00144feabdc0.html>, accessed 29 October 2012.

²¹⁰ U.S. International Energy Information Administration, *International Energy Outlook 2011*, p. 431.

Table 6.1: World energy consumption

World energy consumption, 2008-2035	Annual average % change
OECD	0.6
Americas	0.7
Europe	0.5
Asia	0.6
Non-OECD	2.3
Europe and Eurasia	0.5
Asia	2.9
Middle East	2.1
Africa	1.9
Central and South America	2.0
World	1.6

Sources: Energy Information Administration, World Energy Outlook, 2011.

Even before the Fukushima disaster, the expected increase in demand for gas, combined with the 77% increase in oil prices²¹¹ that boosted oil and gas company revenues, encouraged investment in both deep-water exploration in the difficult eastern Mediterranean offshore terrain as well as in US shale gas.²¹²

6.1.2 Supply side developments

However, while demand was expected to push up prices, changes on the supply side have suddenly led to a change of calculations. The main reason has been the discovery in the United States (US) of an abundance of unconventional gas produced by hydraulic fracturing,²¹³ commonly known as shale gas. This discovery has had a significant impact on prices of LNG in the US market. As of 5 July 2012, LNG was selling at \$2.90 per million British thermal units (MMBtu) according to Reuters,²¹⁴ compared with \$12.69 at their peak in June 2008.²¹⁵ According to *The*

²¹¹ Economist Intelligence Unit, *Global Outlook*, July 2012, average annual price for Brent crude.

²¹² Edward Chow, Senior Fellow, Energy and National Security Program, Center for Strategic and International Studies, personal correspondence.

²¹³ Gas is extracted by injecting large quantities of fluids at high pressure to fracture the reservoir rock (Hyne 2012).

²¹⁴ 'U.S. spot natgas rises as heat continues,' Reuters, 5 July 2012, <http://uk.reuters.com/article/2012/07/05/markets-natgas-spot-idUKL2E8I5A8N20120705>, accessed 29 October 2012.

²¹⁵ Henry Hub Natural Gas Prices, Canadian Gas Association citing US Federal Reserve, <http://www.cga.ca/publications/documents/Chart8-NaturalGasPrices.pdf>, accessed 29 October 2012.

Economist,²¹⁶ other countries with large shale-gas potential include China, Australia, Argentina, Poland, Ukraine as well as other European countries. However, *The Economist* also noted the sceptics who believe that the US shale gas bonanza cannot be repeated elsewhere, because, it is argued, its success depends to a large degree on a range of factors such as strong land ownership rights (in the US ownership includes minerals below the ground), open access, available equipment, infrastructure technology, plenty of water, which China does not have, and public support, which will be difficult to obtain in Europe.

6.1.3 Direction of prices

What is less certain is the impact of large quantities of US shale gas on global gas prices in the longer term. For the time being, LNG prices are generally linked to crude oil prices, but experts note that prices are also determined by a range of other factors, such as the availability of other fuel alternatives, competition from other types of gas, the types of contracts (based on spot prices or long-term prices), transmission distances (LNG transport is energy-intensive), issues relating to the security of supply, as well as of course, demand. Thus, while LNG was selling in the US at \$2.90 per MMBtu in July 2012, it was selling in Asia at around \$17 MMBtu,²¹⁷ and in Europe, which competes with pipeline gas, at around \$11.50.²¹⁸ Moreover, pipeline prices are generally lower, given the higher investment and transport costs of LNG.

Yet developments in shale gas have already changed investment decisions in the Eastern Mediterranean. The NEMED block, once considered a great find, is now considered, by some companies at least, as no longer worth the investment. In 2011 the Indian company, ONGC Videsh Ltd (OVL), the overseas arm of ONGC, pulled out of exploiting the NEMED block in which it had a 33% stake. 'The block is not commercially viable now. Shale gas has resulted in gas prices undergoing significant downturn,' the India Telegraph quoted unnamed company sources as saying.²¹⁹

Shale gas is also beginning to influence new long-term pricing contracts for gas. In July 2012 the German energy company, Eon, signed a new price contract with the Russian gas supplier, Gazprom, in which the lower price of LNG spot prices appears to have played a part. The *Financial Times* noted, 'After years of stand-off over indexing gas contracts to the oil price instead of the—much lower—price of gas on spot markets, Gazprom last week signalled it was close to reaching agreement with big customers in the European Union about discounts.'²²⁰

²¹⁶ 'Shale of the century', *The Economist*, 5 June 2012, <http://www.economist.com/node/21556242>, accessed 29 October 2012.

²¹⁷ 'Global LNG-Asian spot prices down to mid-\$17/MMBtu', Reuters, 5 July 2012, <http://uk.reuters.com/article/2012/06/08/markets-Ing-idUKL5E8H88XN20120608>, accessed 29 October 2012.

²¹⁸ 'Global LNG-Asian LNG prices fall toward \$16 on lower demand', Reuters, 22 June 2012, <http://af.reuters.com/article/energyOilNews/idAFL3E8HJ4IU20120622>, accessed 29 October 2012.

²¹⁹ 'Shale lures ONGC to quit block', R. Sury Amurthy, 20 February 2011, http://www.telegraphindia.com/1110221/jsp/business/story_13611726.jsp, accessed 29 October 2012.

²²⁰ 'Eon agrees gas price cut with Gazprom', Gerrit Wiesmann, *Financial Times*, 3 July 2012, <http://www.ft.com/intl/cms/s/0/80dd9b44-c4fb-11e1-b8fd-00144feabdc0.html>, accessed 29 October 2012.

