

Cyprus: the April 24th 2004 Referendum¹

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On November 11, 2002, Kofi Annan presented a reunification plan for Cyprus. The real movers and shakers behind the scenes were the British and the Americans. This plan was accepted as a basis for negotiation by the Greek-Cypriots but refused by Turkey and Turkish-Cypriots. The Plan provided for a bizonal federal republic composed of two states, a Turkish-Cypriot North and a Greek-Cypriot South enjoying considerable autonomy. This confederation would have a collective executive with an alternating presidency like that of Bosnia Herzegovina. It would legalize the *status quo* created by the Turkish invasion of 1974 but not follow EU regulations, especially those related to property rights or the freedom to circulate and to establish residency.

Annan revised his plan while visiting Cyprus in February 2003 and again at The Hague in a meeting with Tassos Papadopoulos, President of the Republic of Cyprus, and Rauf Denktash, head of the Turkish-Cypriot community. Denktash's unswayable position turned that meeting into a failure.

Further to a Turkish National Council decision on January 23, 2004, which suggested that the Cypriot issue be settled by a solution based on the Annan Plan, a meeting took place in New York on February 13, 2004. Papadopoulos and Denktash agreed to reopen intercommunitary negotiations and to seek reunification. Under American pressure, the Greek party accepted the role of the UN Secretary General Kofi Annan to complete any unfinished parts of the plan («filling in the blanks») and resolve any continuing and persistent deadlocks in the negotiations. The parties accepted also to hold a referendum in each community for the final decision. The Turkish side accepted the same condition but apparently received assurances from Washington that its main demands would be satisfied.

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Negotiations began in Nicosia on February 10, 2004, but failed once more. On March 24, the Greek and Turkish prime ministers and Cypriot President Papadopoulos met at a conference in Switzerland. There was a Turkish-Cypriot delegation present but not Denktash. Annan decided, therefore, to reformulate the conditions for reunification as drafted at the February 13 meeting in New York. On March 13, he presented the fifth version of his plan, which was submitted, to all Cypriots for approval by referendum on April 24. In finalizing his plan, Annan used his discretion to fill in the blanks and complete the text on important issues on which the two sides failed to reach an agreement. In other words, the Plan was a reflection of the urgent need felt by Britain and the US to settle the problem before Cyprus' accession to the EU. It was the product of London's and Washington's will to solve the Cyprus problem in order to suit Turkey's European ambitions.

Referendum campaign

Greek-Cypriots felt tremendous disappointment when the last reunification plan was made public. Annan's compromise met Turkish needs, as highlighted by the international media. In fact, this version seemed worse than the others in terms of human rights or settlement issues.

The head of state, Tassos Papadopoulos, and president of the Democratic Party (Diko) asked Greek Cypriots to respond 'no' at the referendum, as did Vassos Lyssarides, the honorary president of the socialist party (EDEK), the New Horizons party and the Green Party. The 'no' side was also supported by an autonomous citizen's movement. However, leaders of the democratic rally (Disy) founded by former president Glafcos Clerides, recommended a 'yes' vote. As did another former president, George Vassiliou and his small party, the EDI.

While the major political parties reacted in favour or against Annan plan and promoted the 'yes' or 'no' vote the position of the Communist party Akel, headed by Dimitri Christofias, developed during the campaign. The Akel favoured in the beginning a 'yes' vote but at the end under pressure from its popular basis rallied to the 'no' camp. Only with international guarantees would, leader of the party Dimitris Christofias, recommend acceptance of the Annan plan.

Greece's Position

In Greece, the Cypriot referendum incited highly contrasted political positions. Papandreou, as head of PASOK, wholeheartedly supported the 'yes' side. The KKE communists recommended a 'no' vote to the Annan Plan, which they considered a product of American imperialism. Prime Minister Caramanlis stated that there were more positive than negative points in the Plan, but others in his party New Democracy recommended a 'no' vote. The Synaspismos Party (Coalition of Left) supported the Plan but not unanimously. In reality all parties were divided on the issue. Inside PASOK, for example, thousands of cadres, ancient ministers and MPs supported the 'no' vote.

On April 22, leaders from the New Democracy party, PASOK, KKE and Synaspismos met under President of the Republic Kostas Stephanopoulos to draft a joint position paper on the referendum, but failed to reach a consensus.

