

INTERNATIONAL AIR LAW - CLOSURE OF AIR CORRIDOR
FOR THE AEGEAN, 8-11 NOVEMBER, 1984.
STATEMENT BY GREYER*

Further comments on the closing of Greece air corridor "Green 18"

ATHENS, October 10, 1984

Foreign Undersecretary Mr Yannis Kapsis charged yesterday that a "quite hot and irregular" situation had been created in the Eastern Aegean following that he termed the "flagrant violation of international rules and NATO regulations by Turkey".

At the same time, he disclosed that allied air force headquarters southeastern Europe at 0200a.m. yesterday "urgently signalled" its air force units taking part in the NATO exercise "Display determination 84" to limit their actions to within the air space controlled by the Turkish Flight Information Region (FIR). Mr Kapsis said the move justified Greece's action in closing the air corridor "Green 18" in the Eastern Aegean to civil aviation flights for two days after Turkish violations of Greece's FIR. Mr Kapsis told foreign newsmen that in view of the exercise "display determination" a meeting of the "Committee of European aeronautical coordination" (CEAC) took place on 3 July, outlining the limits of the allied exercise, and each country undertook to issue the "notice to all airmen" (NOTAM) concerning its own FIR.

On 23 August he said, the Greek authorities issued their NOTAM and on 24 September Turkey asked for the NOTAM which exceeded the limits agreed by the CEAC and outlined by NATO. Greece, he said, responded that it had issued its NOTAM in accordance with what had been outlined and agreed upon. But on 25 September Turkey issued a NOTAM which included a section under the Athens FIR jurisdiction, and which Greece rejected. At the same time, he added, the Greek authorities issued a warning that the Turkish NOTAM of 25 September was not valid. Greece also protested the Turkish action to the Commander of Allied Air Forces Southeastern Europe, who on 27 September confirmed the limits agreed upon on 3 July. Despite this, Mr Kapsis said, Turkey insisted on its own NOTAM asking for an extension of the limits.

* (Text of Press Releases made available by Athanase A. Camilos, Counsellor of the Greek Embassy, Canberra. It is anticipated that we shall shortly publish a statement by the Turkish authorities)

Up to this point, the undersecretary said, 'we had a wilful or not misinterpretation of international regulations', but Turkey's irrational interpretation was clear, 'because' Turkey could have asked for a NOTAM in the Ionian Sea for Italian.... or Japanese aircraft'.

Mr Kapsis added that following Monday's statement by Turkish Foreign Minister Vahit Halefoglu, Greece asked for a further confirmation from allied headquarters southeastern Europe on what had been agreed upon. The confirmation came at 2.00 a.m. yesterday, Mr Kapsis said, and the Greek side ascertained with surprise that Turkey was 'once again violating all kinds of settlement and does not read correctly the international treaties or the charts'. He said yesterday's allied confirmation contained instructions to all aircraft taking part in the 'display determination' exercise to stay out of the Athens FIR and limit their action to within the Turkish FIR.

Mr Kapsis said that the Eastern Aegean air corridor which Greece closed Monday would reopen at sunset yesterday, and added that Greek air force fighters intercepted Turkish aircraft, noting that Greece had the shortest interception time in NATO, which 'is only four minutes'. Greece, however, he said, was 'not worried about the situation in the Eastern Aegean because it is in a position to protect its interests'.

Alternate Defence Minister Antonis Drososyannis yesterday charged more violations of Greece's air space in the Aegean by Turkish and U.S. aircraft during the 'display determination' exercise. He said the violations took place at the climax of the exercise's air defence phase, and added that until 1.000 p.m. local time yesterday the Greek air force carried out 96 sorties to intercept the aircraft which violated the Athens FIR.

"At this moment while we are talking" Mr Drososyannis told newsmen, 'aircraft taking part in the exercise are carrying out violation due to the narrow boundaries within which they are forced to move'. In order to find out the exact number of violations, Mr Drososyannis said, 'we have to make an analysis of the tracks recorded on our radar screens'. He said the first violations of Greek air space were made by two Turkish and four U.S. aircraft. US planes, mostly F-14's and A-7's, took off from the US aircraft carrier 'America' which entered the exercise area early yesterday morning. Turkish jets, mainly F-5's, F-104's and phantoms, entered the Aegean from bases in the Turkish mainland. He said among the US aircraft there was a 'Hawkeye' type flying radar.