Then in late 2012, it was reported that a US company, Cheniere Energy, would sell to Korea Gas Corporation (KOGAS) on the basis of Henry Hub prices (essentially LNG US spot prices), instead of linking the price to crude oil, as has been the traditional practice in the industry to date. Commenting on the possible impact on investment, a specialist LNG newsletter, Global LNG Monitor (GLNG), said 'Market observers have argued that if the pricing trend started by Cheniere sticks, some of BC's [British Columbia's] touted LNG projects—whose sponsors have assumed their customers would pay the higher price—will not be built.'²²¹

6.1.4 Impact on exploitation of RoC gas

Price considerations will clearly play an important role in how or, indeed, whether, gas is exported from the RoC. Lower gas prices will have two effects on investment. First, as noted above, more difficult areas tend to be exploited when prices are high. Thus, if global gas prices come down and this affects the current and future profits of oil and gas companies, there could be less interest in conducting further exploration in the more expensive deep-water areas such as the Eastern Mediterranean. Second, and importantly for the Eastern Mediterranean, energy experts²²² have noted that low gas prices will put a premium on doing business in areas with low geopolitical or legal risk. If global gas prices do come down, therefore, this could reduce the attractiveness of investing in exploring or exploiting Cyprus's gas.

6.2 Export options for RoC offshore gas

There are several options open to the RoC for exporting natural gas: exporting it in processed form as liquefied natural gas (LNG), in semi-processed form as Compressed Natural Gas (CNG) or in pure form through a pipeline. There are two other, indirect options, namely, to use the gas to power electricity plants and then to export the electricity, or to use gas to produce products such as gasoline. Each of these options has its advantages and disadvantages. A full feasibility study is beyond the scope of this report, but in the following sections we have made rough estimates of the net revenue to be earned from gas sold as LNG and gas sold via pipeline, respectively, taking into account the major cost and price factors.

The amount of gas available for export will depend first and foremost on how much is used for domestic consumption. The Cyprus Energy Regulatory Authority (CERA) of the RoC estimates that 25 bcm will be used until 2035 for domestic consumption. This reduces the amount of gas available for export from 198 bcm to 173 bcm. In addition to domestic consumption, the export option chosen will have a major influence on the amount of gas available for export and the revenue that can be generated from it. For example, LNG production is an energy-intensive process and therefore a great deal of gas is used to generate the power required to produce the product. It is also priced differently. Therefore, when considering the different export options below, we shall also estimate the likely revenue from three of these options.

²²¹ Global LNG Monitor, 'Cheniere contract rejigs Canadian LNG picture', Issue 240, 11 October 2012.

²²² Comments made during a closed-door conference under the Chatham House rule.

Table 6.2: Total amount of gas available for export

TOTAL AMOUNT OF GAS AVAILABLE FOR EXPORT	
A. Gross mean estimate for gas in Block 12, tcf (source Noble)	7.0
B. Gross mean estimate for gas in Block 12, bcm (conversion source: BP)	198
C. Domestic consumption at 1bcm per year (source CERA), bcm	25
D. Gas available for export before investment, costs and transit losses (B-C), bcm	173

6.2.1 Pros and cons of LNG

The RoC Minister of Commerce, Neoclis Sylikiotis, announced in June 2012 that the decision had already been taken to construct a liquefied natural gas (LNG) plant,²²³ which suggests that other options have already been rejected. One advantage of LNG is that, unlike pipeline gas, it can be exported anywhere in the world. In theory, at least, it does not depend on a single buyer, although LNG is often sold under long-term contracts. Nevertheless, since the Asian gas market is growing faster than the EU market, those who favour LNG say that it has better prospects in the longer term than pipeline gas. A second advantage is that LNG production, since it takes place on a single site, is probably also less vulnerable to attack by militant groups than a long pipeline. As of June 2012 the pipeline between Egypt and Israel had been attacked 14 times since the Egyptian uprising²²⁴ and no gas had been supplied to Israel since March 2012. A third attraction of LNG is that it is up to 600 times smaller in volume than natural gas, allowing large quantities to be exported at any single time, which reduces transport costs.²²⁵

However, there are four main issues with an LNG plant. First, is the very large running and investment cost, which considerably reduces the revenue that can be generated. In Table 6.3, we have made a rough estimate of the net value of gas sold via LNG, taking into account the major cost and price factors. As noted, a full feasibility study is beyond the scope of this work, but this table and tables 6.4–6.6 attempt to capture the major investment and running costs.

²²³ 'A decision for LNG terminal has already been taken, Minister says', Cyprus News Agency, 7 June 2012.

²²⁴ 'Sinai Gunmen Attack Israel's Building Fence on Egypt Border', Calev Ben-David and Jonathan Ferziger, Bloomberg, 18 June 2012, <http://mobile.bloomberg.com/news/2012-06-18/one-israeli-killed-as-gunmen-attack-from-across-egypt-border-1-?category=>, accessed 29 October 2012.

²²⁵ Presentation by Pete Wallace, Senior Project Manager and Business Development Manager - Tractebel Engineering, Brussels, 'Construction of Vasilikos LNG Plant: Questions of Feasibility?', 17 November 2011 at a seminar hosted by the European Rim and Investment Council (ERPIC), 17 November 2011.

Table 6.3: Estimated revenue from Block 12 gas after running and investment costs

ESTIMATED REVENUE FROM GAS SOLD AS LNG	
A. Gas available for export, bcm	173
B. Gas used in operating the LNG plant (estimated 12.5%), bcm	22
C. Gas available for sale as LNG (A-B), bcm	152
D. Converted to million MMBtu or trillion Btu	5,456,376,470
E. Spot price of European LNG on 22 June 2012, \$ per MMBtu	\$11.5
F. Value of Block 12 LNG gas after operating but before investment costs (DxE), \$ million	\$62,748
G. Cost of exploration (estimated derived from Noble investment in 1 year), \$ million	\$600
H. LNG construction cost, mid-range (source: Minister Sylikiotis), \$ million	\$10,000
I. Distance from Block 12 to Vassiliko (source DEFA), km	200
J. Cost per 100km of a submarine pipeline at more than 1000m depth, \$ million	\$1,000
K. Cost of submarine pipeline from Block 12 to Vassiliko (IxJ), \$ million	\$2,000
L. Total investment costs of LNG (G+H+K), \$ million	\$12,600
M. Net revenue of Block 12 gas after running and investment costs (F-L), \$ million	\$50,148
Sources: Reuters (LNG prices); Pete Wallace, Tractebel Engineering (pipeline/km costs); Minister Sylikiotis (LNG plant cost); DEFA (distances from Block 12 to Vassiliko and pipeline cost).	