The Turkish-Cypriot Position

Denktash campaigned for the 'no', hinting that he would resign if the opposite side won in the northern part of the island. Former 'prime minister' Dervis Eroglou supported the 'no' side, too. The 'yes' side included the Turkish-Cypriot 'prime minister', Mehmet Ali Talat, leader of the Turkish Republican Party (35.71%) as well as the Movement for Peace and Democracy headed by Mustapha Akindji (13.5%). The position of Serdar Denktash of the National Unity Party (12.6%) changed from a 'no' to the 'free conscience of electors'.

Turkey's Position

Prime minister Erdogan and his AKP party favoured the 'yes' against Denktash, who asked Erdogan to avoid involvement in the referendum. Former Turkish PM Bulent Ecevit, as honorary citizen of the 'Turkish Republic of Northern Cyprus', came to support the anti-Annan Plan side in Cyprus. The Turkish military establishment gave also the green light for a 'yes' vote. Some smaller parties favoured the 'no' vote. But in general supporters of the 'no' vote were in minority.

The International Community

The head of the EU Enlargement Commissariat, Gunter Verheugen, asked Greek-Cypriots to vote for the Plan in the referendum. The USA and UK pressured Greek-Cypriot leaders to promote the 'yes' vote. Colin Powell, American Secretary of State, spoke to Dimitris Christofias the General Secretary of the Communist AKEL party to have him on board; whereas British foreign minister, Jack Straw, threatened on March 4 that a 'no' victory would jeopardize the EU representation of the Republic of Cyprus.

Referendum Results

On April 24, Greek-Cypriots voted 76% against the Annan Plan while 65% of Turkish Cypriots approved it. Without approval from both communities, the text was rejected. This angered the UN secretary general Kofi Annan and embarrassed the EU. Annan and Verheugen considered it a personal failure. Especially as they had created the referendum to avoid Denktash's opposition to the UN plan despite the favour it enjoyed with the majority of Turkish-Cypriots.

Significance of the Greek-Cypriot 'No'

The international press interpreted the 'no' vote of the Greek-Cypriots as a refusal to accept the reunification of Cyprus. Yet, the Greek-Cypriots rejected the Annan Plan not reunification. Exit polls confirmed that only 13% of Greek-Cypriots voted 'no' because they refused to cohabit the island with Cypriot-Turks. The same survey revealed that 'no' supporters, partly, justified their vote with 'security reasons'. Note that the Annan plan would have maintained the Turkish army on Cypriot territory until 2018 at which point a contingent of 650 soldiers would remain. In addition, Turkey was assured the right to intervene militarily in the island as she did with the 1974 invasion. This constituted an unacceptable threat for Greek-Cypriots compounded by the fact half the refugees could not return to their homes. Moreover, it was provided for that the majority of Turkish settlers would stay in the island according to the Annan plan which also reserved territorial water rights for Great Britain bases.

The US, Britain, the EU and Kofi Annan tried to convince everyone that the Plan was the last and best opportunity for a settlement that would allow Cyprus to join the European Union reunited. Apparently, the majority of the Greek-Cypriots disagreed with this assessment, as they believed that the Plan was neither fair nor functional. Especially the provisions for the Turkish settlers, Turkish occupation army, and refugees made the Greek-Cypriot voters particularly unhappy. In fact, the Greek-Cypriots considered Annan's plan as an effort on the part of Britain and the US to facilitate Turkey's European aspirations rather than a viable and just solution of the Cyprus problem. There were also serious questions about the implementation and viability of this Plan, which created feelings of uncertainty and insecurity among the Greek-Cypriots.

Significance of the 'Yes' to Turkish-Cypriots

The international media presented the Turkish-Cypriot vote as a desire to reunify the island. However obviously the Turkish-Cypriot vote explains that the inhabitants of northern Cyprus wanted the northern part of the island to be part of the EU for economic reasons. Also, the role played by Ankara explains the 'yes' vote, given its desire to promote Turkey's European ambitions.

