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LETTER DATED 5 MAY 1978 FROM THE PERMANENT REPRESENTATIVE OF CYPRUS
TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Upon instructions from my Government, I have the honour to attach hereto as annex a document containing observations on the documents entitled "Main aspects of the Turkish Cypriot proposals" and "Explanatory note" of these proposals for the solution of the Cyprus problem, presented by the Turkish side to the United Nations Secretary-General in Vienna on 13 April 1978.

I shall be grateful if this document is circulated as a document of the Security Council.

(Signed) Zenon ROSSIDES
Ambassador
Permanent Representative

Annex

Observations by the Greek Cypriot interlocutor on the documents entitled "Main aspects of the Turkish Cypriot proposals" and "Explanatory note" of the Turkish Cypriot proposals for the solution of the Cyprus problem presented by the Turkish side to the United Nations Secretary-General in Vienna on 13 April 1978

GENERAL

The Turkish side has failed in its undertaking, formally given to the United Nations Secretary-General in January 1978, and announced by him, to present exact and complete proposals both on the constitutional and on the territorial aspects for the solution of the Cyprus problem.

The documents presented do not afford any basis for meaningful and substantive negotiations for the solution of the Cyprus problem, as envisaged by the relevant United Nations resolutions on Cyprus.

On the constitutional aspect, the provisions of the documents presented are contrary to the obligation to submit proposals for the establishment of a federal State. The documents provide, not for the creation of a federal republic, but for the partitioning of the existing State of Cyprus into two separate entities. In fact, the whole aim of the Turkish provisions is, under the guise of the word "federal", to invest the illegal Turkish Cypriot administration with legal powers.

On the territorial aspect, the Turkish documents contain no commitment for giving up any area now occupied by the Turkish forces.

CONSTITUTIONAL ASPECT

The Turkish documents do not provide for the establishment of a federal State. The provisions in the documents contain none of the attributes of federation, nor do they propose the creation of a federal State exercising, through its own organs, independent State power. At the very centre of the federal State, where one expects to find the fountain of federal power and functions, there is a total and complete vacuum. Furthermore, the relationship of the federal Government to the citizen, an essential element of federation, is non-existent. What the Turkish documents clearly provide is the creation of two separate States.

This is evidenced by the following examples, which are by no means exhaustive:

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(1) Sovereignty

Though the Turkish documents contain a statement that "the Federal Republic of Cyprus is to be a sovereign" federation, yet no sovereignty is allotted to the federal State, but, on the contrary, it is expressly provided that "the sovereignty should continue to be shared equally by the two national communities through their respective Federated States".

Thus, a most basic, fundamental attribute and prerequisite of federation is lacking.

(2) Unity of territory

The whole effect of the provisions throughout the Turkish documents is to destroy and deny the unity of the territory of the federal State. At the same time, numerous provisions aim at promoting and perpetuating the division and partition of the territory and the people in a consistent and glaring manner. The effect of these provisions is the establishment of two distinct and separate States, which is the obvious objective of the Turkish side.

That this is so, suffice it to give a few, but telling, examples.

(a) The individual will not be able to enjoy, irrespective of the community to which he belongs, his basic human rights throughout the territory of the Republic, and the federal Government is not vested with any legislative, executive or judicial power for safeguarding such enjoyment:

(b) The fundamental principles of freedom of movement, freedom of settlement, right to property and right to work throughout the federal State are ominously singled out for such special treatment as to be denied to the individual as a citizen of the federation. They are left to be legislated on separately by each "Federated State" at its own whim, at some distant, unspecified time in the future. In addition, the rights of freedom of movement and freedom of settlement are made subject to mutual agreement (which, because of the "deadlock" provisions, either side will for ever be at liberty to withhold) and to such conditions and restrictions as to render their enjoyment impossible in perpetuity, whilst the right to property is stultified;

(c) The aims of economic and social development and the prosperity of the people are envisaged on the basis of two water-tight, separate States;

(d) The suggestions regarding Famagusta are an apt illustration of the divisive concept of the provisions in the Turkish documents.

And yet, unity of territory is an indispensable attribute of federation and a test whether a federation or two States are to be established.