As Table 6.3 shows, after deducting domestic consumption, another amount must be deducted for LNG power consumption. Estimates from experts in the business range from 5% to 20%, therefore we have estimated the gas consumption of the LNG plant at 12.5%. This reduces the gas available for sale to 152 bcm. At prevailing prices for LNG in Europe, the gas is worth \$63 billion before investment costs.

Another major deduction that must be made is the cost of exploration and development wells. Here, we have made a rough estimate of the cost of exploration based on Noble Energy's reported cost of exploration in Cyprus and Israel in 2011, which amounted to roughly \$200 million.²²⁶ More exploration is required before the Block 12 reserves become proven, therefore we have multiplied the annual exploration expenditure by three to reach \$600 million.

²²⁶ Exploration costs including drilling and completing were cited as \$146 million in Israel and \$59 million in Cyprus in 2011 and \$79 million in Israel in 2010: Noble Energy Inc., Annual Report 2011, p. 130.

The next major investment cost is the construction of a single-train LNG plant, estimated by the government at €7 to €10 billion,²²⁷ or \$10 billion at the mid-range value. Finally, one must deduct the cost of the pipeline from Block 12 to Vassiliko. Using figures from an LNG design engineer for the cost of pipelines per kilometre,²²⁸ this cost comes out at \$2 billion. This is also the estimate of the RoC's Natural Gas Public Company (DEFA).²²⁹

Adding exploration, pipeline and construction costs brings the total investment costs for an LNG plant to around \$12.6 billion. After deducting the gas losses from domestic consumption and operating and investment costs, the net revenue of the gas in Block 12 sold via LNG would be just above \$50 billion.

A floating LNG plant, a fairly new technology which is being explored for the Israeli Tamar field,²³⁰ could be as much as 30% more expensive to construct than an onshore plant.²³¹ Based on the calculations in Table 6.3, this would reduce the net value of LNG to \$47 billion.

Precisely because the cost is so high, industry experts note that financiers will typically not put up the capital for an LNG plant until there is a secure contract of at least 20 years with a buyer.²³² Although Sylikiotis has said more than once that there is serious interest from international financial institutions, the fact that the RoC is currently junk-rated by all three international rating agencies will doubtless make financing more difficult.

The second issue is that it takes many years to build a plant. Sylikiotis has said that it will take six to seven years from 'the decision to build'²³³ (by which he probably meant the final investment decision, or FID), while others have said it could take even longer.²³⁴ Waiting longer for revenue has a negative impact on net present value (NPV).²³⁵ A third issue is that shipping LNG is an energy-intensive business, with each day of shipping consuming around 0.1% to 0.25% of the cargo, according to some estimates. This depresses the profits when LNG is shipped further afield to the faster growing Asian markets.

²²⁷ Minister of Commerce, Neoclis Sylikiotis, speaking at a seminar organized by the European Rim Policy and Investment Council (ERPIC) on 15 May 2012.

²²⁸ Pete Wallace, personal correspondence.

²²⁹ Presentation by DEFA Chairman Costas Ioannou at the Levant Energy Forum, 26 June 2012, slide 13.

²³⁰ 'KBR wins Israel, Australia FLNG studies,' 26 June 2012, <http://www.offshore-mag.com/articles/2012/06/kbr-wins-israel-australia-flng-studies.html>, accessed 29 October 2012.

²³¹ ERPIC presentation by Pete Wallace, 17 November 2011.

²³² Adam T. Lomas, a petrochemicals engineer and talent development consultant who spent 35 years working for a major oil and gas company.

²³³ ERPIC seminar, 15 May 2012.

²³⁴ Presentation by Pete Wallace at ERPIC seminar, 17 November 2011.

²³⁵ Net present value is a way of accounting for the 'time value of money'. Thus, a dollar earned today is worth more than a dollar earned in five years' time because it can be invested and earn a return.

Finally, there is the issue of security of supply. The current plan is to build a single-train plant of 5 million tonnes per annum (MTPA), partly because more than 7 tcf gas is needed to run anything larger. Investors might balk at a single-train plant that has no back-up ('redundancy') in the event of an interruption in supply, although the plan in the RoC is to start with 5 MPTA and expand capacity as more gas comes on stream.²³⁶ A larger plant could be built if Israel decided to use an LNG plant in Cyprus to exploit its reserves in Leviathan. However, this is by no means guaranteed. Israel's Zemach Committee, which is charged with deciding whether or how to export Israeli gas, advised that there should be an 'absolute preference for the export of Israeli natural gas from an export facility (marine or on land) in an area under Israeli control (including in Israel's exclusive economic zone); although it did add 'Exports from a foreign area will only be possible in the framework of a bilateral agreement between countries.'²³⁷ Moreover, there remain strong differences of opinion in Israel about whether or not to export gas at all.²³⁸ In the worst case scenario, therefore, the RoC might have to wait for additional finds in Block 12 or other blocks in the EEZ before it can find the funding to build an LNG plant.

6.2.2 Pros and cons of piping gas to Greece

Given the issues with LNG, there has been discussion about construction of a pipeline from Cyprus to Greece. It would first travel 200 km²³⁹ from Block 12 to Cyprus, then 633 km to Crete and from there another 405 km to the Peloponnese.²⁴⁰ However, at a total distance of some 1,150 km, it is almost as long as Nord Stream, which at 1,224 km²⁴¹ is said to be the longest in the world.²⁴² It probably also cuts across more difficult terrain, although the Greek Environment and Energy Minister, George Papaconstantinou, is on record saying that the project is 'entirely feasible.'²⁴³ To be viable, such a long pipeline would need a very large amount of gas. The Public Power Corporation of Greece (DEPA) has said that the pipeline would have a capacity of 8 billion cubic metres (bcm) per year. Using all of the gas available in the RoC's Block 12 would

²³⁶ Terry Gerhart, Vice President - Eastern Mediterranean, Noble Energy Inc., speaking at the Gulf Intelligence Levant Forum on 26 June 2012.