INTERNATIONAL AIR LAW - CLOSURE OF AIR CORRIDOR FOR THE AEGEAN
8-11 NOVEMBER, 1984. STATEMENT BY GREECE*

REASONS FOR GREECE CLOSING THE AIR CORRIDOR "GREEN 18" IN THE AEGEAN

ATHENS October 9, 1984

Greece yesterday closed the air corridor "Green 18" in the Aegean for two days after violations of its air space by seven pairs of Turkish warplanes during the NATO exercise "Display Determination" Defence Ministry sources said last night.

The sources said that there had been a total of six infringements and one violation and in all cases the Turkish aircraft had been intercepted by Greek air force planes from nearby bases.

The closed air corridor falls within Greece's operational control and covers the area which includes the islands of Chios, Aghios Efstrations, Limnos and Mytilene.

The violation, according to the same sources, occurred at 13 03 local time by a pair of F-5 Turkish aircraft, which were immediately intercepted by Greek fighter planes. One of the two planes left the Greek air space while the second gained height and entered the civil aviation air corridor, ignoring International Civil Aviations rule and the possibility of causing an air accident.

After the incident, the Greek government decided to close the air corridor from 2.00pm yesterday until midnight tonight for "safety reasons" for the duration of the phase of the allied exercise being carried out in the region, the Government Spokesman said earlier yesterday.

The Spokesman, Mr Dimitris Maroudas told the press that the government had made the move "because of its responsibility for the safety of civilian flights in the Athens Flight Information Region (FIR)

* (Text of Press Releases made available by Athanase A. Camilos, Counsellor of the Greek Embassy, Canberra. It is anticipated that we shall shortly publish a statement by the Turkish Authorities).

Mr Maroudas warned that the Greek air force would intercept any military aircraft, regardless of nationality, which violated Greece's air space.

Greek Foreign Undersecretary Mr Yannis Kapsis last night accused Turkish Foreign Minister Mr Vahit Halefoglou of blatantly distorting reality and international regulations. He was replying to earlier Halefoglou strtesmans that Greece would bear full responsibility for any problem which arose during the allied "display determination" exercise currently taking place in the Aegean, and assertions that the Greek authorities had refused to publish the "notice to all airmen" (NOTAM) submitted to Greece by Turkey.

Mr Kapsis stressed that Greece, consistent with its obligations within the Athens FIR, had distributed the required NOTAM for the region which, under Internrtional Civil Aviation Organisation (ICAO) procedures, NATO had requested for the 'display determination' exercise

He noted that the boudaries of this region had been agreed upon during a 3 July 1984 conference of the coordinating committee for European air space, with the participation of the Internationa Air Traffic Association (IATA). He said each country had taken on the responsibility of issuing a NOTAM for the region falling under its FIR. Despite this, Mr Kapsis added, the Turkish authorities had requested an expansion of the said region in the Gulf of Saros and that this had been rejected by the NATO Commander responsible for the exercise's air planing.

Following this, he added, the Greek authorities had not issued a supplementary NOTAM for the NATO manoeuvre. He said that Turkey had illegally issued a NOTAM which included the region that had been rejected, in violation of the Chicago Convention and its annexes.

Mr Kapsis said that the NOTAM which also violated Greek air space had been issued by Turkey arbitrarily and without any authotity, given that such authority belonged exclusively to the Greek authorities, who have the sole responsibility for the Athens FIR. Mr Kapsis said that Greece, determined to defend its rights but also to respect its obligations within the Athens FIR, had issued a notification to the effect that the Turkish NOTAM was not valid.

He said the only right which Turkey had was to request NOTAM for a national exercise and not a NATO manoeuvre, whose boundaries had been previously agreed upon and whose extension was not Turkey's right. Mr Kapsis added Mr Halesfoglu's assertions over the reasons Greece did not participate in the allied exercise in the Aegean were so unfounded that they did not warrant a reply.