The Legal Effects of the Referendum

The ongoing division of the Republic of Cyprus, an EU member since May 1, has five major legal consequences:

1. Cypriots became EU citizens. This status applies to Greek-Cypriots as well as 20,000 Turkish-Cypriots holding a Cypriot Republic passport. Every Turkish-Cypriot has the right, as a citizen of the Republic of Cyprus, to obtain its passport and in fact, all Turkish Cypriots became EU citizens.
2. The EU borders coincide with the limits of the Republic of Cyprus. They are not defined by the Green Line. The EU treaty signed April 16, 2003, foresaw the entire territory of the Republic of Cyprus as part of the Europe of 25. The application of community law to the Turkish occupied zone was temporarily suspended.

3. Turkey will have to recognize the Government in Nicosia as that of the Republic of Cyprus in order to be associated with the EU, which it wishes to join. Turkish-Cypriot diplomatic relations will have to follow.
4. The Turkish army stationed in Cyprus remains an occupation army in a new EU-member country. Note the Turkish army's presence would have been legalized by the Annan Plan.
5. Greek-Cypriot petitions at the Strasbourg Human Rights Court lodged against Turkey for violations to the European Human Rights Convention caused by the invasion and colonization of Cyprus are maintained. Whereas the Annan Plan provided for two Cypriot co-presidents to deal with the Secretary General of the Council and possibly withdrawing any pending cases.

Post-Referendum

Diplomatic recognition of the 'Turkish Republic of Northern Cyprus' can not occur. Two texts oppose this entity's recognition and EU membership. When Denktash proclaimed the TRNC's independence on November 15, 1983, the UN adopted Resolution 541 two days later to nullify it. Also, the April 16, 2003 EU treaty deals with the entire territory of the Republic. Unless the treaty is modified, it is impossible to have the «Northern Republic» i.e. the occupied zone belong to the EU, after recognizing its diplomatic existence.

There are three possibilities now: an end to northern Cyprus' economic isolation; a new reunification plan; increased pressure on Turkey to settle the Cyprus issue.

The occupied zone, as of 1974, could no longer have foreign trade as only Turkey recognizes it as a state. A decision from the European Court of Justice on July 5, 1994, stipulated that any exchanges required certificates from the authorities of the Republic of Cyprus. Denktash's refusal to face this process led to economic isolation. The funding, 259 million Euros, provided as the EU aid for northern Cyprus after reunification, will go in principle, to Turkish Cypriots. However, the northern part of the island's trading requires the Republic of Cyprus and its authorities. The Government of Cyprus, is

not opposed to the trade with northern Cyprus or aid to Turkish Cypriots. However, it insists that everything be done according to international law, respecting the sovereignty of the country and its legal power over the whole island. In other words the aid and trade for the occupied northern part of the island will pass through the Government of the Republic of Cyprus in cooperation with EU authorities, and this does not imply any recognition of the *fait accompli* of the Turkish occupation.

It is also likely that the UN will try again for reunification. A survey from May 8 showed that 60.9% of all Greek-Cypriots favour new negotiations for the reunification of the island.

We can foresee that the international community, especially the EU, will pressure Turkey to soften its position on Cyprus. In fact, in December 2004, the Europe of 25 will decide whether to start negotiations with Ankara. The EU might try again to break the deadlock. Regardless, Turkey must turn around European public opinion, and the Cypriot issue provides an opportunity to do so. A reunified island where Greek-Cypriots and Turkish-Cypriots live together will enhance rapprochement between Turkey and the EU. With the right to a veto, the Republic of Cyprus may block Ankara at the EU if not in December 2004, later, by refusing to ratify the Treaty of Accession of Turkey.

ANNEX I

Report of the U.N. Secretary-General on his mission of good offices in Cyprus

Summary

On 13 February 2004, the parties in Cyprus committed to negotiating in good faith on the basis of the settlement plan dated 26 February 2003, to achieve a comprehensive settlement of the Cyprus problem through separate and simultaneous referenda before 1 May 2004. To this end, they agreed to a three-phase negotiation and finalization procedure.

In Phase 1 of the effort, the parties negotiated in Cyprus between 19 February and 22 March 2004. This effort did not produce significant progress at the political level. However, positive results were achieved at the technical level by experts from the two sides assisted by United Nations experts.