²³⁷ The Inter-ministerial Committee to Examine the Government's Policy Regarding Natural Gas in Israel, Executive Summary, 29 August 2012, <http://energy.gov.il/English/Subjects/Natural%20Gas/Pages/GxmsMniNGPolicyIsrael.aspx>, accessed 26 October 2012.

²³⁸ 'Gas Authority raises gas demand forecast 20%', Amiram Barkat, 10 July 2012, <http://www.globes.co.il/serveen/globes/docview.asp?did=1000764483&fid=1725>, accessed 29 October 2012.

²³⁹ Greece's DEPA puts the distance at 150 km while Cyprus's DEFA estimates this distance at 200 km.

²⁴⁰ Presentation by Harry Sachinis, Chairman & CEO of the Public Power Corporation of Greece (DEPA), Economist Conference, Athens, 28 March 2012, www.hazliseconomist.com.

²⁴¹ Nord Stream website, www.nord-stream.com.

²⁴² Source: Wikipedia. The authors were unable to verify this with an official source.

²⁴³ 'Greece's Depa Studies Mediterranean Gas Pipeline, Minister Says', Paul Tugwell, Bloomberg, 16 January 2012, <http://www.bloomberg.com/news/2012-01-16/greece-s-depa-studies-mediterranean-gas-pipeline-minister-says.html>, accessed 29 October 2012.

be enough to keep the pipeline running for around 20 years at full capacity. However, more gas is probably needed to secure supply. Indeed, it is clear from the presentation made by DEPA that this pipeline also envisages input from Israel. Therefore, just like the LNG option, its viability may also depend on either further significant gas finds in Cyprus or a decision by Israel to export.

Another obstacle to the Cyprus-Greece pipeline is investment cost. Before investment but after an estimated 5% loss in transit, gas sold via pipeline to Greece would be worth \$74 billion at today's prices.²⁴⁴ However, building a pipeline at such depth and at such long distances involves a large amount of capital expenditure. According to information presented for the subsea electricity cable (see below), the water depth between Cyprus and Greece reaches 2,000 metres in some cases—twice as deep as the pipeline from Block 12 to Vassiliko. The pipes would have to be made even thicker to withstand the pressure. This raises the investment cost, especially at long distances.

According to our estimates in Table 6.4, the additional investment cost of a pipeline from Vassiliko to Greece and then on land within Greece would be almost \$17 billion. This would reduce the net revenue that could be generated to \$54.5 billion. Thus, it is little different in value from the \$50bn gained from exporting gas as LNG. The fact that investment costs are so high also raises the same issues as an LNG plant, namely, whether one can secure financing, particularly in the absence at the moment of larger volumes.

²⁴⁴ Prices of Russian gas at the German border.

Table 6.4: Estimated revenue from gas sold via pipeline to Greece

ESTIMATED REVENUE FROM GAS SOLD VIA PIPELINE TO GREECE	
A. Gas available for export, bcm	173
B. Gas lost in pipeline transit (estimated 5%), bcm	9
C. Gas available for sale through pipeline (A-B), bcm	165
D. Price of Russian natural gas at German border in May 2012, \$ per 1,000 cu m	\$450
E. Value of Block 12 pipeline gas after transit but before investment costs (CxD), \$ million	\$74,051
F. Cost of exploration (estimated derived from Noble investment in 1 year), \$ million	\$600
G. Cost of submarine pipeline from Block 12 to Vassiliko (see Table 6.3), \$ million	\$2,000
H. Distance from Cyprus to Crete and Peloponnese (source DEPA), km	1,038
I. Estimated cost per 100km of pipeline at 2000m depth derived from cost of 1,000 m, \$ million	\$1,500
J. Cost of submarine pipeline from Vassiliko to Greece (HxI), \$ million	\$15,570
K. Estimated distance on land to link to pipeline network, km	200
L. Estimated cost per 100km of an onland pipeline inc land purchase, \$ million	\$670
M. Cost of onland pipeline in Greece (KxL), \$ million	\$1,340
N. Total investment cost of pipeline to Greece (F+G+J+M), \$ million	\$19,510
O. Net revenue of Block 12 gas to Greece after transit and investment costs (E-N), \$ million	\$54,541
Sources: index.mundi (natural gas prices); DEFA (distances from Block 12 to Vassiliko); DEPA (distances from Cyprus to Greece); Quantum Energy (likely depth of pipeline).	

6.2.3 Pros and cons of piping gas to Turkey

It is commonly accepted that if the RoC and Turkey had normal relations, then a pipeline to Turkey's vast network of domestic and international pipelines would be a serious option. The main advantage of pipeline gas is that investment costs, at least for shorter pipelines of this length, are considerably lower than the construction of LNG facilities. This results in considerably more net revenue after investment.

Table 6.5: Estimated revenue from gas sold via pipeline to Turkey

ESTIMATED REVENUE OF GAS SOLD VIA PIPELINE TO TURKEY	
A. Gas available for export, bcm	173
B. Gas lost in pipeline transit (estimated 5%), bcm	9
C. Gas available for sale through pipeline (A-B), bcm	165
D. Price of Russian natural gas at German border in May 2012, \$ per 1,000 cu m	\$450
E. Value of Block 12 pipeline gas after transit but before investment costs (Cx D), \$ million	\$74,051
F. Cost of exploration (estimated derived from Noble investment in 1 year), \$ million	\$600
G. Cost of submarine pipeline from Block 12 to Vassiliko (see Table 6.3), \$ million	\$2,000
H. Estimated distance from Vassiliko to Kyrenia, km	60
I. Estimated cost per 100km of an onland pipeline inc land purchase, \$ million	\$670
J. Cost of a land pipeline from Vassiliko to Kyrenia (HxI), \$ million	\$400
K. Estimated distance from Kyrenia to Aydincik on Turkey coast (shortest route), km	65
L. Cost of submarine pipeline from Kyrenia to Turkey coast (IxK), \$ million	\$440
M. Estimated distance from Aydincik to Ceyhan, km	200
N. Cost of a land pipeline from Aydincik to Ceyhan (IxM), \$ million	\$1,340
O. Total investment cost of pipeline to Turkey (F+G+J+L+N), \$ million	\$4,780
P. Net revenue of Block 12 gas to Turkey after transit and investment costs (E-O), \$ million	\$69,271
<i>Sources: index.mundi (natural gas prices); Pete Wallace, Tractebel Engineering (pipeline costs); DEFA (distances from Block 12 to Vassiliko).</i>	