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(3) Federal powers and federal organs

No federal powers are conferred on the federal State and no specific federal organs are provided to exercise such powers:

(a) Federal legislative power

- (i) Although certain federal legislative powers are listed by their headlines in the Turkish documents to create the false impression that the federal Government will be invested with them, in fact such powers are to be exercised by the separate assemblies of the "Federated States" and not by a federal legislature. It is only "in case of conflict in matters of federal legislation by the two Legislative Assemblies" that legislation is referred to a federal Assembly made up of an equal number of Greek and Turkish members (10 members from each community) deciding by simple majority, inevitably resulting in deadlocks.

The deceptive provision for resolving such deadlocks through the casting vote of the President of the Assembly is nullified by the provision that whenever a casting vote is used the decision shall invariably be submitted "to a separate referendum in each Federated State".

This is another glaring manifestation of separatism which pervades the Turkish documents, in furtherance of the Turkish intention to create, not a federation, but two separate States.

- (ii) The same concept and divisive attitude permeate the provisions that for any federal law to come into force, even in the rare cases where a federal law is voted by both Assemblies of the two "Federated States", there must be joint promulgation by the two Presidents of the "Federated States". This gives to either of the two Presidents of the "Federated States" the right effectively to block all federal legislation even when enacted.

This is another indication of the lack of any intention to create a federal State. The effect of these provisions is to create deadlocks, ensuring that no legislation enabling the exercise of federal functions will ever be enacted. Conversely, each "Federated State" is given by itself absolute power effectively to block the operation of the federal State and to deny to the federal Government powers and functions which in all federal systems belong to it.

So long as no federal legislative assembly exercising independent legislative powers is created, the purported "Federal State" will be subject to the legislatures of the "Federated States".

This is against all fundamental principles of a federal State.

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(b) Federal executive power

The Turkish documents do not provide for the creation of specific federal executive organs vested with effective executive powers.

As in the case of legislative powers, certain matters are listed as "federal executive matters", but when the substance of the relative provisions is examined, it is established that they exist only in name. As explained in the Turkish documents, the federal Government will have "only those basic powers and functions which are considered necessary and feasible for the purpose of maintaining common services and without security risks to the life and property of the inhabitants of the member states".

As to the federal executive organs, the Turkish documents provide for "joint direction of the Federal Executive by the two Presidents of the Federated States" and for their continuous joint participation on a basis of equality in "the basic decision-making process for federal functions". The illusion of the existence of a "federal executive" exists only in the ceremonial functions to be performed on a "rotating" basis by one of the Presidents of the "Federated States".

As in the case of the provisions relating to the federal legislative power, the inevitable creation of deadlocks will prevent the exercise of federal executive power.

All the above unprecedented provisions are incompatible with the concept of a federal State and are only compatible with the creation of two separate States.

(c) Federal judiciary

The Turkish documents do not contain any concrete proposals for the establishment, composition and operation of federal courts, not even federal criminal courts, except for a proposed federal constitutional court, which would again be composed of an equal number of Greek Cypriots and Turkish Cypriots taking decisions by majority without a casting vote, thus extending the deadlock arising from the artificial equalization of the communities even to the administration of justice.

The election of a president of the court, which the Turkish documents provide should be made by its own members, will be virtually impossible since it is subject to the same deadlock provisions.

This is another serious departure from accepted federal principles.

(d) Protection of human rights and fundamental freedoms

Although the Turkish documents purport to contain "extensive provisions relating to fundamental rights and liberties" and an effective system for

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their judicial protection, this is nullified by the fact that "domestic and international" responsibility in this field is given, not to the federal Government as in all federations, but to the "Federated States" within their respective jurisdictions. This provision is a twofold violation of the federal concept: the vesting of the "Federated States" with international personality, a manifestation of the Turkish intention to create two separate States, and the denial of protection of the human rights of the citizen by the federal State.

As already stated, the fundamental principles and basic human rights of freedom of movement, freedom of settlement, the right to property and the right to work, far from being entrenched in the federal constitution, are mentioned in the Turkish documents only to be annihilated. In particular, the right to property and its enjoyment is substituted by provisions for compensation tantamount to confiscation.

The reference in the Turkish documents to all the basic International Conventions, Covenants and Declarations for the protection of human rights are thus exposed to be nothing but empty words.

(e) Position of the federal State in international law

The Turkish documents do not provide for the creation of a federal Republic of Cyprus as a separate subject of international law.

