

**PERCEPTIONS**  
**JOURNAL OF INTERNATIONAL AFFAIRS**

**September - November 2001 Vol. VI Num. 3**

**CYPRUS ADVANCES TOWARDS EUROPE: REALISM AND RATIONALISM**

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Today, events of unrecognised significance are altering the political environment surrounding Cyprus and its relationship with the European Union. First, the two new governments on Cyprus and the advancing process of accession negotiations between the EU and only one of these governments presents uncertainty and instability to the island, its neighbours and the EU. Second, significant change is unfolding in nearby Turkey where the recent political and fiscal initiatives have been termed revolutionary. This and the improved relations with Greece bring Turkey's efforts for EU accession to a more concrete stage. Finally, the EU itself has begun a fundamental reshaping in form and character as it faces an almost doubling in size through enlargement toward the east. This paper addresses the inscrutable divisions on Cyprus and suggests that the traditional policies in place and enlargement processes in motion present a perilous crossroads for all the parties involved, leaving their leaders with critical choices. This paper recommends a new realism and rationalism in shaping those choices that lead toward constructive co-operation.

The paper suggests that policies of the past be reconsidered and that new, forward-looking approaches, based on realistic assessments of the past, present and future, be adopted. Considering the history of Cyprus, reliance on the traditional international law positions of the UN, the EU and all the parties is no longer profitable for reconciliation of this dispute. This realism further emphasises the strategic and symbolic value of Cyprus to the EU and the region. As long as the present impasse over Cyprus dominates the legal and political discourse of the region, European Union enlargement will be distorted, and any form of accession for Cyprus in the near future becomes less likely. Moreover, rationalism suggests that predictable, undesirable consequences will result from a continuation of the present political impasse as the accession process continues, and that reasonable choices are available to the leaders of the countries and institutions involved. Thus, corrective measures should be taken to avert this impending political collision over Cyprus.

This paper offers a theory of constructive collaboration based on a model of creativity and functionalism evolving from the successes of European integration itself. Abandoning the polar arguments of an ambiguous international law, the parties should recognise that there is a middle ground amid today's nuanced concepts of intergovernmental and supranational co-operation. The primary political actors should accept enlargement as a strategic context for breaking the impasse and, supported by their neighbours and the EU, they should adopt a pragmatic programme of accession collaboration and erect a flexible structure and process for limited yet evolving co-operation. Such focused, formal collaboration between the EU and the two divided communities could offer a constructive path leading to the future accession of the island.

Initially, it must be emphasised that Cyprus is not just any other accession applicant. The

application of the Republic of Cyprus is unique because of the obvious divisions it represents.<sup>1</sup> Moreover, the accession of Cyprus poses a test of the European Union's ability to forge compromise and consensus among member states pressing for 'first wave' accession of their protege neighbours.<sup>2</sup> Finally, the significance of accession for an Islamic country is enormous. "The future of Europe is intimately joined to the future of Islam"<sup>3</sup> because of the millions of Muslims living in Europe and the effect of present and potential Islamic-oriented governments on the periphery of Europe.<sup>4</sup> Cyprus, with its legal conflict magnified by geography and current events, can be seen as the paradigmatic intersection between East and West, offering a unique opportunity for exploration of new models of political problem solving.

That is especially so in these fast-moving times. We truly are entering a new chapter of history in Europe and many countries face 'defining moments'<sup>5</sup> as transitions are made in legal and political reform for accession to the EU. The substantial, rapid changes and uncertain accession timetables also generate a sense of immediacy - even urgency - because of the high stakes involved and because all of this is happening very quickly in historical terms.

Events in Turkey are significant: a leading foreign diplomat in Turkey recently observed that the present monetary recovery/political reform movement in Turkey presents "a defining moment in Turkish history".<sup>6</sup> One commentator characterised the new economic recovery programme as rigorous, coherent, brave and popular.<sup>7</sup> Unprecedented outside support of \$20 billion for the anti-inflation and other reform programmes demonstrates the scope of interest in Turkey's evolution.<sup>8</sup> Recent reports of beginnings of consolidation in Turkey's banking sector included Garanti Bank, one of the bigger private-sector banks, agreeing to sell some 30 percent of its shares to Italy's largest banking group, further illustrating the change.<sup>9</sup>

Equally significant change is unfolding in the EU, in two directions: as the EU grows, it becomes less dense governmentally, with more inter-governmentalism and less supra-nationalism. What that means for sovereignty and the intensity of legal harmonisation is unclear, but we can expect some dilution of Brussels' influence in the member states and, thus, the character of the EU is changing. Further, with elections coming in many countries, we see politics trumping principle in some cases: For example, the French Prime Minister, Lionel Jospin, in his recent position paper on Europe, Spain's resistance to enlargement based on national self-interest and Ireland's rejection of the Amsterdam Treaty, offer a few surprises for EU enthusiasts. It is instructive and ironic that some countries that benefited most from previous structural and agricultural fund sharing now oppose its extension to others.<sup>10</sup> Thus, some countries that have favoured swift accession of the eastern countries, now are arguing that accession be slowed.<sup>11</sup>

