



Weekly Briefing

**Greece External Relations briefing:
Greece to partly extend its territorial waters
George N. Tzogopoulos**

China-CEE Institute

Kiadó: Kína-KKE Intézet Nonprofit Kft.

Szerkesztésért felelős személy: Chen Xin

Kiadásért felelős személy: Huang Ping

 1052 Budapest Petőfi Sándor utca 11.

 +36 1 5858 690

 office@china-cee.eu

 china-cee.eu

Greece to partly extend its territorial waters

For more than two decades the non-expansion of territorial waters from 6 to 12 nautical miles was a sine qua non parameter of Greek foreign policy. Although Greece could proceed to such an extension on the grounds of international law, it refrained from doing so because of potential implications on its relationship with Turkey. This policy will be perhaps reconsidered – at least partially, as the Aegean islands are not on the agenda – in the medium/long term. Nikos Kotzias, who recently resigned from its position as Foreign Minister, announced new steps on the day he departed and handed over his portfolio to Alexis Tsipras. His announcement has generated a debate about advantages and disadvantages for Greek foreign policy. On the one hand, Greece exercises its unquestionable right on the basis of the 1982 UN Convention on the Law of the Sea. But on the other, it arguably shows it accepts – at least indirectly – Turkey’s position about ‘special conditions’ in the Aegean.

Nikos Kotzias is not any longer the Foreign Minister of Greece. On 17 October 2018 he resigned over serious disagreements with Defense Minister Panos Kammenos. Prime Minister Alexis Tsipras decided not to appoint someone else as his successor but to act as Foreign Minister himself to guarantee continuity. On 20 October Kotzias made his final speech in the Ministry of Foreign Affairs and handed over to Tsipras. In parallel with summarizing achievements the former also made a significant announcement regarding the partial extension of Greek territorial waters. As he said, the presidential decree was ready for Greece to extend its territorial waters, as a first step from Othonoi, the Diapontian islands, all the way to Antikythera. The

second step, which is almost complete, concerns the maritime zone between Antikythera and Crete. And the third step is related to the one between the Saronic Gulf and the Pagasetic Gulf.

According to customary international law, which is also codified in the UN Convention on the Law of the Sea, Greece has the right to extend its territorial waters to 12 nautical miles. This right to extend territorial waters to up to 12 nautical miles is a sovereign right which can be unilaterally exercised, and is therefore not subject to any kind of restriction or exception and cannot be disputed by third countries. Article 3 of UN Convention on the Law of the Sea which codifies a rule of customary law, does not provide for any restrictions or exceptions with regard to this right. The overwhelming majority of coastal states, except for a few exceptions, have determined the breadth of their territorial sea at 12 nautical miles. During ratification of the UN Convention on the Law of the Sea in 1995 Greece stated explicitly that it reserves the right to exercise this right at any point in time.

Irrespective of its unquestionable right to extend its territorial waters to 12 nautical miles, the non-extension beyond 6 nautical miles has been a standing position of Greek foreign policy for more than two decades. A possible revision of this attitude will be a major development as it will inaugurate a different approach. The debate that has begun after Kotsias' speech on this subject concerns the partial extension of Greece's territorial waters only including the maritime zones mentioned above. The process is legally and technically complex and takes place at different stages. The first is to close off existing bays, the second to construct baselines and the third to extend the territorial waters. Articles 7 and 10 of the 1982 UN Convention on the Law of the Sea define the precise way.

By expanding its territorial waters, Greece automatically extends its sovereignty. Capabilities in fisheries, the environment and possibly energy are increasing. This is because the breadth of the continental shelf will begin to be

measured from the point at which the 12 nautical miles – and not the 6 nautical miles – end. In practice, Greece can thus facilitate its negotiations on the demarcation of the Exclusive Economic Zone with Albania, although the latter has not publicized its position on the matter (Greece and Albania are currently holding talks to settle outstanding issues including the demarcation of the Exclusive Economic Zone). The decision could have a similar impact on bilateral negotiations with Italy but Greece is expected to respect the bilateral agreement on the delimitation of the continental shelf signed on 24 May 1977.