According to our estimates in Table 6.5, the gross value of gas via pipeline after domestic consumption and losses in transit is \$74 billion—the same as a pipeline to Greece. This is already \$11 billion higher than the revenue available after power consumption from an LNG plant. Moreover, the investment costs are far lower, at around \$4.8 billion, compared with \$12.7 billion for the LNG plant. Thus, the net revenue that can be generated by gas sold via pipeline to Turkey comes out at \$69 billion, compared with \$55 billion for a pipeline to Greece and \$50 billion for an LNG plant. It is worth noting that the difference between LNG and pipeline to Turkey—some \$19 billion or €15.7 billion—is more than the level of public debt held by the

RoC government in 2011²⁴⁵ or is equivalent to a large proportion of the amount that might be required as a bail-out from the European Financial Stability Facility (EFSF).²⁴⁶

The second main advantage of piped gas is that it takes less time to build than an LNG plant, therefore revenue comes on stream faster, thus raising the NPV even higher. A third advantage is that it has a ready buyer, although the long-term nature of many LNG contracts means that the same is also currently true for LNG.

Table 6.6: Revenue generated by different export options

SUMMARY: COMPARISON OF DIFFERENT EXPORT OPTIONS		
Investment cost	\$ million	€ million
Investment costs of LNG	\$12,600	€10,328
Investment cost of pipeline to Greece	\$19,510	€15,992
Investment cost of pipeline to Turkey	\$4,780	€3,918
Net revenue	\$ million	€ million
Net revenue from gas converted to LNG, \$ million	\$50,148	€41,105
Net revenue from gas piped to Greece, \$ million	\$54,541	€44,706
Net revenue from gas piped to Turkey, \$ million	\$69,271	€56,779
Difference between LNG and gas to Turkey	\$19,122	€15,674
Memorandum items		
Republic of Cyprus government debt in 2011, € million	-	€12,720
Estimated amount of borrowing required from the troika (S&P July 2012), € million	-	€15,000
<i>Sources:</i> Natural gas prices from index.mundi; LNG prices from Reuters; pipeline costs from Pete Wallace, Tractebel Engineering; LNG plant cost from Minister Sylikiotis; distances from Block 12 to Vassiliko from DEFA; distance from Cyprus to Greece from DEPA; pipeline depth to Greece from Quantum Energy figures on electricity cable.		

²⁴⁵ RoC Public Debt Management Office, Annual Report 2011, <http://www.mof.gov.cy/mof/pdmo/pdmo.nsf/All/FF9F9CCE6F27A2DCC225782B002F21CC?OpenDocument>, accessed 29 October 2012.

²⁴⁶ *Sapienta Country Analysis Cyprus*, December 2012, http://www.sapientaekonomics.com/sapienta_v2en/ds/assets/files/SapientaCountryAnalysisCyprus_2012_12_v3.pdf, accessed 23 December 2012, and 'Cyprus' Support Package Could Total Upwards of €15 Billion Through 2014', Standard & Poor's, RatingsDirect, 17 July 2012.

A fourth advantage is that, by linking gas from Cyprus up to a pipeline network, it can reach the very large European market. Turkey has both a large and expanding domestic transmission and distribution network for gas and is becoming a major hub for international gas transit. As regards the domestic Turkish market, a pipeline from Cyprus could link up with the network that feeds major industrial centres such as Mersin, Adana and Gaziantep. As regards the international market, gas from Cyprus could be sold to European markets via the Trans-Anatolian pipeline (TANAP).²⁴⁷ TANAP, along with a shorter 'Nabucco West' pipeline planned from the Turkish-Bulgarian border to Baumgarten in Austria,²⁴⁸ could replace part of the originally planned, longer Nabucco pipeline.²⁴⁹ An alternative route is TANAP plus the proposed Trans-Adriatic pipeline, which is competing with Nabucco West for a link to TANAP.²⁵⁰ It is also conceivable that Cypriot gas could be used to power an LNG plant which is planned for Ceyhan in south-eastern Turkey.²⁵¹

The main downside of a pipeline to Turkey, of course, is that it is not possible in the absence of a settlement of the Cyprus problem. Even in the event of a solution of the Cyprus problem, Greek Cypriots worry that Turkey could for political reasons "switch off the taps" and thus cut off a revenue stream to Cyprus. However, this seems unlikely for two reasons. First, because Turkey depends for 73% of its energy needs on imports and its energy demand is growing at 7% to 8% per year.²⁵² Indeed, the Director of the RoC Energy Service, Solon Kassinis, said in September that he had received an email from a 1400 megawatt power plant in Turkey asking if they might be able to import gas from Cyprus by pipeline.²⁵³ Given Turkey's huge energy needs, it seems unlikely that it would have the spare capacity to cut off supply. The second reason why Turkey is unlikely to switch off supply is because if Turkey stopped imports from a united Cyprus, it would also imply cutting the revenue flow not only to Greek Cypriots but to Turkish Cypriots as well. However, given the turbulent history of relations between Turkey and the Greek Cypriots during the last half century, Greek Cypriot worries would need to be addressed by putting in place strong safeguards if a pipeline were ever built following a solution to the Cyprus problem.

²⁴⁷ The authors are grateful to Laura Le Cornu, partner at Strata Insight energy consultants, for the information on Turkey's domestic and international pipeline network.