In Cyprus, we see new governments in the Turkish Republic of Northern Cyprus (TRNC) and in Greek Cyprus. Commentators express hopes that, with the Greek Cyprus parliamentary elections over, progress in talks between the parties may advance.<sup>12</sup> But, the dynamics of the process are worrisome. If the present, forceful push for accession of the Republic of Cyprus continues, it could produce destructive conflict. Policies are in place and the enlargement process is moving on its intended course, slowly yet inexorably advancing in such a way that we can reasonably predict an explosive collision of politics and policy. Reasonable people adjust when they foresee undesirable consequences, to prevent the harm. Unfortunately, we have all experienced bureaucracies and vested political interests hindering any change in course. The worst case scenario, absent some change in approach, includes a Cyprus accession without the TRNC, the eruption of intense hostility among many countries and its

concomitant political results. Ominous fears of future EU vetoes and escalating public indignation could lead to Turkey withdrawing its accession application and turning eastward to expand its markets and influence.

But this is avoidable if leaders act now. Current events offer an unusual opportunity in which the principal parties to the dispute are motivated and situated for breaking the present impasse, and for which the European Union may rise to its aspiration of peacemaker and prosperity builder. This theory of constructive collaboration emphasises a pragmatic flexibility in adapting anachronistic and unproductive applications of international law, promoting models of creativity and functionalism that have evolved from successes in European integration, to be energised with the current impetus of European enlargement.<sup>13</sup>

Reconciliation of the deeply embedded conflicts presented in Cyprus requires a fresh approach to “political problem-solving beyond the nation state.”<sup>14</sup> The successes of regional co-operation around the globe expand the discussion of theoretical and practical bases for innovative, productive thinking toward resolving old issues. The advance of European integration, with its unprecedented originality,<sup>15</sup> has transformed the dialogue and the scope of transnational collaboration. Any serious strategy to confront the Cyprus enigma should accommodate this new political and legal reality.

In today’s context of “‘de-bordered governance’, states are increasingly embedded within transnational, supranational and multilevel systems of governance” with political problem-solving inseparably bound up with law and lawmaking.<sup>16</sup> The EU itself is exhibiting growing pains as it struggles to invent a new political form of government - a union of intergovernmental and supranational co-operation - a form without a name, “something more than a confederation but less than a federation in an association of sovereign states which pool their sovereignty in limited areas or to varying degrees.”<sup>17</sup> In this way, today’s Europe presents an innovative example of shared sovereignty.<sup>18</sup> “The [EU] is transforming politics and government at both European and national levels into a system of multilevel, non-hierarchical, deliberative and apolitical governance.”<sup>19</sup> Thus, evolving and new forms gain acceptance and offer models for the flexibility needed today in Cyprus.

The trend in transnational co-operation must also be viewed in the context of another evolution relevant to the conflict in Cyprus. Overlapping the broad post-national movement toward regionalism is the concurrent rise of sovereign small states: in recent years, a proliferation of microstates has won sovereignty, UN membership and recognition in the international system.<sup>20</sup> “It may seem premature to speak of the demise of the nation-state when the last decade has seen the proliferation of ever-smaller nation-states throughout Eastern Europe and Asia and the demand for secession from national movements in countries as diverse as Canada, Yugoslavia, Sri Lanka, Indonesia, Russia, Spain, and India.”<sup>21</sup> While the international community resists coercive changes in international borders, it condones them “as an option of last resort” in states where ethnic divisions appear to be irreconcilable.<sup>22</sup> Since the implosion of the Soviet Union, a new climate has evolved for the self-determination of minorities locked in larger states, such as seen in Ukraine and the Slovakian, Slovenian and Croatian separations, in which new democratic governments legitimised independence.<sup>23</sup> Bangladesh,<sup>24</sup> Eritrea<sup>25</sup> and other examples amplify the exception.<sup>26</sup> The international community is becoming more sensitive to minority groups and more generous in accepting concepts of derogation and devolution.<sup>27</sup>

These “seemingly conflicting centrifugal forces of nationalism and centripetal forces of

confederation”<sup>28</sup> are compressed in Cyprus because of its discrete size and the region’s high definition of the East-West ethnic conflict. Repeated failures to resolve this conflict painfully illustrate the need for a responsive, forward-looking basis for collaboration between the majority and minority communities.

The polar positions relied on by the parties to the Cyprus dispute have been supported by divergent legal arguments, their underlying political interests and an inconsistent application of international law. Unfortunately, experience teaches that the application of international law norms - as with any law - can be ambiguous and this ambiguity has led to the predictable, unproductive debate over Cyprus. International law provides no easy answer to the problem of separatist efforts, as “opposing principles” promote contrary interests and results.<sup>29</sup> The international community’s response to this repeating challenge has been “ambiguous and inconstant.”<sup>30</sup> There is a natural concern about the conflicting international interests in promoting self-determination of peoples versus the security need to protect against disintegration of the current international system.<sup>31</sup> The Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations articulates the duty to respect the right of self-determination in accordance with the UN Charter.<sup>32</sup> Many other international instruments, treaties and other documents likewise confirm the right.<sup>33</sup>