In Phase 2 of the effort, I convened a meeting of the two sides in Bürgenstock, Switzerland, beginning on 24 March 2004, with the participation of Greece and Turkey in order to lend their collaboration. Full use was not made of the opportunity for concentrated negotiations and consultations to agree on a finalized text by 29 March 2004, and agreement did not prove possible.

In Phase 3 of the effort, after consultations with the parties, I finalized on 31 March 2004 the text to be submitted to referenda on the basis of the plan, maintaining its overall balance while addressing to the extent possible the key concerns of each side.

The proposed Foundation Agreement in “The Comprehensive Settlement of the Cyprus Problem” as finalized was submitted to separate simultaneous referenda on 24 April 2004. It was rejected by the Greek Cypriot electorate by a margin of three to one, and approved by the Turkish Cypriot electorate by a margin of two to one. It therefore did not enter into force.

This outcome represents another missed opportunity to resolve the Cyprus problem. The effort over the last four and a half years has achieved a great deal which should be preserved. However, none of those achievements is a substitute for a comprehensive settlement.

The decision of the Greek Cypriots must be respected. However, it is a major setback. They may wish to reflect on the implications of the vote in the coming period. If they remain willing to resolve the Cyprus problem through a bicomunal, bizonal federation, this needs to be demonstrated. Lingering Greek Cypriot concerns about security and implementation of the plan need to be articulated with clarity and finality. The Security Council would be well advised to stand ready to address such concerns.

The decision of the Turkish Cypriots is to be welcomed. The Turkish Cypriot leadership and Turkey have made clear their respect for the wish of the Turkish Cypriots to reunify in a bicomunal, bizonal federation. The

Turkish Cypriot vote has undone any rationale for pressuring and isolating them. I would hope that the members of the Council can give a strong lead to all States to cooperate both bilaterally and in international bodies, to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots and impeding their development — not for the purposes of affording recognition or assisting secession, but as a positive contribution to the goal of reunification.

There is no apparent basis for resuming the good offices effort while the current stalemate continues.

However, given the watershed that has been reached in efforts to resolve the Cyprus problem, a review of the full range of United Nations peace activities in Cyprus is timely, as outlined in the present report.

ANNEX II

Letter by the President of the Republic of Cyprus, Mr Tassos Papadopoulos, to the U.N. Secretary-General, Mr. Kofi Annan, dated 7 June, which circulated as an official document of the U.N. Security Council

With reference to your Report on the mission of good offices in Cyprus (S/2004/437), dated 28 May 2004, and further to our recent meeting of 4 June 2004, I would like to convey to you further my relevant position.

This reply is presented in full respect for your action in the framework of your mission of good offices and has been prepared in a constructive and forward looking manner. Indeed, I take this opportunity, to once more, reiterate my gratitude and appreciation for your sustained personal efforts towards a settlement in Cyprus.

When reading this Report, one should, nevertheless, bear in mind that it has been primarily drafted by those entrusted by you with the role of honest broker and were active participants throughout the process. Through this

Report they assess effectively the outcome of their own efforts, whilst at the same time attempting to portray and evaluate the attitude of the parties involved. In other words, the authors of the report play essentially the role of the judge and jury of the overall outcome of the negotiation process they presided over.

I welcome, in particular, the recognition, in the Report, that serious concerns of the Greek Cypriot community had not been adequately addressed in the final Plan of 31 March 2004, a fact which weighted heavily on the results of the referendum held on 24 April 2004.

It is regrettable that these concerns, which I had explained in detail, both orally and in writing, in Nicosia, through various documents, numbering more than 200 pages of comprehensive proposals, amongst which one of the most important was the document of 8 March 2004 concerning the crucial issue of security, were to a great extent, ignored.

Let me remind you that these legitimate concerns refer mainly (a) to the question of Turkish mainland settlers, an issue which I also raised in my two letters I addressed to your Excellency, on 23 and 25 March 2004, without any response; (b) the permanent stationing of Turkish military forces in Cyprus, even after Turkey's eventual accession to the European Union; and (c) the expansion of the guarantor powers' rights emanating from the Treaty of Guarantee, through the inclusion of an additional protocol.