On the contrary, the Turkish documents state that the "Federated States" shall also bear "international responsibility" and that the conclusion of international treaties, conventions and agreements by the federal executive shall be "without prejudice to the right of the two Federated States to enter into any agreement with any country". Even the issue of passports and citizenship certificates is allotted to the "Federated States".

This gives a separate international legal personality to each "Federated State" and provides another incontrovertible proof of the objective of the Turkish side to create two separate States.

(f) Defence and security

Contrary to all concepts of federation, no provision is made for federal defence and security. Even for external defence, the Turkish documents provide "separate land forces of the Federated States stationed in their respective territories". Similarly, the function of guarding the coasts, preventing smuggling and customs control is allotted to the "Federated States".

This is another striking proof of the creation of two States.

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(g) Sources of revenue of the federal State, federal finance, economic and town and country planning

There is no provision in the Turkish documents for any sources of revenue of the federal State, except that these will consist of the charges and fees derived from services rendered by the federation. Since the federal State and the services to be so rendered are really non-existent, this source of revenue is only theoretical.

The subjects of federal revenues, federal finance, economic and town and country planning are conspicuously absent from the enumeration of "federal matters" set out in the documents. This is one more proof of the insubstantiality of the federal State.

Provision is made for a separate central bank for each "Federated State". This would enable either "Federated State" to draw on the reserves of the federation to finance its own separate and unco-ordinated private and public expenditure leading to certain collapse of the "joint currency" which no amount of "co-ordination" can remedy.

Thus, each "Federated State" will be a separate economic entity with different taxation, standards and services, making economic planning impossible. It will therefore inevitably necessitate the establishment of guarded borders between the two "Federated States" so as to prevent illegal trafficking and smuggling.

This is another clear proof of the intention to create two separate States.

(h) External communications

Other instances illustrating the lack of basic attributes of a federal State are the provisions relating to postal and telecommunication services which will obviously be the responsibility of the "Federated States", only co-ordination being ensured by the federal executive. Thus, each "Federated State" will have control of its own external telecommunication services, the "Federated States" being thus invested with international legal personality, in yet one more field.

This is contrary to all known systems of federalism and only consonant with the creation of two separate States.

The provision for the joint operation and maintenance of the Nicosia International Airport "by the two Communities", on the basis of equality, is so unworkable and absurd as to need no elaboration.

(i) Miscellaneous matters

Even matters such as standards of weights and measures, patents, trade marks, copyrights and meteorological services are to be the responsibility of

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the "Federated States", thus rendering it possible for different standards to be adopted by each. Only co-ordination is to be ensured by the federal executive.

This is another illustration of the denial of federal personality even in such insignificant matters as these.

(j) Composition and effectiveness of the proposed federal organs

The Turkish documents envisage, throughout, participation of Greek Cypriots and Turkish Cypriots in the federal organs, taking decisions on a basis of equality. Such provisions are the surest recipe for bringing about continuous and insurmountable deadlocks at all levels of the federal State leading to perpetual intercommunal friction, culminating, inevitably, in partition.

This is yet another manifestation of the negative attitude of the Turkish side towards federation in the true sense.

Moreover, the proposed equalization of the Greek Cypriot community, comprising 82 per cent of the total population, with the 18 per cent Turkish Cypriot community, now extended to all federal functions, is a negation of all democratic principles to which lip-service is paid in the preamble proposed for the constitution of the new federal republic of Cyprus, set out in the Turkish documents. It is also inconsistent with the universally accepted federal concept.

TERRITORIAL ASPECT

The Turkish side makes no proposal on the territorial aspect beyond what is proposed in April 1976, namely a "readjustment of the line", which it now further limits by expressing its readiness "to enter into negotiations for readjusting the line".

Such "readjustments" as are shown on the map attached to the Turkish documents are a mockery: the areas proposed to be given up are areas situated in the neutral zone which is not under the occupation of the Turkish forces. The Turks are in fact offering back what is not under their occupation. On the other hand, the areas in respect of which they have indicated readiness "to enter into negotiations" for readjusting the line are isolated insignificant areas, such as Kokkina, with the obvious aim of straightening and shortening and thus strengthening the Attila line. The extent of these areas represents about 1 per cent.

It is worthy of note that the Turkish documents studiously avoid any reference to one concrete and most important criterion for the settlement of the territorial aspect, namely, land-ownership. This significant omission is no doubt due to the fact that the Turkish Cypriot land-ownership is only 12.3 per cent of the land of Cyprus.