At the same time, UN member states stress the importance of the unity of states, but then recognise accomplished secession after the fact.<sup>34</sup> “Political philosophers have struggled with the issue of secession, and international law neither flatly prohibits nor authorises it, ‘seemingly relegat[ing] its achievement to a pure power calculus.’”<sup>35</sup> The notion that “the legitimacy of a claim to self-determination can be tested by the degree of success that attends the claimants’ undertaking is probably the prevailing view among most international jurists.”<sup>36</sup> The modern view is more restrictive in accepting self-determination, but political expedience may be the major consideration in allowing self-determination movements to secede in non-colonial states.<sup>37</sup>

Coherence in these positions may be elusive, but their unproductiveness is clear. The ultimate objection to this debate is that it has been waged for years and has led only to intractable stalemate. Considering the history of Cyprus, reliance on these classic international law positions is no longer profitable for any party. More importantly, it is not necessary. A middle ground is available amid today’s nuanced notions of intergovernmental and supranational co-operation.<sup>38</sup> Recognising that the controlling principles of international law can be ambiguous, that geo-politics plays a role and that responsibility for the Cyprus division falls not simply to one party, but rather to many,<sup>39</sup> a middle ground seems a realistic and fair course to pursue. All parties should advance the reality that Cyprus is the “common home” of the two ethnic communities, and that both have the right to participate in its decision-making “on an equal footing.” Thus, the two communities and the other international leaders should progress to the substance of co-operation.

Another unpleasant but compelling reality of Cyprus’ complex situation today underscores the ineffectiveness of the present debate and recommends the same middle ground. Two distinct communities have been, for a quarter of a century, entrenched in separate, functioning polities, each securely guarded by ethnic alliances and massive military enforcement. A pragmatic analysis of the current UN-EU strategy, and the formal resolutions under-girding their negotiating approaches, inevitably dead-ends into the unfortunate likelihood that this present conflict shows little sign of resolution and that, in such disjunction, the militarily-divided

Cyprus will not soon be allowed to accede to the European Union.<sup>40</sup> With recent demonstrations of reluctance to advance enlargement, it is likely that various excuses will delay accession for the divided island.

While the belaboured dialogue has brought the sides closer in theory, a final agreement on actual, concrete collaboration has remained elusive. Thus, any realistic movement toward breaking this impasse demands a new theoretical framework. Facing the lack of success from the long-standing UN negotiating efforts, the logical approach is to direct the rising energy of EU leadership toward the opportunity, to seize the momentum of today's enthusiasm for enlargement and to renovate the political dialogue,<sup>41</sup> proposing a collaborative model founded on the core agreements achieved in past negotiations, and on the broad, systemic successes of the EU's functional evolution. All interested parties, including especially NATO and the UN, should be included in this marshalling effort, but the EU should take the leadership role as the accession process continues to motivate political and legal reform.

Enlargement has changed the political landscape of Europe and today presents the most strategic context for settling the disputes and fostering peace in this area. "Enlargement is a 'foreign and security policy' in the sense that the prospect of admitting and the eventual accession of ... countries into the EU may help resolve age-old conflicts such as those which once plagued Western Europe."<sup>42</sup> Enlargement has driven radical change in thinking about government and transnational co-operation across the continent.<sup>43</sup> Günter Verheugen, EU Commissioner for Enlargement, has pointedly observed that the accession process could encourage the resolution of the political conflict in Cyprus.<sup>44</sup> Many others have observed the appeal of accession as a motivator for solving issues.<sup>45</sup>

With the benefits of EU accession as motivation and based on the experience of the EU's successful evolution from 1957 through earlier incarnations to the present, the two Cypriot communities, supported by their neighbours and the EU, should embrace a convention of accession collaboration - a form of broad Accession Partnership among the two communities and the EU - erecting a structure and a process, familiar concepts in European integration, for the co-operative advance of the island's two communities acting in concert under one unique entity. The unique form could purposefully marginalise older unproductive and inflammatory issues, yet still assure security. While such a focused, formal collaboration among the EU and two divided communities would be new, the practical details of peaceful co-existence on Cyprus have been explored repeatedly. The issues and the parties' positions are well known. What this plan adds is impetus, direction and structure.

This novel accession partnership - adopting EU gradualist methods and stabilised with EU leadership - would embark on a joint enterprise to launch a forward-looking, open-ended structure and building process for the future accession of the island. As with early, incremental peace-building in Western Europe, a structure for initiating limited collaboration between the two Cypriot communities with a common process to work together for common purposes offers a realistic approach. Small steps could break the impasse and, over time, lead to peaceful cohabitation, full trade and the eventual accession to the European Union.

The first step would be for the EU to lead the two communities, and their patron countries, Greece and Turkey, and other significant contributors to a Cypriot intergovernmental conference at which a new course could be considered openly. The conflict on Cyprus has been both "intranational and international," and therefore any settlement or co-operative arrangements must recognise the linkages between all the different interests involved.<sup>46</sup> The

fruitless bilateral exchanges of the past decades have fallen into a familiar pattern, as each side recounts the historical and moral sins of the other.<sup>47</sup> Such an open multilateral dialogue would encourage candour, compromise and assurances of support for the accession project.