You very rightly point out, in your Report, that there is disagreement over the interpretation of the rights of the Treaty of Guarantee, between the Republic of Cyprus and Turkey. Given that Turkey invaded Cyprus in 1974 by invoking this very specific right, this issue has been of paramount gravity for our side. In order to tackle this issue, we have proposed the adoption of a triggering off mechanism for the exercise of the right of intervention under the Treaty of Guarantee. However, Mr. de Soto refused to discuss the issue and Your Excellency also did not contemplate this possibility. Even after the presentation of the text of the final Plan, Cyprus tried to secure a strong resolution under Chapter VII of the UN Charter and in any event the adoption of a triggering off mechanism. This attempt of ours, as you very well know, was once more, unsuccessful due to the strong opposition of the other side.

Another issue of significance, negatively affecting the negotiating process, which you also include in your Report, was the lack of sufficient time and the tight deadlines provided. These factors did not allow either substantial negotiations to take place, or for an agreed solution to be reached between the two communities.

This is all the more regrettable, since I had been repeatedly advising, after the collapse of the talks, at the Hague, in March 2003, that we should not be faced with another artificial deadline, giving anxiety to the Cypriot people that they would be besieged and that their legitimate concerns were not given appropriate consideration. This flawed negotiating method, which resulted in a ten-month delay in the resumption of the talks, has proved inadequate and counterproductive. We bear witness to the results of such a method, not only in the case of Cyprus, but also in other regional conflicts, leading, at best, to short lived arrangements incapable of bringing about stable and lasting solutions.

May I point out that the crucial period of more than a month of the first phase of negotiations, in Nicosia, as you also point out in your Report, was allowed to elapse without any progress due to the intransigent position and demands of the Turkish Cypriot side, which laid well outside the key parameters of the plan.

Let me underline that there have been serious inaccuracies, as well as wrong assumptions, in your Report, which are pointed out in the attached *Annex*. The most serious of them is the erroneous interpretation of the choice of the Greek Cypriot community at the referendum of April 24, namely that by the disapproval of this specific Plan Greek Cypriots have voted against the reunification of their country.

Such a claim is unfounded and insulting. It should not be forgotten that a substantial number of those voting were refugees, 70 per cent of which voted “no”, and who for more than thirty years have been deprived of their human rights, particularly their rights to return and to property, due to the presence of 35,000 troops and 119,000 illegally implanted Turkish settlers.

Another fallacious assumption of the Report is that the Greek Cypriots are turning away from a solution based on a bi-zonal, bi-communal federation. I would be very interested to look into any credible evidence, put forth in

good will, pointing out to even a single reference in our written proposals, submitted in Nicosia and Burgenstock, which will support this assumption. The same can also be said for our comments submitted orally. Moreover, our firm position taken through all these years of deliberations does not justify in any way the inference of such a claim.

In any event, I take this opportunity to emphatically reiterate, once more, on behalf of the Greek Cypriot side, the commitment of my people, as well as my strong personal one, to the solution of a bi-zonal, bi-communal federation. At the same time, I am compelled to reject the notion that the Plan submitted on 31 March 2004 constitutes the one and only, unique, blueprint of a bi-zonal, bi-communal federation. Does anybody today claim that the previous versions of the Plan, which were similarly presented as unique opportunities for the achievement of a bi-zonal, bi-communal federation, were not so?

Turning to the Section of the Report, outlining the alleged improvements inspired by the Greek Cypriot concerns, I wish to point out the following: the allegation that “*the overall amount of property in the Turkish Cypriot State eligible to be reinstated to Greek Cypriots would be roughly doubled as compared with the previous version of the plan*” can be described as inaccurate. As you very well know, the Plan includes a number of preconditions for reinstatement of properties, which limit substantially the exercise of the right of Greek Cypriots to reinstatement, as well as the percentage of properties that were to be reinstated to Greek Cypriots in comparison to previous versions of the Plan.

Furthermore, the section outlining the improvements of the sides bears an uncanny resemblance to a well-known document of a permanent Security Council Member, widely circulated at the time of the Burgenstock phase of negotiations, which strangely enough even follows the same sequence for the improvements gained by both sides. The most noteworthy element, however, of this section of the Report is the omission of any reference to the benefits that Turkey, and others, accrued from the provisions of the Plan.