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The provisions of the Turkish documents with regard to Famagusta are so vague and incomprehensible and so hedged in by unspecified conditions that they do not amount to any kind of proposal whatsoever. In any event, the Turkish documents speak only about the possible return of some "Greek Cypriot owners" to their properties in only a specified limited part of Famagusta, subject to certain conditions, not about the return of Famagusta to its rightful owners. This is adding insult to injury when one remembers that the new town of Famagusta is an exclusively Greek-Cypriot inhabited town and all property in this town is owned exclusively by Greek Cypriots.

Even presuming that some Greek Cypriot "owners" were allowed to return to that specified limited part of Famagusta, the aim would be to exploit them and their know-how, converting them to hostages, subjecting them to the humiliations and vicissitudes suffered by the Greek Cypriot population in the Turkish-occupied area, and expelling them when they were no longer needed.

This is not an imaginary fear. The terrible reality is the forcible, calculated expulsion, long after the cessation of hostilities, of the Greek Cypriots who were not driven out during or immediately after the invasion. Of the 20,000 who had so remained, only 1,770 are now left in the Turkish-occupied area, living in conditions of deprivation of all basic fundamental human rights and liberties.

The provision in the Turkish documents that freedom of residence will be recognized primarily for "professional purposes" and the other conditions to which the exercise of this right will be subjected, affords further insight into the true aims of the Turkish side in respect of Famagusta. Furthermore, the danger of subjecting oneself to "the laws of the Turkish Federated State of Cyprus" is not a theoretical danger because already in the "Constitution" of the "Turkish Federated State of Cyprus" the protection of human rights extends only to "Turkish citizens". Foreigners, a term which includes Greek Cypriots, are not accorded such protection.

The provisions relating to Famagusta, if they prove anything, prove the Turkish intention not to create a federal Republic, because the provisions offend against the principle of the unity of the territory of the federation and of its people. The division is extended, not only as between Greek Cypriots and Turkish Cypriots, but also as between categories of citizens - some "owners" of property and others.

CONCLUSION

This paper mentions only some of the most glaring examples of the failure of the Turkish side to honour its solemn and express undertakings to submit concrete and comprehensive proposals for the creation of a federal Republic.

The Turkish documents themselves reiterate that the provisions are for "federation by evolution". Even this "evolutionary process", however, in addition to its unacceptability, is illusory, since it is arrested for at least seven years,

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during which there will be "reservations on amendments" to the constitution. After the lapse of seven years, the proposed "deadlock" provisions would again preclude any form of evolution. But it must again be stressed that "federation by evolution" is for obvious reasons totally unacceptable at its basis.

From the few examples given, it becomes evident that the Turkish approach to the solution of the Cyprus problem bears no relation to the concept of federation, and that therefore no number or extent of amendments can bring it into line with the agreed basis of establishing a federal Republic. Thus, the "proposals" contained in the Turkish documents cannot, by any stretch of the imagination, be considered as providing any basis for negotiation and the resumption of intercommunal talks.

With regard to the most important aspect of territory, the Turks have again failed to suggest anything which could be described as proposals.

In fact, the provisions in the documents now presented (some of which are couched in identical language as the proposals presented in Vienna in April 1977) reveal even more clearly than ever before the Turkish intention to create two separate States. Therefore, if the proposals presented in Vienna last year proved in practice not to form a basis for negotiation and led to the breakdown of the talks, the proposals presented now are a fortiori not a basis for negotiation and the resumption of intercommunal talks.

It must also be pointed out that all the provisions in the Turkish documents are coupled with deviously phrased escape clauses allowing the Turkish side, during the actual negotiating process, to become even more intransigent than its "proposals" show it to be, and to renege even from the ostensible commitments contained in the documents.

It is obvious that the sole objective of the Turkish documents was to create the false impression that the Turkish side was honouring its obligation to submit concrete and comprehensive proposals, and thus to improve the international image of Turkey, and for other purposes, not the solution of the Cyprus problem in the interest of the people of Cyprus and of peace and security in the area. It is equally obvious that, once this objective was achieved, the Turkish side, relying on the many escape clauses contained in the documents, would, far from entering into negotiations with a view to improving its "proposals", recede from them even further.

In light of the above, the Turkish proposals are considered as totally unacceptable and as such cannot under any circumstances justify resumption of intercommunal talks.