Foremost at the conference, a critical threshold obstacle to the dialogue must be finessed: the Republic of Cyprus, Greece, the UN and the EU must abandon, or at least side step, the notion that the TRNC does not exist. Deadlock is guaranteed until mutual acknowledgement of the two Cypriot communities is - even in some flexible form - achieved. A central difficulty in reaching any accord is that each side “sees the dispute over the status of the other as fundamental.”<sup>48</sup> The UN’s approach has proven counterproductive with the status issue, taking one side as a legitimate government but not the other, while bringing them together to the table as if they were equals.<sup>49</sup> This illogical quasi-dialogue of “proximity talks” must be disconnected, and a new, meaningful medium explored. The continued failure to advance the peace process makes plain the need to modify the current UN-EU insistence that the TRNC’s very existence is illicit. Some see the central problem as the “1964 UN Resolution recognising the Makarios Government as that of the whole island,” and guaranteeing undivided sovereignty for the Republic as well as the island’s territorial unity and independence.<sup>50</sup> The EU’s stoic support of this unproductive position is no longer necessary. The new forms of today’s EU and other regional co-operative efforts illustrate that sovereignty and political power can be divided and shared.

Here, on this core issue, is where creative forms can break the impasse and advance the process of co-operation. Working together in a limited and structured accession programme does not necessitate creating a traditional federal state and the discussion should focus more on how to share notions of sovereignty and the operation of limited governmental functions. Experts suggest going “beyond traditional concepts” to create a new form with both a division and a sharing of sovereignty.<sup>51</sup> Furthermore, the historical period in which most states enjoy full, unlimited sovereignty is finished - the globalised economy and the large number of transnational actors have now dispersed political power.<sup>52</sup>

This offers the most reasonable path for breakthrough on the sensitive issues of unity and sovereignty. The EU should lead the two communities to an agreement based in general on the proposal for the 1997 UN negotiations in New York that envisions sovereignty as “emanating equally” from both communities. This change to an open-ended, innovative concept could side step the polar positions on which both sides have invested so much capital. From this fresh position of a recognised shared sovereignty in a limited endeavour, they may then proceed to share authority over carefully defined common accession enterprises, working together toward accession goals.

The UN’s sole and unitary sovereignty approach has failed the pragmatic test in Cyprus because it has propped up a fiction anyway. Contrary to years of proclamations and resolutions, two separate governments are operating on the island. Nothing in the present approach suggests any change in this fact. The most reasonable course for the future is to recognise reality, and work with it, rather than to fruitlessly demand its resolution according to one view.

As on the issue of sovereignty, further constructive and face-saving new relationships and processes can promote effective implementation of accession collaboration, as well as dialogue leading to future enhanced co-operation on a wider level. This model recommends an accession partnership to lead the island into the EU: in a novel form of a limited yet

overarching common authority comprising two communities and two zones, yet sharing political authority and sovereignty in planning and implementing a programme for advancing gradually toward evolving co-operation and ultimately accession. This model would balance the security and political interests of the separate sides, yet accommodate the need for incremental progress, offering a “middle” way for Cyprus, blending “both federal and confederal components, with a creative tension between the two.”<sup>53</sup> The new inclusive authority would represent the island in the EU processes, as well as involve the EU in the joint administration of the enterprise. Under the rubric of a discrete EU-Cyprus project, the authority could administer the gradual process of the island’s accession, as goals are set and pursued, yet recognise the two communities as quasi-autonomous, quasi-sovereign states. The two Cypriot states would retain their present de facto autonomy in all matters except limited accession project processes and competencies to which they specifically agree. The accession convention could establish a foundation as articulated in the 1992 UN ‘Set of Ideas’, acknowledging the political equality of the two communities and the primary power of each over matters reserved to its competence.<sup>54</sup>

This new limited quasi-confederation, perhaps with a forward looking name such as the Accession Partnership of Cyprus, could erect a collaborative structure and process with the functionalism of the original Coal and Steel Community as a guide. Collaborative intergovernmental processes would be agreed upon to control the fundamental decision-making and planning of the accession programme, with a discrete grant of supranational authority in the limited sector of implementation of agreed-upon accession projects. The project would establish leadership for decision making and administration of the accession project. The partnership would deliberate and decide on specific initiatives for the accession programme, such as the opening of borders, the promotion of interchange and the reduction of burdens on commerce between the two communities, timetables and conditions insuring gradual, secure progress toward harmonisation. The disbursement of accession support resources would also constitute a primary responsibility for the partnership.

In addition, the programme could adopt broader confidence-building measures to foster further concrete collaboration, including the promotion of tourism, the environment and perhaps the operation of a common public utility.<sup>55</sup> As time progresses, this could evolve with further agreements and expansions of co-operation, as progress toward accession targets is achieved. Subsequent conventions could allow and promote enhanced co-operation in numerous fields, or adjust machinery that proves imperfect in practice, as has occurred in successive EU treaties.

The two communities should not be expected, at this time, to agree to a traditional full unitary state as their ultimate goal, but they could agree to pursue accession and to begin, at their own pace, to introduce the basic principles of the European Union to their consociational partnership. This pursuit should not be rushed; trade advantages and other benefits of the EU customs union can gradually be extended across the island without threatening anyone. The parties enjoy wide flexibility in fashioning creative forms, as discussed above. The threshold course must transcend the solely statal view in considering legal concepts and institutions,<sup>56</sup> aiming for a form of limited intergovernmental and supranational legal co-operation, with a purpose not just to stabilise relations, but to transform them toward a common future.<sup>57</sup> The two communities dividing the single island of Cyprus need progress in co-operation, not stabilisation.