Let me just outline just some of the benefits gained by that country under the finalised version of the Plan. Turkey, true to her past role, demanded (and obtained) divisive bi-zonality provisions, strategic economic benefits, and “security” arrangements, with sufficient troops, even if reduced in

numbers, to allow her again to intervene militarily through a bridgehead in Cyprus, a right Turkey still insists she enjoys, and her continuing role make full independence impossible. Although, scarcely touched on in the Plan and then only by reference, Turkey's powers of intervention and supervision, are in reality enormous, because of its continuing military presence in and near Cyprus. She has also insisted, through the Turkish Cypriots, on binding the UCR by treaties which they entered into with her and which provided for the integration of the Turkish Cypriot constituent state into Turkey, persuading the UN to accept this and a new right for the Turkish Cypriot State and Turkey to make agreements on investment and provision of financial assistance. Turkey had also insisted on putting a brake on the UCR's economic development by securing provisions in the Law on the Continental Shelf that prevents the UCR from exploring and exploiting her maritime resources in the seas of Cyprus whilst interfering with the Treaty between Egypt and the Republic of Cyprus on the Delimitation of the Exclusive Economic Zone, which is an ill-omen as to how Turkey would in future have operated. Another such example is the imposition of the "Cooperative Agreement on Civil Aviation with Turkey" on Cyprus over the strong objection of the GCs. This treaty would have imposed on Cyprus a common policy with Turkey in civil aviation thus making the condition to changes in the management of Cyprus air space subject to Turkey's consent. It would have also allowed Turkey to take all necessary actions (even military action) in the event of any threat to aircraft passengers, airport or aviation facilities.

In the aforementioned list, which by no means is exhaustive, the greatest benefit for Turkey, secured to the detriment of both Greek and Turkish Cypriots and consisting a clear departure from the provisions of Annan III, has been the stationing of Turkish troops on the island in perpetuity.

All these new provisions clearly serving Turkish interests and aims in Cyprus explain to a large extent why the Plan was overwhelmingly rejected by the Greek Cypriots, approved by the Turkish Cypriot side and so emphatically endorsed by the Turkish Government. The Greek Cypriots have every right to wonder how the United Nations, the very guardian of international law, could adopt proposals inspired by the Turkish side, which deliberately and unjustifiably limit the sovereignty exercised by one of its Member States. In other words, the main objection by the Greek Cypriot

community to the Plan was the fact that foreign interests, primarily Turkish ones, were satisfied, instead of those of the Cypriot population, Greek and Turkish Cypriots alike.

Furthermore, the Turkish side avoided conscientiously to reveal its thoughts on the issue of territory, thus depriving the whole process of a significant element of potential meaningful trade-offs. May be the Turkish side adopted this attitude having valid reasons to expect that its demands would be more or less fully satisfied without having to make any concessions on territory. In any event, the insinuation that the GC side avoided somehow to discuss the territorial issue or missed an opportunity, as far as Karpas is concerned, betrays, at best, failure to understand the nature of GC concerns as expressed during the whole process or bad faith at worse. In any event, this issue should have been dealt with by the United Nations *proprio moto* when the percentage of displaced persons to return to their homes in the area under TC administration was further curtailed by 3 per cent.

We were willing to accept, on humanitarian grounds, that a number of Turkish settlers should have the right to stay in Cyprus as citizens under the new state of affairs. What however we were not willing to accept, as you very well knew, was that each and every settler, indeed all, should be entitled to remain and ultimately acquire citizenship. Neither we were ready to endorse new provisions allowing fresh settlers flows in the future, thus altering further and distorting the demographic balance on the island.

However, under the final Plan not only the entirety of settlers were to remain in Cyprus and the possibility for a permanent flow of settlers from Turkey was left open, but all of them were allowed to vote during the referendum. This was so, despite established international law and UN practice, and persistent repeated calls of our side to the contrary, which were utterly disregarded. The end result, is that once more the settlers have participated in formulating the will of Turkish Cypriots during the referendum of April 24, and this against every norm of international law and practice.

Functionality is not exhausted by the composition of the Presidential Council or the setting up of a Court of Primary Federal Jurisdiction. Functionality covers all the areas of the operation of the state and our concern for functionality was reflected in all of our proposals during the

process covering, *inter alia*, federal legislation and its practical application, the Central Bank, fiscal and monetary policy, the curtailing of the various transitional periods, ensuring conformity with EU obligations, the administrative structure and function of the federal government, the decision-making process at all levels, the territorial aspect and the issue of the missing persons. All of the GC suggestions concerning functionality are fully documented, have been within the parameters of the Plan and did not affect in any way the rights afforded by the Plan to the Turkish Cypriots.