²⁴⁸ 'Shah Deniz partners back Nabucco West pipeline: BP', Oleg Vukmanovic and Barbara Lewis, Reuters News Agency, 28 June 2012, <http://www.reuters.com/article/2012/06/28/us-caspian-nabucco-idUSBRE85R13220120628>, accessed 29 October 2012.

²⁴⁹ 'Turkey, Azerbaijan sign Trans-Anatolian gas pipeline agreement', Oil and Gas Journal, 28 June 2012, <http://www.ogj.com/articles/2012/06/turkey-azerbaijan-sign-trans-anatolian-gas-pipeline-agreement.html>, accessed 29 October 2012.

²⁵⁰ Antonios Livanios, CEO of Energy Stream CMG, speaking at the IMH Second Cyprus Energy Forum in Nicosia on 6 December 2012.

²⁵¹ Republic of Turkey Ministry of Energy and Natural Resources Strategic Plan, 2010-2014, http://www.enerji.gov.tr/index.php?dil=en&sf=webpages&b=yayinlar_raporlar_EN&bn=550&hn=&id=40721, accessed 29 October 2012.

²⁵² The Presentation of The Ministry's Budget for The Year 2011 at The Plenary Session of The Turkish Grand National Assembly, Turkey Ministry of Energy and Natural Resources, http://www.enerji.gov.tr/yayinlar_raporlar_EN/2011_Genel_Kurul_Konusmasi_EN.pdf, accessed 29 October 2012.

²⁵³ Solon Kassinis, speaking at the Euro Med Oil & Gas Exploration & Production Summit, 24 September 2012.

6.2.4 Pros and cons of CNG

One of the advantages of CNG is that it is cheaper to produce. Since the gas is only compressed, not liquefied, it takes less energy and equipment at the producer end and less energy and equipment to convert into usable gas at the consumer end. However, there are three key disadvantages of CNG. First, to date no ship to carry CNG has actually been built, since it is typically used for domestic consumption, for example for running cars in the Philippines.²⁵⁴ Second, even when the ships have been built, the cost of transport will be high (since less can be carried relative to LNG), especially over long distances. High transport costs therefore essentially limit the export market to Europe. Third, few countries have the domestic infrastructure to import CNG. Since CNG is too large in volume to be transported on land, it needs a domestic distribution network at the port of entry.

6.2.5 Pros and cons of electricity cable

If LNG is too expensive, pipelines are not politically feasible or economically viable, and CNG is too young an option for the RoC to exploit, another option could be simply to use the gas to fuel electricity plants that then export electricity via cable to both Israel and Greece and link it up to the pan-European electricity grid. This is the concept behind the EuroAsia Interconnector project. The aim is to build a 2,000 megawatt submarine electricity cable of 540 nautical miles (NM) (1,000 km) in length, passing from Israel to Cyprus (155 NM), then to Crete (340 NM) and another 65 NM from Crete to the Greek mainland. According to the main partner, Quantum Energy, the longest part of the cable is only 9 NM longer than the Nor-Ned link between Norway and the Netherlands. The closest cable in terms of depth is the SAPEI, which links Sardinia to mainland Italy at 1,600 km.²⁵⁵ Moreover, according to Quantum Energy's estimates, it will cost only €1.5 billion to build. Although many projects underestimate costs, this is probably a fairly reasonable estimate given that the SAPEI cable, at half the length, cost €750m.²⁵⁶

A major disadvantage of the EuroAsia Interconnector is its dependence on an unstable Greece. One of the project partners is the state-owned Greek Public Power Corporation, which raises questions about what happens to electricity supply in Cyprus and Israel if Greek employees go on strike. The high level of Greek involvement might also make financing difficult to procure. Finally, the revenue from the project, estimated at €17.5 billion, is much less than revenue available from a pipeline or LNG.

6.3 Conclusions

As discussed, there are several options for exporting gas, each with their own challenges. While the political decision has been made to produce LNG, what actually happens in practice will depend to a great extent on the direction of prices, decisions taken by Israel on how and whether to export gas, any changes in relations between the RoC and Turkey and, potentially, between Israel and Turkey, should a decision ever be taken to export gas to Turkey from Israel.

²⁵⁴ Gideon Lerman, CEO of Lerman Associates and Town Planners, speaking at an ERPIC seminar on 12 July 2012.

²⁵⁵ Presentation by George Killas, Consultant, PPC - Quantum Energy, 2 April 2012.

²⁵⁶ Source: <http://www.terna.it/default.aspx?tabid=2228>, accessed 25 November 2012.

CHAPTER 7:

POSSIBLE FUTURE SCENARIOS FOR ROC GAS PROJECTS

Drawing on our analysis in the previous chapters, in particular the positions of the various parties and their actions to date, we list here a number of possible scenarios for the future of the RoC's gas exploration and exploitation activities (summarized in see Table 7.1). The scenarios start with the worst case (war and no gas revenues) and end with the best case (settlement and larger gas revenues than would otherwise be the case).

Scenario 1: military conflict

As discussed in Chapter 5, Turkey seems keen to avoid full-scale military conflict. This makes the worst case scenario, in which Turkey fires on an exploratory vessel, unlikely. The only situation in which this might occur is if exploration activity is carried out in the five blocks west of Cyprus, which Turkey claims as its own continental shelf (Blocks 1, 4, 5 6 and 7). As previously discussed, Turkey appears far more likely to take military action to prevent exploration in these blocks than in the blocks over which it says that Turkish Cypriots have equal rights with Greek Cypriots. However, as discussed in Chapter 1, to date the RoC government appears to have avoided licensing any of these five blocks, therefore the chances of military conflict have been reduced.