The unfortunate history of ethnic conflict on Cyprus compels a careful strategy for bringing

the island physically together. There is little alternative to allowing ethnic separation to continue in some form, as a part of a process that will lead to reintegration.<sup>58</sup> Retaining the separate identities of the two communities at this time is unavoidable, and the EU is situated opportunely to provide the framework for bringing these two cultural communities closer in an accession partnership, while respecting their identities.<sup>59</sup>

Herein lies the implicit significance of the Cyprus challenge. How does the leadership create co-operation between two communities so long divided by such a history of tortured conflict? The answer lies in a European vision, in which these separations can furnish the inspiration for the project. To make peace and set collaborative processes into motion, while maintaining identity, is exactly the promise and the challenge of today's EU.

Today's EU enjoys no one common demos in the constitutional sense and European integration recognises the broad differences of the many peoples of Europe.<sup>60</sup> In fact, retaining the plurality of the peoples is "a desideratum of integration."<sup>61</sup> Such a concept is viable in Cyprus even though the communities are so divided by ethnicity, culture and history. History has seen generations pass and wars fought in a country before one demos evolves to reflect a "sense of mutual belonging transcending political differences and factions and constituting a political community essential to a constitutional compact of the classical mould."<sup>62</sup> As in the EU, this model proposes to erect a compelling telos of accession, implicitly bringing peace, inclusion and incremental co-operation between two different communities, in spite of the absence of one common demos. The acceptance of the common telos can be a first step "towards a thicker social and political notion of constitutional demos."<sup>63</sup>

"[T]here is no need to demonise diversity, overlapping authorities and multiple identities. Divergence is a normal state of affairs. Some would even argue that divergence is 'pluralism' by another name, and that it is Europe's greatest historical and cultural treasure."<sup>64</sup> Fixed, mutually exclusive forms of territoriality are no longer the basis of political life - the EU, for example is very good at "unbundling territoriality."<sup>65</sup> One expert observed: "Perversely, Cyprus's division might have to be recognised before it can be overcome...Once their borders are made clear and their international status is settled, the two sides in the Cyprus conflict, like France and Germany before them, could get on with reconciliation, economic integration, and a stable peace."<sup>66</sup>

After the parties agree to the principle of accession co-operation, they would be rewarded with a special EU accession process and timetable, with economic and other co-operative incentives. In the lofty context of transition to accession of the whole island, incentives and deliberative structure can encourage advancement and accountability at the same time.

Overall, the multiple benefits of the collaboration - economic, political even moral - could drive the project. Both sides would gain access to the whole island and the beginning of its restoration from a war zone to a prosperous trading centre. Greek Cypriots would, ultimately, regain territory and "mitigate the adversity suffered by displaced persons;" Turkish Cypriots would end isolationism and receive economic growth.<sup>67</sup> They both would gain satisfaction with ultimate accession to the EU. This co-operative plan offers the TRNC its ultimate incentive to move in a new direction: acknowledgement as a form of legitimate government.<sup>68</sup> Both sides would benefit enormously from access to EU funds and markets, including development and structural funds, as well as free transfer of goods, and especially the North since its most important export market is the EU.<sup>69</sup> Both sides would enjoy the

freedom to travel across the island.

EU initiative in this region at this time could be of compelling significance. To promote stability in this volatile region, as the newly evolving countries of the former Soviet Union experiment with democracy and rule of law and the Middle East simmers with unrest, would advance EU goals on many levels. The political symbolism of an energised Europe, reaching out to share its resources and promote its values, would communicate a firm political and military leadership. One group of scholars has written: “The historic mission of European Union is to contribute to stability and peace through integration...,” observing that there was no alternative to eastern enlargement after the events of 1989.<sup>70</sup> The same may be said today about the accession of Cyprus. The alternative to EU leadership in advancing the European promise of peace and co-operation in Cyprus is, at best, to forsake an opportunity for progress, or at worst, to risk the frightening possibility that the Cypriot accession process may run head-on into a destructive political collision, returning the parties and the region to the turmoil of the past.

1 It offers an opportunity to the EU, but also the difficulty of harmonising a divided state with the EU. Cyprus’ “application for EC membership from a divided state is unique”, John Redmond, *The Next Mediterranean Enlargement of the European Community: Turkey, Cyprus and Malta*, Hants (UK) & Brookfield (USA), 1993, p. 62.

2 “If we try to delay Cyprus because of the island’s unresolved status, Greece could block Poland’s entry,” one EU official recently observed. Judy Dempsey, ‘Enlargement Agreed after Persson Push’, *Financial Times*, 18 June 2001, p. 2, and ‘Germany Strongly Promotes Poland’s Entry in the First Wave’. Peter Norman and Judy Dempsey, ‘Sweden Struggles with Enlargement Timetable’, *Financial Times*, 16 June 2001, p. 2.

3 Larry Siedentop, *Democracy in Europe*, London, Allen Lane, 2000, p. 207.

4 The Palestinian Intifada in late 2000 illustrates the increasing significance of the Islamic influence in world affairs. Roula Khalaf, ‘Islam Renews its Relevance’, *Financial Times*, 21 December 2000, p. 13.