The objective of most of the GC side's suggestions, viewed, as an integral whole, have been to achieve the functionality and the workability of the solution, thus ensuring its viability and smooth operation. The attainment of these objectives (functionality and workability) could not be the automatic result of the adoption of a few marginal elements contained in our relevant proposals in exchange for some new Turkish Cypriot demands. Thus, on no account can it be claimed that "functionality and workability" requirement had been met.

In addition, we maintain serious doubts on whether the final Plan is compatible with the *acquis communautaire*. As it is well known the European Commission did not, in any case, examine one by one the provisions of the final Plan. The Commission simply examined Annan I, not subsequent versions. Thus, it would be interesting to know what the legal and jurisdictional organs of the EU have to say on the final Annan Plan.

At any case, as it is well known, what is of equal importance with the compatibility of the Plan with the *acquis*, is the ability of Cyprus to function effectively within the EU as a Member State, something that clearly has not been achieved by the Plan.

Excellency,

It is utterly inaccurate to state, in paragraph 69, that I have never presented proposals on security to the members of the Security Council. They are well cognizant of an *aide-memoire* distributed by the Permanent Mission of Cyprus to the UN, on 20 April 2004, during the deliberations on the British – American draft resolution. The inclusion of this allegation is offensive, to say the least, because I have personally pointed out this inaccuracy after Mr. Alvaro de Soto alleged it so publicly.

Moreover, the Greek Cypriot side did not bring up the issue of security for the first time on 20 April. In fact, on 15 March, we submitted a comprehensive voluminous paper concerning the security issue, wherein our suggestions were elaborated in detail and with absolute clarity. Either Your Excellency, advised by Mr. de Soto, did not give serious consideration to our positions on such a crucial issue or Mr. de Soto did not bother to read our paper with due care and attention.

We share the view that membership in the European Union adds to the general feeling of security and we hope that Turkey's European aspirations will lead her to display more respect for international law norms and the implementation of UN resolutions. However, it remains an uncontested fact that we still have serious security concerns as a result of the presence of Turkish occupation troops and Turkish overall behavior. Recent illustrations of the latter are the Resolutions relating to Strovilia, that required the withdrawal of Turkey's occupation troops a few meters away that had not been complied with. Even more disturbing and insulting, for the United Nations itself, is the unheeded call by the Security Council for Turkey to lift the restrictions imposed on UNFICYP.

Acceptance and implementation of the Plan would have had profound consequences. Given that all parts of the Plan constituted an integral whole and were of equal importance, it was imperative that before embarking on its implementation all the proper iron cast guarantees should have been in place that each and every party concerned would comply with all of its obligations arising therefrom.

Regrettably, contrary to the Secretary-General's aims in formulating the Plan, the arrangements for implementing territorial adjustments under Annan V would have resulted in a "win - great risk of losing situation and not in a "win-win" situation, as intended by the Secretary-General. The arrangements, as envisaged under Annan V, would have given the Turkish Cypriots real and considerable benefits governmentally, politically, internationally, economically, security-wise etc, from the very first day of the Foundation Agreement coming into operation. In contrast, the two benefits for Greek Cypriots, namely territorial adjustments and reductions in the size of the Turkish Army in Cyprus, would not begin immediately, and would have taken a number of years to be phased in.

In this way, the implementation of the Plan, especially those provisions of crucial interest to the GCs, would have been contingent to Turkey's good will, which, for the last 30 years at least is far from forthcoming even in embryonic form. When for the last thirty years, due to lack of good will on the part of the Turkish side, no progress whatsoever has been achieved in relatively simple issues of profound humanitarian nature such as the investigation of the fate of the missing persons, it would be very imprudent to rely on Turkey's good will for the full, prompt and proper implementation of a Plan purporting to provide a comprehensive solution to the Cyprus problem.

