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## Reassurance and Deterrence in the Mediterranean: the Franco-Greek Defense Deal

On September 28, 2021, France and Greece announced the signature of a strategic partnership and Athen's purchase of at least three modern frigates. This defense equipment deal had been in ongoing discussion for years, but the specificities of the partnership were a surprise to many since it included a mutual defense clause enshrined in its Article 2: "*The Parties shall provide each other with assistance, with all appropriate means at their disposal, if necessary by the use of armed force, if they jointly find that an armed aggression is taking place against the territory of one of the two, in accordance with Article 51 of the Charter of the United Nations*".

New mutual defense commitments are a rarity in today's world and given the volatility of the Eastern Mediterranean, legitimate questions have been asked about its relevance and consequences. Contrary to what some suspected, the defense clause was not the product of a Greek demand, but a French proposal made as early as 2020, as confirmed by senior French officials involved in the negotiation. Paris is keen to present it as a two-way street and expects Athens to work with France on crisis management in the Balkans, the Middle East and the Sahel - something that Greece seems to have understood well.

The defense clause did not signal a hardening of the French stance towards Ankara. The same day that the Greek Prime Minister Kyriakos Mitsotakis was in Paris to sign the defense deal, the French Minister for Foreign Trade and Economic Attractiveness Franck Riester was in Istanbul for a Joint Economic and Trade Committee (JETCO) meeting, its first since 2018. As France played an instrumental role in convincing Turkey to ratify the Paris accord, in exchange for loans worth €3.1 billion to help the country meet its clean energy goals (funded in part by France), it can hardly be claimed that Paris turns its back on Ankara.

The defense agreement was approved by the Greek Parliament on October 7, 2021. Since it is not formally a treaty, it does not require approval by the French Parliament.

European mutual defense clauses already exist via Article 42.7 of the EU Lisbon treaty and the French-German Aachen treaty of 2019 - the only bilateral precedent to the French-Greek commitment.

### **Not a bombshell, but a significant move nonetheless**

The deal remains significant. Touted by Paris as an audacious first step towards European strategic autonomy, this partnership reflects the US' perceived diminished interest in Europe, which justifies providing reassurance to Athens and comforting deterrence *vis-à-vis* Turkey, a NATO member against which, by definition, the mutual defense clause contained in Article 5 of the Washington Treaty would not operate.

For the two countries, the partnership crowns 18-months of diplomatic and military rapprochement, which also involved Paris taking the lead in championing the Greek cause in the EU - presented as defending Europe's borders - and the sale of 24 Rafale fighter-bombers. While France included economic and industrial interests in its calculations, Emmanuel Macron's commitment to protecting Europe's borders and his personal fondness of Greece (his first major speeches on Europe took place in front of the Parthenon in 2017) can hardly be doubted. Still, tensions between Greece/France and Turkey have raised significant questions about the deal's significance for Europe and NATO. That's in a context where the validity of the Atlantic Alliance has been probed by the French President, who is also seen as championing détente with Russia, supporting Armenia, and objecting against Turkish military activism in Syria, Libya, the Caucasus, as well as against Turkish political activism in France itself.

It therefore came as no surprise that the deal upset not only Ankara but also Berlin, London and Washington. It is reported that these countries learned about the agreement on the very day of the signature or immediately beforehand.

Paris noted, however, that Washington too had been reinforcing its defense ties with Greece over the past few years, and that on October 14, 2021, the two countries signed a five-year extension of the Mutual Defense Cooperation Agreement (renewed each year since 1990) with an understanding it will remain in force indefinitely afterward unless either country gives a two-year notice.

### **Good or bad for stability in the Mediterranean?**

The question remains: is the deal a net positive or a net negative for security and stability in the Eastern Mediterranean?

*Prima facie* and from a legal point of view, the defense commitment is not as strong as those contained in the Lisbon (Article 42.7) and Aachen treaties (for context article 42.7 does not explicitly mention the use of armed force, but such use is clearly included in "*any available means*"). First, because it includes the key word "*jointly*": either of the two countries, if called upon by the other to fulfill its commitment, could disagree on the qualification of the aggression in case it was not a clear-cut massive military attack. Second, because the strategic partnership is not a treaty - which is the highest form of State commitment in international law.

It is also clear that the agreement does not apply to disputed Exclusive Economic Zones (EEZ), and even less so to their extensions. Maritime zones beyond the territorial sea are not considered part of a State's territory under international law. EEZs provide sovereign rights below the surface of the sea but surface waters are international waters.

During the Greek parliamentary debate on ratification, Syriza, the main opposition party, insisted that its vote was conditional on the understanding that the agreement would cover the Greek EEZ and the continental shelf. Prime Minister Mitsotakis seemed to fudge the issue when he retorted: *"You know that retrospective commitments cannot be added. You know that the term territory that the report protects explicitly protects not only the land but also the sea and the air. And the treaty operates within the framework of international law and the law of the sea. I add that the Agreement provides for a general commitment of defensive assistance in the event of an attack regardless of location or occasion. This is why there is a reference to Article 51 of the United Nations Charter. I guess you know that the International Court of Justice has accepted that an armed attack is not only an invasion, but also any incident of use of force against military forces even outside the territory. That is why no defense agreement in the world refers to an EEZ or a continental shelf"*.

This was, at best, a misunderstanding. In a background briefing that took place on September 28, 2021, a senior French official noted that there was no agreement on the delimitation of EEZ in the Eastern Mediterranean (and that the Libyan parliament had not ratified its 2019 bilateral agreement with Turkey). Further clarifying that France would only protect the internationally-recognized Greek territory, the French Ministry for the Armed Forces made it clear that *"an EEZ is not part of a State's territory, pursuant in particular to the UN Convention of the Law of the Sea, to which France and Greece are parties"*.

It is thus dubious that Athens would invoke the agreement with France in case it believed Turkey encroached on what it considers its EEZ.

There are, however, at least two scenarios under which the defense clause could be triggered. One is a conflict over the Eastern Aegean islands which, demilitarized by the Lausanne Treaty of 1923, have a particular status. According to the Turkish press, in a letter to UN Secretary-General António Guterres dated September 30, Permanent Representative of Turkey to the UN and former Foreign Affairs Minister, Feridun Sinirlioğlu wrote that *"Article 12 of the Lausanne Peace Treaty unequivocally establishes a clear connection between sovereignty and demilitarization for all the Eastern Aegean islands"*. Turkey claims that Greece violates the demilitarization commitment. Athens fears that the 2023 presidential campaign in Turkey could witness deliberate provocations by Mr. Erdogan.

Another scenario would be a Greek decision to extend its territorial waters in the Aegean Sea to 12 nautical miles, as it is entitled by UNCLOS. Such a move, Turkey warned, would be a *casus belli*. Ankara fears that Athens could be emboldened by the French security guarantee and make moves in the region that it would have refrained from before benefitting from this guarantee. In sum, while the Franco-Greek agreement is not transformative for mutual defense commitments in Europe and while it brings some reassurance, deterrence and stability in the Eastern Mediterranean, it also sheds a new light on possible crisis scenarios in the region.

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