Scenario 2: military orders gas-related vessels to leave

Scenario 2, in which Turkey sends new navy patrols into areas where exploration or exploitation is being carried out, should not be ruled out, especially as there are conflicting reports about how close Turkish military vessels got to the Homer Ferrington exploratory rig in Block 12 in September 2011. The main escalation in this instance would be if the military patrols forced exploratory vessels out of the area. However, Turkey seems to have opted for a policy of reciprocity for the time being. Moreover, since almost all of the winners of the first and second licensing round come from countries with significant military might, it seems unlikely that Turkey would choose to enter into confrontation with these countries, especially as the US (home of Noble Energy), France (home of Total) and Italy (home of ENI) are allies of Turkey within NATO.

Table 7.1: Possible Future Scenarios

POSSIBLE FUTURE SCENARIOS	
Political developments	Impact on RoC gas exploration & exploitation
1. Turkey fires on exploratory rig or vessel in a RoC concession block, leading to major conflict between Turkey and the RoC plus other interested parties.	Oil and gas companies withdraw from further exploration and/or exploitation. Gas remains in ground.
2. Turkish navy sends new patrols into RoC blocks where exploration is carried out and tells the operators to leave, leading to serious deterioration of relations between Turkey and countries of operating companies.	Insurance costs for oil and gas companies rise to prohibitive levels. Gas remains in ground because it becomes too expensive to exploit, especially if accompanied by lower global gas prices.
3. Negotiations to resolve the Cyprus problem fail to re-start or are officially called off, leading to withdrawal of UN efforts to find a comprehensive settlement. Tensions increase in the absence of leader-to-leader talks, leading to isolated attacks on Greek Cypriots/Turkish Cypriots visiting the other side.	Perceived increase in security risk raises insurance costs for oil and gas companies, and puts back exploratory drilling in other blocks.
4. (Status quo) Turkey continues to protest against Greek Cypriot exploration and exploitation but remains within the bounds of 'reciprocity policy' (see Section 4.2). Greek Cypriots and Turkish Cypriots continue to pursue independent exploration activities. Negotiations between the Turkish Cypriot leader and the Greek Cypriot leader elected in February 2013 resume but make little headway and there is no discussion of hydrocarbons.	In the absence of other export alternatives (i.e., pipeline to Turkey), RoC focuses on exporting gas as LNG. RoC junk status combined with concerns about future gas prices make it challenging to find financing to construct an LNG plant until additional gas volumes can be secured.
4a. As in Scenario 4 but decision by the Israeli government on whether to allow its gas to be exported via non-Israeli export facilities (e.g., LNG plant in Cyprus) remains pending.	Financing for an LNG plant is put on hold for 3 or 4 years until additional gas reserves are secured from the second licensing round. LNG plant takes 10 years to build. LNG revenue does not flow until 2027.
4b. As in Scenario 4 but Israel decides to export a significant quantity of natural gas via Cyprus.	Financing for larger LNG plant is secured; LNG construction starts and takes 10 years; revenue stream starts in 2023.

POSSIBLE FUTURE SCENARIOS (Continued)	
Political developments	Impact on RoC gas exploration & exploitation
4c. As in Scenario 4 but Syria conflict leads Israel and Turkey to make friends and Israel takes up offer to pipe its gas to Turkey.	In the absence of funding for an LNG plant, RoC decides that its best option is to pipe gas to Israel (which then pipes it to Turkey).
5. Leaders start dialogue on gas revenue management in a united Cyprus or on other hydrocarbon-related issues. Rhetoric improves but both sides continue to explore hydrocarbons separately. Modest progress in negotiations but without leading to a referendum.	Reduction in geopolitical risk leads to greater interest in funding an LNG plant and/or other export options.
6. Negotiations move rapidly ahead under new Greek Cypriot leadership after February 2013. All outstanding core issues plus a formula for gas revenue-sharing are agreed. Leaders sign up to a final deal. Referendum announced.	Cyprus gas linked to Turkish pipeline network. Construction takes 3 to 4 years. Revenue starts to be generated in 2017.

Scenario 3: UN gives up on negotiations

In Scenario 3, negotiations never re-start and relations between the two communities deteriorate dramatically. We believe that after the RoC presidential elections in 2013, both the Greek Cypriot and Turkish Cypriot communities will want to show the international community that they are willing to re-start negotiations, therefore we consider Scenario 3 to be unlikely. The main situation in which Scenario 3 could become likely is if the election is won by a candidate whose vision for a solution to the Cyprus problem is one that is judged to be outside UN parameters (for example, one that envisages a unitary state). In that case the UN might decide that it is not worth trying to re-start negotiations.

Scenario 5: Discussion of hydrocarbons under UN auspices

Scenario 5, in which discussion of hydrocarbon revenue management improves the atmosphere, would certainly boost the confidence of the Turkish Cypriots and address fears that the Greek Cypriots are determined to keep the revenues to themselves. However, to date the Greek Cypriots have steadfastly refused all attempts to discuss any aspect of hydrocarbons with the Turkish Cypriots. Therefore there is no reason to assume that a new Greek Cypriot leader would act any differently. This makes Scenario 5 unlikely.

Scenario 6: Rapid progress and referendum

We also believe that Scenario 6 (rapid progress and announcement of a referendum) is unlikely any time soon. Even if the new Greek Cypriot leader sits down immediately at the negotiating table with Eroğlu, almost a year will have passed since the last leader-level negotiations in March 2011, during which time the atmosphere has hardened. Just as in the period after the 2004 referendum, in the absence of negotiations, the rhetoric between the two communities has deteriorated, with leaders on each side blaming the other for the failure of the talks and accusing each other of intransigence.²⁵⁷ Moreover, by March 2013 the RoC government might be close to awarding licences to the winning bidders of the second licensing round, which will lead to further tensions with the Turkish Cypriots and Turkey. In addition, both leaders will have a continuing economic crisis to deal with, which could throw into doubt any previous understandings between Christofias and Eroğlu or between Christofias and his predecessor, Mehmet Ali Talat.