More importantly, the present Turkish Government, despite its efforts to present an image of a country ready to cooperate and respect the norms of international law, continues its unjustified hostile policy against Cyprus. Using its right of veto, Turkey continues to hinder the accession of Cyprus to a number of technical international organizations, amongst which the OECD. The commercial fleet of Cyprus, a Member-State of the European Union, is still denied the right to approach any Turkish ports. The most recent and illustrative action of this deliberate Turkish policy was the extension of its customs union agreement to nine of the ten new members of the European Union, the tenth being Cyprus which was unreasonably excluded at the very moment when Turkey aspires to future membership in the EU.

Under these circumstances, one must logically wonder how much trust and confidence the Greek Cypriots can place on vague promises, in the absence of concrete and ironclad guarantees, that Turkey will fulfill all its commitments under the Plan. Experience has unfortunately been pointing to the opposite direction, since no signs by Turkey of an ending of its hostile acts against Cyprus are witnessed.

While we appreciate your stated disapproval of the idea of separate recognition of the secessionist entity in the occupied part of Cyprus, we strongly object to the conclusion of the Report. In particular, we can not accept the suggestion contained in paragraph 93, that members of the Council "*can give a strong lead to all States to cooperate both bilaterally and in international bodies to eliminate unnecessary restrictions and barriers that have the effect of isolating the Turkish Cypriots, deeming such a move as consistent with Security Council resolutions 541 (1983) and 550 (1984)*". In any event,

this suggestion lies clearly outside the Secretary's General good offices mission and is in direct contravention to the SC resolutions and international law.

Furthermore, there is no doubt that our common goal for the reunification of Cyprus will be negatively affected for ever by such proposed actions, which undoubtedly will lead to the upgrading of and creeping or overt recognition of this secessionist entity. This would be done in direct violation of Security Council resolutions 541 (1983) and 550 (1984) and the prevalent norms of established international law. The adoption by the Security Council of this particular suggestion will be paradoxical, since it will amount to an incomprehensible negation of its own categorical call to all States "not to facilitate or in any way assist the aforesaid entity".

We strongly believe that the welfare and prosperity of the people of Cyprus lie with the economic integration of the two communities and the unification of the economy of Cyprus, and not with the encouragement of separatist tendencies. In this respect, any moves or initiatives, aiming at first sight to the economic development of Turkish Cypriots, but with evidently hidden political extensions, create nothing more than a disincentive for a solution and promote the permanent division of the island.

Various methods elaborated by certain circles for the direct opening of ports and airports in the occupied part of Cyprus, as a mean of facilitating the direct trade with these "Areas" of Cyprus, serve exactly this purpose. Such moves lack any sound legal basis. In fact, based on outrageous justification proposals they clearly try, unsuccessfully though, to promote and present a situation of external trade with a secessionist entity as lawful. Not only all these efforts fail to respect legality, but also more importantly the end result is that they violate the very norms from which they try to derive their legal validity. The outcome is a doubtful attempt to legalize an illegal situation in a territory of Member-State of the EU, where the application of the *acquis communautaire* is suspended, whilst at the same time creating serious practical problems, thus setting dangerous precedents for the future.

The Government of the Republic of Cyprus is the first to support the economic development of Turkish Cypriots; an economic development based on the proper criteria that promote the ultimate aim of facilitating the

reunification of our country. We have shown this in practice by the announcement and implementation of two packages of measures, of 30 April 2003 and 26 April 2004 respectively. These measures have in essence freed the intra island trade of agricultural and manufactured goods, fisheries and minerals, produced in the northern part of Cyprus, as well as their exports through the legal ports and airports of the Republic of Cyprus. Unfortunately, due to political considerations, such far-reaching measures are not being made use of, due to the insistence of the occupation regime for direct trade through illegal ports and airports in violation of international law.

It is more than evident that Turkey and the Turkish Cypriot leadership are not genuinely interested about the economic development of the Turkish Cypriot community, but primarily for the upgrading and ultimate recognition of the secessionist entity. In this respect, I would also like to bring to your attention the efforts currently under way for upgrading the status of the Turkish Cypriot community in the Organization for the Islamic Conference to a “Turkish Cypriot State”. I urge your Excellency to seriously consider the direct implications of the suggestion contained in paragraph 93 of the Report for the reunification of Cyprus.

I should be grateful if the present letter is circulated as a document of the General Assembly under agenda item 30, and of the Security Council.