

ANNEX IX: COMING INTO BEING OF THE NEW STATE OF AFFAIRS

Article 1 Entry into force of the Foundation Agreement

1. The Foundation Agreement shall enter into force, and bring into being a new state of affairs, following its approval by separate simultaneous referenda on 24 April 2004 asking the following question:

“Do you approve the Foundation Agreement with all its Annexes, as well as the constitution of the Greek Cypriot/Turkish Cypriot State and the provisions as to the laws to be in force, to bring into being a new state of affairs in which Cyprus joins the European Union united?”

Yes []

No []”

and the signature by Greece, Turkey and the United Kingdom no later than 29 April of the attached Treaty on matters related to the new state of affairs in Cyprus at a signing ceremony in the presence of the Secretary-General of the United Nations (or his representative).

2. Should the Foundation Agreement not be approved at the separate simultaneous referenda, or any guarantor fail to sign the Treaty on matters related to the new state of affairs in Cyprus by 29 April 2004, it shall be null and void, and have no legal effect.

Article 2 Entry into force of the Treaty between Cyprus, Greece, Turkey and the United Kingdom on Matters related to the new state of affairs in Cyprus

Immediately upon entry into force of the Foundation Agreement, the Co-Presidents of the United Cyprus Republic shall sign into force the Treaty with Greece, Turkey and the United Kingdom on matters related to the new state of affairs in Cyprus, which shall be registered as an international treaty in accordance with Article 102 of the Charter of the United Nations.

Article 3 Flag-raising ceremonies

1. After the Secretary-General or his representative has signed the Treaty as a witness, the flags of the United Cyprus Republic and the constituent states shall be raised alongside those of the three guarantors and the United Nations at the place of the signing ceremony, and the anthems of Cyprus and of the constituent states shall be played.

2. Simultaneously, there shall be ceremonies throughout the island at which all flags other than those prescribed in the Constitution shall be lowered, the flags of the United Cyprus Republic and of the constituent states shall be raised in accordance with the Constitution of the United Cyprus Republic and relevant legislation, and the anthems of the United Cyprus Republic and of the constituent states shall be played.

Article 4 *The United Nations*

Upon entry into force of the Foundation Agreement, the Co-Presidents shall through the attached letter inform the United Nations that henceforth the membership rights and obligations of Cyprus in the United Nations shall be exercised in accordance with the new state of affairs. The agreed flag of the United Cyprus Republic shall be raised at United Nations Headquarters.

Article 5 *The Council of Europe*

Upon entry into force of the Foundation Agreement, the Co-Presidents shall through the attached letter inform the Council of Europe that henceforth the membership rights and obligations of Cyprus in the Council of Europe shall be exercised in accordance with the new state of affairs and shall request the Parliamentary Assembly and the Committee of Ministers to endorse the Foundation Agreement.

Article 6 *The European Union*

Upon entry into force of the Foundation Agreement, the Co-Presidents shall through the attached letter inform the European Union of the coming into being of the new state of affairs and the commitment of the United Cyprus Republic to assume all rights and obligations arising from the Treaty of Accession. The Co-Presidents shall also request the European Union to endorse the Foundation Agreement and to accommodate its terms in line with the principles on which the European Union is founded and adopt special measures for the Turkish Cypriot State. They shall furthermore request that the final outcomes will result in the adaptation of primary law and ensure legal certainty and security within the European Union legal system for all concerned.

**ATTACHMENT 1: LETTER TO THE SECRETARY-GENERAL OF THE
UNITED NATIONS**

[to be sent upon entry into force of the Foundation Agreement]

Excellency,

We wish to inform you that, having been approved at separate simultaneous referenda by Greek Cypriots and Turkish Cypriots exercising their inherent constitutive power, the Foundation Agreement and all its annexes between the Greek Cypriots and the Turkish Cypriots has entered into force, and a new state of affairs has come into being in Cyprus. Accordingly, the United Cyprus Republic is an independent and sovereign state with a single international legal personality and a federal government and consists of two equal constituent states, namely the Greek Cypriot State and the Turkish Cypriot State.