He noted that Greece has repeatedly stated its refusal to participate in any exercise taking place contrary to NATO procedures and regulations in force, or which are carried out in a way which harm Greek national and sovereign interests.

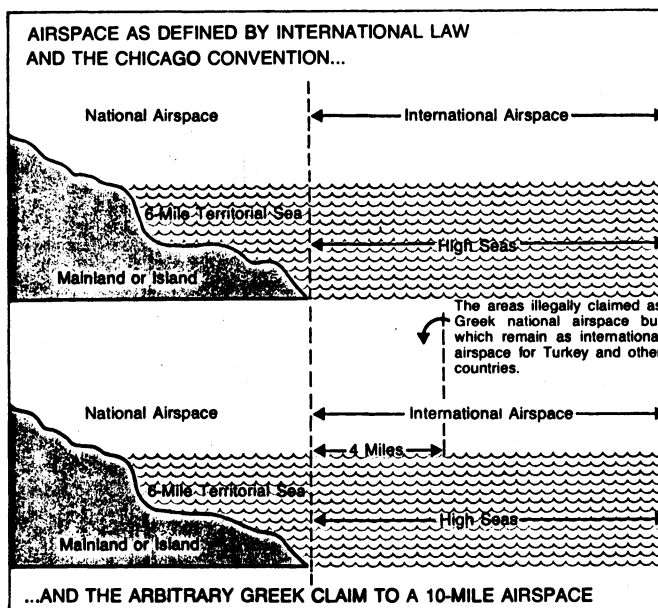
AEGEAN AIRSPACE QUESTIONS *

Breadth of National Airspace

According to international law, the breadth of national airspace has to correspond to the breadth of territorial sea. This is clearly reflected in Articles 1 and 2 of the Chicago Convention of 1944 on Civil Aviation:

"Article 1 - Sovereignty"
"The contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory."

"Article 2 - Territory"
"For the purpose of this Convention, the territory of a State shall be deemed to be land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such State." (emphasis added).



* (From text provided by the Embassy of Turkey, Canberra).

Greek position: Greece claims that she has a national airspace of 10 miles regardless of her 6-mile territorial sea.

Turkish position: Turkey and other countries reject Greece's claim of a 10-mile airspace and only recognize and respect a Greek airspace of 6 miles which corresponds to her 6 - mile territorial sea.

Greece exploits this unlawful claim to manufacture tension in the Aegean. Outside the 6 - mile limit, but within 10 miles, Greece alleges that Turkey violates Greek airspace.

F.I.R. Responsibilities

The second aspect of the Aegean airspace question is the deliberate misinterpretation by Greece of her F.I.R. (Flight Information Region) responsibilities. This is nothing more than a technical responsibility to provide air traffic services in the areas concerned. However, Greece claims that the non-submission of flight plans by Turkish military aircraft constitutes a "violation" of the Greek F.I.R. Of course, there is no such thing as the "violation of an F.I.R." since F.I.R. responsibility does not imply recognition of sovereignty of the F.I.R. state over the airspace concerned.

Decision A23-II (Appendix N) taken during the 23rd session of the ICAO Assembly held in Montreal in 1980 reads as follows:

"...6- The approval by the Council of regional air navigation agreements relating to the provision by a State of air traffic services within airspace over the high seas does not imply the recognition of sovereignty of that State over the airspace concerned."

The Greek Government, however, does not seem to agree with the international community on this point. Here are some examples:

"... The Greek Government does not agree to the establishment of an allied command in Larissa unless it is absolutely clear that the limits of the operational control coincide with the Athens F.I.R. i.e. with the country's frontiers." (Statement by Prime Minister Papandreou, Athens, 23 November 1981) (emphasis added)

"Greek Ambassador to Ankara George Papoulias made a demarche to the Turkish Government today for violations of the Greek F.I.R. by Turkish aircraft, Government Spokesman Dimitris Maroudas said." (Athens, 17 May 1983) (emphasis added)

It is quite clear that the main purpose of such statements is to give substance to the so-called "Turkish threat". It is equally clear, however, that the method of formulating unlawful positions and then complaining of their violation can be tolerated neither by Turkey nor the international community. Turkey, as well as other countries, reject the concept of the so-called "F.I.R. violations".