5 Douglas Franz, ‘Turkish Bailout is Joined to a Political Overhaul’, *New York Times*, 18 May 2001, p. A8; this article describes Turkey’s recent reforms. See following footnote.

6 Comments by Henrik Liljegren, Sweden’s Ambassador to Turkey and respected diplomat in Ankara. Douglas Franz, *ibid.*, p. A8.

7 ‘Curing the Turkish Disease’, *Financial Times*, 16 May 2001, p. 12. Franz, *ibid.*, p. A8.

8 ‘Harsh Medicine’, *The Economist*, 19 May 2001, p. 48.

9 Leyla Boulton, ‘Italy’s Intesa Takes Turkish Stake’, *The Economist*, 4 June 2001, p. 15.

10 Judy Dempsey, ‘Enthusiasm for a Larger Europe Starts to Wane’, *Financial Times*, p. 3. The former solidarity fuelling enlargement is being replaced by national self-interest in some countries, “underpinned by a reluctance to share financial resources with the poorer regions of

an enlarged Europe.”

11 In Italy, centre-right politicians, having just won a huge election victory, are expressing concerns over reductions in structural funding for impoverished regions in southern Italy caused by enlargement. James Blitz, ‘Italy Warns against Speedy Enlargement of EU to the East’, *Financial Times*, 18 May 2001, p. 2.

12 ‘Diplomacy Traffic for Cyprus Dispute Expected to Accelerate in Coming Months’, *Turkish Probe*, 10 June 2001.

13 Accession has often been recommended as a catalyst to promote reform in applicant countries. See, for example, Clement H. Dodd, *The Cyprus Imbroglia*, Cambridgeshire, Eothen Press, 1999, p. 91.

14 Michael Zürn and Dieter Wolf, ‘European Law and International Regimes: the Features of Law Beyond the Nation State’, *European Law Journal*, Vol. 5, Oxford, Blackwell, 1999, p. 272.

15 “[T]he acceleration of internationalisation in the 1990s has profound implications for political and economic order at the international, regional, and national levels. [and o]ne important characteristic of contemporary internationalisation is the increasing prominence of regional organisations...” such as NAFTA, APEC, ASEAN and the “most extensive and intensive form of regionalism” the EU. Brigid Laffan, ‘The European Union: a Distinctive Model of Internationalisation?’, *European Integration Online Papers* 2, 1 (10 October 1997) <<http://eiop.or.at/eiyop/texte/1997018a.html>>.

16 Michael Zürn and Dieter Wolf, *op. cit.*, p. 272.

17 Larry Siedentop, ‘A Crisis of Legitimacy’, *Financial Times*, 24 October 2000, p. 23.

18 ‘Party’s over for Small States with Attitude’, *Financial Times*, 3 March 2001, p. XXVII.

19 Jan Zielonka, ‘Enlargement and the Finality of European Integration’, *Jean Monnet Working Paper No. 7/00* <[www.jeanmonnetprogram.org/papers/00/00f0801-03.html](http://www.jeanmonnetprogram.org/papers/00/00f0801-03.html)>. “Effective governance is today about recognising complexity, flexibility, and dispersion.” Jan Zielonka, *ibid.*,

<[www.jeanmonnetprogram.org/papers/00/00f0801.html](http://www.jeanmonnetprogram.org/papers/00/00f0801.html)>.

20 Barry Bartmann, ‘The Quest for Legitimacy: International Status of the Turkish Republic of Northern Cyprus’, *Cyprus: a Need for New Perspectives*, pp. 260, 262.

21 James D. Willets, ‘The Demise of the Nation-State: Towards a New Theory of the State under International Law’, *Berkley Journal of International Law*, Vol. 17, Berkley, University of California Press, 1999, p. 193. See also Cass R. Sunstein, ‘Constitutionalism and Secession’, *University of Chicago Law Review*, Vol. 58, Illinois, University of Chicago, 1990, pp. 633, 643-47 (for description of post-1989 vigorous secession movements in Europe).

22 David Wippman, ‘International Law and Ethnic Conflict in Cyprus’, *Texas International Law Journal*, Vol. 31, Austin, University of Texas, 1996, pp. 141, 142 (1996).

23 Barry Bartmann, ‘The Quest for Legitimacy, International Status of the Turkish Republic

of Northern Cyprus', in Clement H. Dodd (ed.), *Cyprus: a Need for New Perspectives*, Hants (UK), Eothen Press, pp. 260, 264-65.

24 Lee C. Buchheit, *Secession: the Legitimacy of Self-determination*, New Haven, Yale University Press, 1978, p. 211.

25 A thirty year war culminated in the 1991 overthrow of the government, leading to consensual division of the country. David Wippman, 'Treaty-Based Intervention: Who Can Say No?', *University of Chicago Law Review*, Vol. 62, Illinois, University of Chicago, 1995, pp. 607, 664.

26 The UN has faced the secession problem several other times: In 1947, Pakistan was partitioned from India and was admitted to the UN in the same year. David Wippman, *op. cit.*, pp. 607, 664 & n. 6. Subsequently, Bangladesh seceded from Pakistan in 1971 and was admitted to the UN in 1974. *Id.* Syria had seceded from the United Arab Republic in 1961, maintaining its former seat, before the creation of the UAR. *Id.*, n. 7.