We solemnly declare that henceforth, the membership rights and obligations of Cyprus in the United Nations shall be exercised in accordance with the new state of affairs and the Foundation Agreement and all its annexes.

We should be grateful if this letter were circulated to the Member States of the United Nations.

Please accept, Excellency, the assurances of our highest consideration.

Co-President Co-President

**ATTACHMENT 2: LETTER TO THE PRESIDENT OF THE EUROPEAN
COUNCIL**

[to be sent upon entry into force of the Foundation Agreement]

Mr. President,

We wish to inform you that, having been approved at separate simultaneous referenda, the Foundation Agreement between the Greek Cypriots and the Turkish Cypriots has entered into force, and a new state of affairs has come into being in Cyprus. Accordingly, the United Cyprus Republic is an independent and sovereign state with a single international legal personality and a federal government and consists of two constituent states, namely the Greek Cypriot State and the Turkish Cypriot State.

We solemnly declare that the United Cyprus Republic is ready to assume all rights and obligations arising from the Treaty of Accession of 16 April 2003.

Referring to the special powers delegated to the Council under Article 4 of Protocol 10 of that treaty and to the conclusions of the European Council of 12 December 2003, and bearing in mind that the Foundation Agreement is in line with the principles on which the European Union is founded, we wish to request the European Union to endorse the Foundation Agreement and to accommodate its terms by adapting the terms of Accession before 1 May 2004 in a way that results in the adaptation of primary law and ensures the legal certainty and security of the Foundation Agreement within ~~Europe~~ European Union's legal ~~order~~ system for all concerned.

We furthermore request the Council of the European Union to take appropriate measures regarding the application of the *acquis communautaire* in the Turkish Cypriot State in phases that are aligned to the level of harmonization and administrative capacity, and to adopt special measures, including financial assistance, for the development of the Turkish Cypriot State.

Please accept, Excellency, the assurances of our highest consideration.

Co-President

Co-President

**ATTACHMENT 3: LETTER TO THE SECRETARY-GENERAL OF THE
COUNCIL OF EUROPE**

[to be sent upon entry into force of Foundation Agreement]

Excellency,

We wish to inform you that, having been approved at separate simultaneous referenda, the Foundation Agreement between the Greek Cypriots and the Turkish Cypriots has entered into force, and a new state of affairs has come into being in Cyprus. Accordingly, the United Cyprus Republic is an independent and sovereign state with a single international legal personality and a federal government and consists of two constituent states, namely the Greek Cypriot State and the Turkish Cypriot State. The European Convention for the Protection of Human Rights and Fundamental Freedoms and its Additional Protocols are in force for the United Cyprus Republic.

We solemnly declare that henceforth, the membership rights and obligations of Cyprus in the Council of Europe shall be exercised in accordance with the new state of affairs.

We also wish to inform you that the Foundation Agreement resolves in a comprehensive manner all issues that have divided Greek Cypriots and Turkish Cypriots in the past, including all property questions. We would like to bring to your attention the fact that the Foundation Agreement provides a domestic remedy for the solution of all questions related to *affected property* in Cyprus, and to inform you that the United Cyprus Republic shall be the sole responsible State Party concerning such matters. Moreover, pursuant to Article 37 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and Rule 43 of the Rules of Court, we request the Court to strike out any proceedings currently before it concerning *affected property* in Cyprus, in order to allow the domestic mechanism established to solve these cases to proceed.

We would be grateful if you would bring this letter to the attention of the Parliamentary Assembly and the Committee of Ministers of the Council of Europe, and we request that the Parliamentary Assembly and the Committee of Ministers endorse the Foundation Agreement.

Please accept, Excellency, the assurances of our highest consideration.

Co-President Co-President