Progress in the talks will also be hampered by domestic politics. The current favourite to win according to opinion polls is the leader of the Democratic Rally (DISY), Nicos Anastasiades. He cannot win without the support of the Democratic Party (DIKO), which has traditionally taken a harder line on the Cyprus problem than Anastasiades, who supported the Annan Plan. In order to win support, therefore, Anastasiades has made promises about various contentious issues in the negotiations in order to gain DIKO's support.²⁵⁸ Eroğlu will also be facing re-election in 2015. Even assuming that the two leaders can establish good relations, therefore, it will take time for this to lead to any concrete breakthroughs.

Scenario 4: Status quo and high dependence on Israel's decisions

It is difficult to see a scenario that is any more likely than Number 4, which is essentially a continuation of the current situation. Under this scenario, Greek Cypriots and Turkish Cypriots continue to pursue independent exploration activities. Although negotiations between the Turkish Cypriot leader and the Greek Cypriot leader elected in February 2013 resume, they make little headway, not least because there is no discussion of hydrocarbons. The most pertinent aspect of this scenario is that its impact on the RoC's ability to develop gas will depend to a very large degree on decisions that are taken outside Cyprus, in particular decisions by Israel. To analyze the dependence on Israel, we have split the scenarios into Scenarios 4a, 4b and 4c.

²⁵⁷ Translated press summaries from private source of 8 August 2012 citing BRT and 13 August 2012 citing the Cyprus News Agency.

²⁵⁸ *Phileleftheros* reported on 25 September 2012 that if elected, Anastasiades would withdraw the proposal for a rotating presidency, 50,000 settlers remaining after a solution, the property arrangements, and granting the four freedoms to Turkish nationals. Source: translated media summaries from private source.

In the absence of other export alternatives, the RoC would continue to focus on exporting gas as LNG. However, as explained in Chapter 6, an LNG plant with the best economies of scale is one that has higher quantities than those currently estimated for Block 12. Given concerns about future gas prices and in view of the RoC's speculative ('junk') credit status, it is likely to be difficult to secure financing for only a small LNG plant. Under these circumstances, financiers are likely to wait until the RoC can secure higher volumes. This either means waiting a few more years until more reserves are found in the other RoC licensed blocks (Scenario 4a), which in turn means that revenues do not start to flow until around 2027, or at least 15 years from now.

Alternatively, it means waiting until the Israeli government has made a firm decision to export gas from a non-Israeli facility (Scenario 4b). However, this is a decision that cannot be relied upon, especially in view of Israel's concerns about attacks from Iran. The RoC lacks the military capability to defend a plant from attack and in view of Greek Cypriot hostility to Turkish and British troops on the island, it would be difficult for any government to hand over military protection of the country's assets to a third country such as Israel. We therefore believe that at most Israel would export a small amount from Cyprus, perhaps from the field that overlaps the RoC EEZ, but would not depend on the RoC for exporting from the giant field of Leviathan.

Either Scenario 4a or 4b means that the RoC is unlikely to find financing for an LNG plant for a few years yet, and that it will have to wait for revenue from natural gas for at least 15 years. A third variation of Scenario 4 (Scenario 4c) is even worse for the RoC as it sees rapprochement between Israel and Turkey as a result of a common interest in containing the civil war in Syria. In that scenario, Israel could decide to pipe gas to Turkey. This is not a far-fetched scenario. All of our interviewees in Turkey (conducted in December 2011) believed that relations between Turkey and Israel would inevitably improve. Moreover, in late November 2012, a Turkish Ministry of Foreign Affairs official, Mithat Rende, suggested that Israel should pipe its gas to Turkey.²⁵⁹ A pipeline from Israel to Turkey could link by sea to the Trans-Anatolian Pipeline (TANAP),²⁶⁰ which would then link either to the proposed Nabucco West or the Trans-Adriatic Pipeline to take gas to western Europe (see Section 6.2.3). According to the Convention on the Law of the Sea (Article 79(2)), Israel would technically not need the permission of the RoC to lay a subsea pipeline through its EEZ, although there is a requirement to obtain the consent of the coastal state regarding the delineation of the course for the laying of pipelines inside a state's EEZ or on its continental shelf (Article 79(3)). This version of Scenario 4 could put the RoC out in the cold, with no joint exploitation of gas with Israel and potentially without a lucrative export market. In this scenario, the RoC's only option might be to pipe gas to Israel, which in turn pipes it to Turkey.

²⁵⁹ 'Turkish official proposes gas pipeline from Israel', Amiram Barkat, 12 November 2012, <http://www.globes.co.il/serveen/globes/docview.asp?did=1000800189>, accessed 26 November 2012.

²⁶⁰ Our source for this information preferred to remain anonymous.

Conclusion

As we learned from experts during our research, when companies face the risk of falling gas prices, this puts a premium on investing in areas with political and legal stability. The RoC can offer legal certainty (although it still takes a long time to enforce contracts)²⁶¹ but it cannot offer geopolitical stability. Given the combination of a possible fall in gas prices, Turkey's warnings to companies involved in oil exploration, the current low volume of gas reserves and the RoC's junk credit rating, it seems that the exploitation of the gas to its full potential will be, at the very least, more difficult and more expensive without a settlement than it could be if there were a significant improvement in relations between Greek Cypriots and Turkey/the Turkish Cypriots. Moreover, it will depend to a high degree on developments in Israel, over which Greek Cypriots will have no control. Yet in the absence of significant change in atmosphere, an Israel-dependent Scenario 4 seems to be the most likely scenario for the time being.

²⁶¹ The World Bank's *Doing Business Report 2012* ranks Cyprus 105th out of 183 for enforcing contracts.

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The discovery of hydrocarbons by Eastern Mediterranean countries that were previously thought to have no such natural resources is changing the geopolitics and economics of the region in ways that are still evolving. This study focuses on the case of Cyprus. It examines the relevant developments from the legal, political and economic angles, with the aim of producing a primer for those who are interested in the Cyprus hydrocarbons issue and wish to understand its many different aspects.

On the basis of the chapters that outline the positions of the parties and analyse the available export options, the authors conclude their analysis with a range of scenarios. Each scenario takes a different assumption for progress in resolving the Cyprus problem and analyses its the impact on how successfully the Republic of Cyprus can exploit natural gas.

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