27 Barry Bartmann, *op. cit.*, pp. 260, 281.

28 James D. Wilets, *op. cit.*, p. 193.

29 Lea Brilmayer, 'Secession and Self-determination: a Territorial Interpretation', *Yale Journal of International Law*, Vol. 16, New Haven, 1991, pp. 177-78.

30 Steven R. Ratner, 'Drawing a Better Line: Uti Possidetis and the Borders of New States', *American Journal of International Law*, 1996, p. 590.

31 Robert McCorquodale, 'Self-determination: a Human Rights Approach', *International & Comparative Law Quarterly*, Vol. 43, London, 1994, p. 857.

32 'Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations', annex to General Assembly Resolution 2625 (XXV), adopted without vote on 24 October 1970.

33 Robert McCorquodale, *op. cit.*, pp. 857, 858.

34 Steven R. Ratner, 'Drawing a Better Line: Uti Possidetis and the Borders of New States', *American Journal of International Law*, 1996, p. 590. "Thus, the UN Security Council and other international bodies solemnly and repeatedly declare that 'independence achieved by force of arms is unacceptable,' and that negotiations over the status of sub-national communities must be predicated on recognition of the territorial integrity of the affected state. (numerous UN Resolution citations omitted). At the same time, the international community has made clear that it will accept, however reluctantly, the forcible break up of a state, if that break up is successfully concluded," David Wippman, *op. cit.*, pp. 663-64.

35 Steven R. Ratner, *op. cit.*, p. 590.

36 Lee C. Buchheit, *op. cit.*, p. 45.

37 Edward Canuel, *Nationalism, Self-determination, and Nationalist Movements: Exploring the Palestinian and Quebec Drives for Independence*, *Boston College International & Comparative Law Review*, Vol. 20, Newton, 1997, pp. 85, 86.

38 Co-operation, sovereignty and self-determination are “capable of embracing much more nuanced interpretations and applications, particularly in an increasingly interdependent world in which the former attributes of Statehood mean less and less,” S.J. Anaya, ‘The Capacity of International Law to Advance Ethnic or Nationality Rights Claims’, *Iowa Law Review*, Vol. 75, Iowa, Joe Christensen, 1990, pp. 837, 842 (referring primarily to self-determination).

39 All of the principal players in Cyprus share accountability for the events leading to the division of the island. To suggest that only one side created this division is uninformed and unproductive. “It has been aptly said that the Greek Cypriots cannot remember what happened between 1963 and 1974 and that the Turkish Cypriots cannot forget,” Clement H. Dodd, *op. cit.*, p. 33. Multiple, complex events and policies produced the present division on Cyprus. “The current episode in Cyprus began in 1974 with the Turkish invasion of the northern third of the island, triggered by an attempted putsch by Greek nationalists seeking unification with Greece, itself then governed by a military regime,” Michael Emerson, *Redrawing the Map of Europe*, New York, St Martin’s Press, 1998, p. 72. Moreover, the US, Britain, Turkey and Greece have also been criticised for acts and omissions contributing to the Cyprus dilemma.

40 Germany’s former Chancellor, Helmut Kohl, conceded privately that a divided Cyprus would not be permitted accession, Newhouse, p. 258. At best, the military separation on the island makes Cyprus “a difficult case” for accession at this time. Peter Norman, ‘Bonn Upbeat about EU Enlargement’, *Financial Times*, 23 June 1999, p. 2. “EU governments...remain sceptical about admitting a divided country....they are unlikely to let Greek Cypriots in on their own,” ‘A Prickly Friend’, *The Economist*, 10 June 2000. In January 2001, EU Enlargement Commissioner Verheugen, while predicting “a new qualitative stage” for the advance of enlargement in general, “expressed deep concern” over the lack of progress in Cyprus. Peter Norman, ‘EU Talks on Enlargement “Set to Pick Up Momentum”’, *Financial Times*, 17 January 2001 at 2. One senior EU official foresees a “nightmare if the Greek-Cypriots get in on their own,” ‘The Cyprus Conundrum’, *The Economist*, 24 February 2001, p. 28.

41 Joseph S. Joseph, *Cyprus: Ethnic Conflict and International Politics*, 2nd edition, New York, St Martin’s Press, 1997, p. 137.

42 Enlargement is of course a foreign policy tool. Horst Günter Krenzler, *The Geo-strategic and International Political Implications of EU Enlargement*, European University Institute, Robert Schuman Centre 1, Vol. 2, 1998, available at <http://www.ieu.it/ERPA/mainfiles/.../RSC/WP-Texts/krenzler2.html> (last visited 15 February 2001).

43 The campaigns to satisfy the accession criteria have fostered widespread legal reform in all of the candidate countries. See generally: Agenda 2000 and subsequent annual Commission regular reports for each candidate country for the massive transformation of law taking place in central and eastern Europe.

44 *Europe Magazine*, June 2000, p. 20.