It would be useful to note that unjustified harassment over the Aegean international airspace of Turkish military aircraft by Greek military aircraft under various false pretexts jeopardizes the safety of flight and carries the risk of leading to undesirable incidents with grave consequences.

Question of Flight Plans

Greek Position: It is mandatory for military aircraft to submit flight plans when crossing into Athens F.I.R.

Turkish Position: Military aircraft flying in international airspace are under no obligation to submit flight plans since the Chicago Convention does not apply to military aircraft.

International law and the provisions of the Chicago Convention do not support the Greek view on this point.

Indeed Article 3 of the Chicago Convention reads as follows:

"(a) This Convention shall be applicable only to civil aircraft and shall not be applicable to State aircraft..

"(d) The contracting States undertake, when issuing regulations for their state aircraft, that they will have due regard for the safety of navigation of civil aircraft."

In view of the foregoing, the responsibility of having due regard for the safety of civil aircraft flying over the international airspace of the Aegean rests with Turkey and other states whose military aircraft fly in these areas and not with Athens F.I.R. It should be added that Turkey is not the only country that Greece is accusing of not filing flight plans.

THE DEMILITARIZATION OF THE EASTERN AEGEAN ISLANDS *

Demilitarization of certain areas to reconcile opposing interests to establish peace and stability is a widespread practice in international relations. Violations of the demilitarized status of the areas determined by international treaties have always led to instability and tension. Such arrangements are designed to strike a balance between opposing interests and unilateral and arbitrary attempts to alter such arrangements undermine this balance.

The demilitarized status of the Eastern Aegean islands has been a fundamental element of the Aegean status quo ever since the termination of Turkish sovereignty over them. The permanence of the geographical features of the Aegean necessitates the permanence of the qualified sovereignty arrangements over these islands.

Greek Position: As early as 1964 Greece began to militarize these islands by deploying combat troops and establishing permanent military installations. The pretext for this militarization has been the so-called "Turkish threat".

Turkish Position: Both the history of the pertinent international treaties and their provisions regarding the islands in the Eastern Aegean Sea are unambiguous. Proximity to the Turkish coast and the security imperatives of the Anatolian peninsula have always been factors in the determination of the status of the islands. That is why the authors of all the related international instruments have paid particular attention to reconciling Greek sovereignty over these islands with the security concerns of Turkey.

The past has confirmed the validity of these security concerns: the use of the island of Lemnos as a base for the attack on the Çanakkale Straits (Dardanelles) during World War I and the present aggressive policies of the Greek Government in militarizing the islands today.

All the treaties governing the status of the Eastern Aegean islands attach, as a permanent condition to Greek sovereignty, DEMILITARIZATION.

- The Decision of 1914 by the Six Powers stipulated a demilitarized status for the islands then being turned over to Greece.

- Articles 12 and 13 of the 1923 Lausanne Peace Treaty and Article 4 of its annexed Convention confirmed this status. The Convention specifically provided that the islands of Lemnos and Samothrace, situated at the entry of the Çanakkale Straits (Dardanelles), be demilitarized on an even stricter basis, thus emphasizing their vital importance for the security of the Straits.

- The 1936 Montreux Convention, which established the regime of the Turkish Straits, did not bring any change to the status of the islands.

- The 1947 Treaty of Paris turned over the islands, commonly referred to as the "Dodecanese", to Greece. This Treaty also sought to reconcile Greek sovereignty over these islands with the security of Turkey by stipulating in Article 14 that "these islands shall be and shall remain demilitarized".

Greek allegations that the islands have been militarized as a defensive measure against a "Turkish threat" constitute a gross distortion of the sequence of the developments. Indeed it is Turkey that has felt the need to take certain defensive measures in the face of the blatant violations by Greece of her obligation to keep the islands demilitarized.

It should be added that, contrary to the Greek obligation to demilitarize the Eastern Aegean islands, Turkey is under no commitment which restricts the size and the areas of deployment of its forces on the Turkish mainland.

* (From text supplied by the Embassy of Turkey, Canberra).