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Letter dated 30 September 2021 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

Further to my letter dated 13 July 2021 (A/75/961-S/2021/651) and with reference to the letter of the Permanent Representative of Greece dated 27 July 2021 (A/75/976-S/2021/684), I would like, upon instruction of my Government, to bring to your attention the following:

It is regrettable that the Permanent Representative of Greece, in her letter referenced above, persists with efforts to justify Greece's continuing material breach of the demilitarization provisions of the 1923 Lausanne and the 1947 Paris Peace Treaties. Turkey rejects all of the arguments and allegations contained therein and would like to underline the six legal points elaborated on below.

First, article 12 of the 1923 Lausanne Peace Treaty confirmed, on the condition that the islands be demilitarized, the decision of 13 February 1914 by the Conference of London, which ceded certain Aegean islands to Greece. As is apparent from the letter of the Lausanne Peace Treaty, and the manner in which it confirms the 1914 decision, Greece's sovereignty over the islands was and remains dependent upon demilitarization. The contention that Greek sovereignty over the Eastern Aegean Islands is not linked to the maintenance of their demilitarized status is devoid of legal basis. Article 12 of the Lausanne Peace Treaty unequivocally establishes (in part through the reference made to the 1914 decision) a clear connection between sovereignty and demilitarization for all of the Eastern Aegean Islands. Article 13 of the same Treaty further defines the nature of the demilitarized status for the islands of Mytilene, Chios, Samos and Nikaria by setting out the restrictions pertaining to that status. As regards Lemnos and Samothrace, they are (under the 1923 Convention Relating to the Regime of the Turkish Straits) subject to an even stricter regime, owing to their proximity to the Turkish mainland.

Second, the 1936 Montreux Convention established a new regime only for the Turkish Straits: it contains no specific provision as to the termination of any previous demilitarization provision and obligation binding upon Greece. As is apparent from the preamble to the Montreux Convention (and the broader context), the parties to that Convention did no more than to agree, among themselves, on a different regime

with regard to Turkey. That is why the preamble refers only to the regulation of passage and navigation in the Straits within the framework of Turkish security and (as regards the Black Sea) of the security of those States that were riparian States in relation to the Black Sea. The reference to the Black Sea excludes Greece and does not address the issue of the security of Greece. Therefore, the 1936 Convention could not in any way terminate or abrogate the demilitarization obligations binding upon Greece as set forth in the 1923 Convention. The 1936 Montreux Convention enables only Turkey to remilitarize the zone of the Straits: it contains no such provision (whether explicit or implicit) for Greece.

Third, political pledges not made during negotiations or talks between the parties cannot be construed as giving rise to any legal obligation. Furthermore, as the Chamber of the International Court of Justice emphasized in the *Frontier Dispute*, there is a duty to show great caution before attaching any weight to such a statement when it was not directed to any particular recipient (*I.C.J. Reports 1986*, p. 554, at p. 574). Turkey's State practice to date and Greece's State practice until the 1960s as regards the interpretation of the demilitarization provisions of the above-mentioned instruments in any event invalidate Greece's arguments in this respect.

Fourth, the contention that Turkey cannot invoke the demilitarization provisions of the 1947 Paris Peace Treaty vis-à-vis Greece because of Turkey's non-party status is legally unfounded. The 1947 Paris Peace Treaty is a demilitarization treaty *in excelsis*: it is, owing to its character, one of the classic examples of a treaty instrument establishing an "objective regime". As is well known, the effect of creating such a regime valid *erga omnes* is attributed to treaties which confer a special status on territories. A salient example is the case of the Aaland Islands, demilitarized according to the Convention of 1856 on the Demilitarization of the Aaland Islands, annexed to the 1856 Paris Peace Treaty.

Fifth, and following from the fourth, the fact that such treaties create objective regimes was confirmed by the International Committee of Jurists, entrusted in 1920 by the Council of the League of Nations with the task of giving an advisory opinion on the legal aspects of the Aaland Islands question between Finland and Sweden. The International Committee held that the demilitarization provisions "constituted a special international status relating to military considerations, for the Aaland Islands": this meant that every State interested had "the right to insist upon compliance with them" (*League of Nations Official Journal*, Special Supplement No. 3, 1920, pp. 15, 18–19). According to the International Committee's statement of opinion, Sweden, though not a State party to the Convention of 1856, had the legal right to demand that the demilitarization provisions be respected. By the same token, Turkey, an interested State, has the right to insist on compliance by Greece with the conventional demilitarization obligations by which Greece is bound. Turkey furthermore urges other States parties to the said treaties to invite Greece to comply with the provisions of those treaties.

By militarizing the islands in question, Greece has forfeited its right to assert the opposability to Turkey of the treaties mentioned above and the rights which it claims to derive from them. As the International Court of Justice observed in Namibia, "a party which disowns or does not fulfil its own obligations cannot be recognized as retaining the rights it claims to derive" from the instrument in question (*I.C.J. Reports 1971*, p. 16, at p. 46). International law certainly does not allow the inequitable situation wherein a defaulting State continues to rely for its own purposes on a treaty whose very obligations it itself is breaching.

Sixth, it is disappointing that the Permanent Representative of Greece in her letter chose to make absurd political allegations as regards the regional context, rather than to focus on legal arguments. In addition to laying bare the weakness of Greece's

legal position, the allegations reflect a state of mind which is disconnected from reality. As such, they merit no further response.

Turkey once again calls upon Greece to abide by the demilitarization provisions of the above-mentioned treaties and to reinstate the demilitarized status of the Eastern Aegean Islands as it was before the occurrence of Greece's breaches.

I would be grateful if you would circulate the present letter as a document of the General Assembly, under agenda item 78 (a), and of the Security Council, and have it published on the website of the Division for Ocean Affairs and the Law of the Sea, as well as in the next edition of the *Law of the Sea Bulletin*.

(*Signed*) Feridun H. **Sinirlioğlu**
Permanent Representative