45 Other experts agree with this clear appeal of enlargement. See, e.g., Joseph S. Joseph, *op. cit.*, p. 126. Joseph agrees that the EU has a “unique position to play a role in bringing about permanent peace and stability on the Mediterranean island and in the region” and Cyprus’ accession may very well turn out to be a useful tool for solving the problems that have been

plaguing the island since independence, Joseph S. Joseph, *ibid.*, p. 133.

46 Fen Osler Hampson, *Nurturing Peace: Why Peace Settlements Succeed or Fail*, Washington DC, US Institute of Peace Press, 1996, p. 36.

47 “Bilateral negotiations of any parties to a serious conflict frequently result in deadlock as each rehearses its version of history with its betrayals, atrocities, and the like, and points to the ethical validity in legal and moral terms of its case when compared with that of its adversary,” A.J.R. Groom, ‘Cyprus, Greece and Turkey: a Tread Mill in Diplomacy’, in John T.A. Koumoulides (ed.), *Cyprus in Transition 1960-1985*, London, Trigraph, 1986, p. 126.

48 Christopher Brewin, ‘Turkey, Greece and the European Union’, in Clement H. Dodd (ed.), *Cyprus: the Need for a New Perspective*, 1999.

49 Christopher Brewin, *ibid.*, p. 165.

50 Heinz-Jurgen Axt, ‘The Island of Cyprus and the European Union’, in Clement H. Dodd (ed.), *Cyprus: the Need for New Perspectives*, *op. cit.*, p. 179-81.

51 Tanja A. Börzel and Thomas Risse, ‘Who is Afraid of a European Federation? How to Constitutionalise a Multi-Level Governance System’, Jean Monnet Working Paper No. 7/00, <http://www.jeanmonnetprogram.org/papers/00/00f0101.html> (2000)

52 ‘Party’s over for Small States with Attitude’, *Financial Times*, 3 March 2001, p. XXVII. “[S]overeignty, in practice, is measured not by the pompous assertions of politicians in assemblies but by the power that nations can actually project.”

53 Geoffrey Howe, ‘A Middle Way for Europe’, *Financial Times*, 28 November 2000, p. 15.

54 ‘Set of Ideas’, annexed to United Nations, Security Council, Report of the Secretary-General on his Mission of Good Offices in Cyprus, UN doc. S/24472 ¶5, 1992.

55 One example could be a collaboration of an improved, shared public water utility. The island suffers water shortages, and Turkey has already initiated what it terms a “peace water project, hoping that it might serve as a catalyst for some reconciliation on the divided island,” Metin Munir, ‘Peace Pipe to Carry Water to Cyprus’, *Financial Times*, 18 January 2000, p. 6.

56 Terminology taken from Armin von Bogdandy, ‘A Bird’s Eye View on the Science of European Law: Structures, Debates, and Development Prospects of Basic Research on the Law of the European Union in a German Perspective’, *European Law Journal*, Vol. 6, Oxford, Blackwell, 2000, pp. 208, 213.

57 Terminology taken from Armin von Bogdandy, *ibid.*, pp. 208, 224.

58 Roger Cohen uses this phraseology in describing the Balkan situation. Roger Cohen, in his book review of Timothy Garton Ash, *History of the Present: Essays, Sketches, and Dispatches from Europe in the 1990s*, in ‘Eyewitness Account’, *New York Times Book Review*, 29 October 2000, p. 29.

59 Christopher Brewin, *ibid.*, p. 162. The EU should “provide a framework for enabling cultural communities to maintain their identities where they are not in a majority.” *Id.*, p. 168. Brewin also suggests that the European Coal and Steel Community and the EU models could bring progress in Cyprus. Charles Grant predicts that the TRNC will ultimately join a

confederal arrangement with in the EU. Charles Grant, *EU 2010: an Optimistic Vision of the Future*, London, Centre for European Reform, 2000, pp. 48-49.

60 J.H.H. Weiler, 'Federalism and Constitutionalism: Europe's Sonderweg', Jean Monnet Working Paper No. 10/00, p. 1 of 5.

<<http://www.jeanmonnetprogram.org/P...s/JeanMonnet/papers/00/001001.html>> The EU is paradigmatic of a federalism without a unitary demos, as the early Treaty of Rome articulated a telos of maintaining intact "the distinct peoplehood of its components." Id.

61 Hans Lindahl, 'European Integration: Popular Sovereignty and a Politics of Boundaries', *European Law Journal*, Vol. 6, Oxford, Blackwell, 2000, p. 239.

62 J.H.H. Weiler, op. cit.

63 J.H.H. Weiler, *ibid.*

64 Jan Zielonka, op. cit.

65 Jan Zielonka, *ibid.*

66 Phillip Gordon, 'Cyprus: Divorce could Precede Reconciliation', *International Herald Tribune*, 24 July 1997, p. 8.

67 David Wippman, 'International Law and Ethnic Conflict in Cyprus', op. cit., pp. 141, 177.

68 Axt, op. cit., p. 192.

69 Axt, *ibid.*, p. 183.

70 Horst Günter Krenzler, *The Geo-strategic and International Political Implications of EU Enlargement*, European University Institute, Robert Schuman Centre 1, Vol. 2, 1998, available at <http://www.ieu.it/ERPA/mainfiles/./RSC/WP-Texts/krenzler2.html> (last visited Feb. 15, 2001).