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LETTER DATED 23 MARCH 1987 FROM THE PERMANENT REPRESENTATIVE OF
TURKEY TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

With reference to Security Council resolution 395 (1976), and upon instructions from my Government, I have the honour to bring the following to your attention:

The North Aegean Petroleum Company (NAPC), as the operating company of an international consortium with partners from Canada, the United States of America and the Federal Republic of Germany, has been operating the offshore oil field near the northern Aegean island of Thassos since the early 1970s under an agreement reached with the Greek Government. On 24 February 1987, the Chairman of NAPC announced that the consortium planned to begin drilling for oil 10 miles east of the island of Thassos, outside the 6 mile territorial waters of Greece, at the end of March.

The maritime spaces beyond the 6 mile territorial waters in the Aegean Sea are areas in dispute between Turkey and Greece, and since 1976 there have been legal arrangements in effect that obligate both countries to refrain from all activity with regard to the Aegean continental shelf. Indeed, it will be recalled that in August 1976, the Security Council, upon a complaint by Greece on account of seismic research by an unarmed and unescorted civilian Turkish vessel outside the territorial waters in the Aegean, considered Turkish-Greek differences in this area and adopted unanimously resolution 395 (1976) on 25 August 1976. In this resolution, the Security Council appealed to the Governments of Greece and Turkey to exercise the utmost restraint and to reduce the tensions in the area. It called upon the two Governments to resume direct negotiations over their differences. The Council also appealed to the two sides to do everything within their power to ensure that these negotiations would result in mutually acceptable solutions.

Following the adoption of Security Council resolution 395 (1976), Turkey and Greece entered into direct negotiations on the delineation of the continental shelf in the Aegean as called for in this resolution. On 11 November 1976, the two Governments reached an agreement in Bern. This agreement incorporated the two basic elements of resolution 395 (1976), namely the exercise of restraint and the reduction of tensions as well as the resumption of direct negotiations between the two Governments. Article I of the Bern Agreement stated that,

"The two parties agree that the negotiations shall be frank, thoroughgoing and pursued in good faith, with a view to reaching an agreement based on their mutual consent with regard to the delimitation of the continental shelf between themselves."

Furthermore, article 6 of the same agreement stated that:

"The two parties undertake to refrain from any initiative or act concerning the Aegean continental shelf that might have adverse effects on the negotiations."

These articles constituted the fundamental aspects of the Bern Agreement. The negotiations that Turkey and Greece initiated following the Bern Agreement helped to defuse the tension and contributed to an improvement of the climate between the two countries. The negotiating process was, however, terminated by the new Greek Government after the elections of 1981. The decision to discontinue negotiations was in total disregard of the 1976 Security Council resolution and the Bern Agreement. In later years, the Turkish Government stressed on every occasion the necessity for dialogue and called upon Greece to resume meaningful negotiations. The Greek Government, however, showed no inclination to any dialogue with Turkey and in fact indicated strong opposition to a negotiated settlement of the questions regarding the Aegean Sea between the two countries.

The position of the Greek Government rests on the preposterous assertion that the Aegean continental shelf, which has not been delineated, belongs in its entirety to Greece. This not only defies all sense of equity but also wilfully disregards the decision of the International Court of Justice taken on 11 September 1976 upon the application of Greece for the indication of interim measures of protection by the Court. While rejecting the Greek request, the International Court of Justice described the Aegean continental shelf as an "area in dispute, and with respect to which Turkey also claims rights of exploration and exploitation". It follows that until the delineation of this "disputed area", it is not possible to speak either of a Greek or a Turkish continental shelf in the Aegean.

The Greek Government, however, continues to refer to the area beyond territorial waters in the Aegean Sea as the "Greek continental shelf". This is a totally arbitrary attitude without any legal basis since the Aegean continental shelf has not been delineated between Turkey and Greece. As the International Court of Justice noted in its decision of 11 September 1976, "neither concessions unilaterally granted nor exploration activity unilaterally undertaken by either of the interested States with respect to the disputed areas can be creative of new rights or deprive the other State of any rights to which in law it may be entitled".

It should be noted that the Greek Government, which disrupted the negotiating process with Turkey in 1981, continued to act for several years in keeping with the Bern Agreement, of 11 November 1976, under which the two countries have undertaken to refrain from any act and initiative that would adversely affect the issue. In fact, in 1982, it was reiterated by Greece, in the course of diplomatic exchanges between the Turkish and Greek Governments, that Greece had assumed the obligation to refrain from all activities in the disputed areas in the Aegean.

Now Greece has adopted a position that disregards this fundamental requirement. Turkey has drawn the attention of the Greek Government to the fact that the planned drilling activity 10 miles east of the island of Thassos outside Greek territorial waters would be contrary to both the Bern Agreement and Security Council resolution 395 (1976). Therefore, Turkey has requested the Greek Government to refrain from any such action that would aggravate the situation in the Aegean. Turkey has also stressed that the political responsibility for the situation that would arise out of these activities would rest with the Greek Government. The Greek authorities, however, have claimed that any step they may take in connection with the drilling activity near Thassos following an intended take-over of NAPC by the Greek Government would have nothing to do with the Bern Agreement, since Greece considers this agreement "inoperative" owing to the lack of negotiations between Turkey and Greece on the Aegean continental shelf. The Greek authorities have also confirmed that the planned drilling is beyond Greek territorial waters and that, after taking control of NAPC, they would carry out drilling at the same location.

It was the Greek Government that terminated the negotiating process between Turkey and Greece in 1981. Yet now Greece uses the lack of negotiations, a situation for which only itself is responsible, as a pretext to declare the Bern Agreement "inoperative". This self-contradictory attitude is inadmissible.

Moreover, it contravenes the written assurance of the present Greek Government, communicated to Turkey in March 1982, to refrain from actions concerning the Aegean continental shelf, an assurance that reaffirmed the 1976 Bern commitment after the negotiating process was disrupted by Greece.

It should be emphasized that as long as the two countries honoured their commitments under the Bern Agreement to refrain from any initiative or act concerning the Aegean continental shelf, particularly after the termination of negotiations by Greece in 1981, they have been able to prevent this legal dispute from sliding into undesirable and dangerous situations.

In keeping with this policy of restraint and strict observance of its undertakings, the Turkish Government has until now scrupulously adhered to its commitments under the Bern Agreement and thus refrained from all activity relating to the continental shelf in the Aegean beyond its territorial waters. The Turkish Government will continue to act likewise, if the Bern Agreement is upheld by both parties.

Notwithstanding their reciprocal commitments to refrain from activities relating to the Aegean continental shelf, Turkey and Greece, as the two littoral States, have the same rights for the free use of the high seas of the Aegean, which constitute approximately 50 per cent of this sea. The same applies to the international airspace above the high seas of the Aegean.

The Turkish Government is following with utmost attention the development of the situation and does not intend to acquiesce to any unilateral Greek action with regard to the Aegean continental shelf. It would like to draw the attention of the members of the Security Council to the gravity of the situation in the Aegean

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evolving between Turkey and Greece. It deems that, in conformity with Security Council resolution 395 (1976), Greece should refrain from all activities beyond its territorial waters on the Aegean continental shelf and should agree to resume negotiations with Turkey in the context of the 1976 Bern Agreement.

I should like to request that this letter be circulated as a document of the Security Council.

(Signed) Iltar TURKMEN
Ambassador
Permanent Representative