From a more theoretical point of view, Greece shows it employs a dynamic approach in its foreign policy by taking critical decisions regarding its sovereignty – instead of postponing them. The partial extension of the territorial waters is a practice that has been implemented by Turkey indeed. Turkey's territorial waters were extended to 12 nautical miles in the Black Sea and its coastline along the eastern Mediterranean after the Antalya Bay. Of course, this happened under different circumstances during the Cold War and cannot be easily compared with the afore-mentioned decision of the Greek government.

The use of the term 'partial' regarding the extension of Greece's territorial waters from 6 to 12 nautical miles puts certain limits to the initiative. More importantly, it means maritime zones of national interest to Turkey – the Aegean islands – are not affected. Critics of the new policy of Tsipras and Kotsias thus argue the message sent is ambiguous. On the one hand, Greece can make use of its right to extend its territorial waters from the Diapontian islands to Antikythera, from Antikythera to Crete and from the Saronic to the Pagasetic Gulf indeed. But on the other hand, by stopping in these zones it arguably accepts the Turkish position about 'special conditions' in the Aegean. In other words, Greece might give the impression it does not any longer disagree with relevant Ankara's claims or it fears the reaction of the latter. Also, an alleged acceptance of limited territorial waters for the islands could entail a limited

appetite for issues related to the Exclusive Economic Zone and the continental shelf.

Both Greece and Turkey presently exercise a 6 nautical miles breadth of territorial waters in the Aegean. Turkey has not signed the 1982 UN Convention on the Law of the Sea and considers the Aegean as a semi-enclosed Sea located in between the Greek and the Turkish mainland for which – it says – provisions of international law do not apply. Ankara is concerned about its potential strangulation. The expansion of territorial waters to 12 nautical miles in the Aegean will increase the relative breath for Greece from 43.5 percent to 71 percent and for Turkey from 7.5 percent to just 8.8 percent of the Aegean. A 1995 decision of the Turkish National Assembly warns an extension of Greek territorial waters in the Aegean will be a cause of war (*casus belli*). This was a blatant violation of the fundamental principles of the UN Charter on refraining from the threat or use of force, on the peaceful resolution of disputes and on good neighborly relations and peaceful coexistence.

In the context of the new debate following Kotzias's speech about territorial waters, Turkey reiterated its position on 23 October. In a statement issued Turkish Foreign Ministry spokesman Hami Aksoy referred to the 1995 'casus belli' declaration of the Turkish Grand National Assembly which 'contains a necessary political warning and is still in force today'. In addition, Turkish Defense Minister Hulusi Akar went beyond the extension of the territorial waters theme and said his country would not allow Greece to interfere in its activities in the Eastern Mediterranean. For its part, the Greek Foreign Ministry immediately responded Athens has the right to extend its territorial waters whenever and as it judges. Spokesman Alexandros Gennimatas also commented the extension of the territorial waters is a legitimate and inalienable sovereign right of Greece, in accordance with international law. Another Greek statement issued on 25 October also read: 'the delimitation of the Greek Exclusive Economic Zone, in its totality, shall be determined on the basis of

international law and certainly not by taking into account non-existent and arbitrary theories adopted by Turkey, a violator of international law’.

Conclusion

The almost certain – albeit not officially announced – abandonment of the EU membership objective by the Turkish government requires a revision of the Greek foreign policy doctrine. Taking into account that Greek-Turkish problems cannot be resolved as a pre-requisite for Ankara to join the EU (as it had been hoped for some years), Athens has to reconsider its priorities and employ alternative plans. In this context, the extension of the territorial waters in the Aegean could be a necessary measure, at least theoretically. This scenario is almost impossible at the practical level though. In parallel with the *casus belli* risk, the US will hardly support the Greek cause. It is not surprising that Washington recently distanced itself from the dispute between Athens and Ankara over maritime borders. Under these circumstances, Greece needs to decide if it is wiser to only partly extend its territorial waters excluding the Aegean or keep the same policy of a 6 nautical miles breadth for territorial waters, hoping for comprehensive agreement with Turkey at some time in the future.