International Trade Law and Unrecognized States

A Comparison Between the Turkish Republic of Northern Cyprus and the State of Palestine

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ABSTRACT

The European Court of Justice (the Court) arguably misjudged the content and outcomes of the principle of non-recognition in international law by its decision in the *Anastasiou* case where direct importation of the products from the Turkish Republic of Northern Cyprus (TRNC) with certificates issued by the TRNC authorities were banned and heavy taxation started to apply on the basis of the TRNC's non-recognition. While on the other hand, the Court considered the products coming from another non-recognised state; Palestine with an Israeli origin stamp to be illegal and ruled that Palestine should be authorised to issue such origin certificates by the decision of *Brita GmbH* case. Therefore, this paper aims to examine the relation between the territorial disputes and the rules of origin through the analysis of two European case law as mentioned above in order to investigate two distinct approaches, namely the political sovereignty approach and practical trade approach adopted in these cases. That is why, the paper starts with the analysis of the current legal status of these two territories. This is followed by the evaluation of current laws regulating the international trade of these States where also an empirical study held in the form of qualitative research in order to illustrate the difficulties the TRNC exporters are encountering due to these current laws on a daily basis. This research conducted in order to construct a solid ground for the argumentation against the ECJ's decision in *Anastasiou* case and political sovereignty approach. Mainly, the EU's trade policy in regard to these two disputed territories and the rules of origins applied to the products produced in these territories evaluated and compared through the above-mentioned case law thus a further suggestion can be made to the EU. For this reason, a comparative methodology is adopted to illustrate that it is possible to rely on practical trade approach as this can be observed in the case of Palestine. Furthermore, the examination of how to apply the practical trade approach to the case of TRNC demonstrated as it is possible to do so in occupied territories due to the current practice in this field. Eventually, a debate held on why the EU should change its trade policy towards the TRNC as its current policy creates obstacles to the process of Cyprus Peace talks and put the process in abeyance. Finally, the paper adopted a prescriptive methodology in order to make a future recommendation. In that respect, it is suggested that the EU should adopt a new trade policy towards the TRNC with practical trade approach where sovereignty and international recognition won't be the determinative factors for free-trade.

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LIST OF ABBREVIATIONS

TRNC	Turkish Republic of Northern Cyprus
ECJ	European Court of Justice
EU	European Union
UN	United Nations
PLO	Palestine Liberation Organization
HHH	Hauptzollamt Hamburg-Hafen
GATT	General Agreement on Tariffs and Trade
WTO	World Trade Organisation
ATF	Agreement on Trade Facilitation

INTRODUCTION

Since 1974 *de facto* partition of the Cyprus and with the declaration of the independence of the Turkish Republic of Northern Cyprus (TRNC) in 1983, the TRNC holds the status of non-UN member state that is only recognised by Turkey.[1] Otherwise, TRNC has not been legally recognised by any other State and due the its partition, the international trade of the TRNC became problematic over the years. Especially when one considers to export products of TRNC origin. This was because of two major cases, namely the *Anastasiou I and II* cases, concerning the exports into the EU where the European Court of Justice (ECJ) decided that European Union (EU) members must not accept certificates issued by the TRNC authorities as cooperation required under the certificate system was excluding the TRNC because it was neither recognised by the EU nor by its member states.[2] The decision of the court was bearing the characterisation of political sovereignty approach which caused the TRNC's international trade routes to be restricted.

On the other hand, there is the State of Palestine with occupied territories under the occupation of Israel.[3] Palestine has observer non-UN Member State status but have not been recognized by the EU and its Member States. Despite such resemblance to the TRNC, the ECJ in *Brita GmbH* case decided to take a practical trade approach in regard to the issuance of EUR.1 certificates by the Palestinian authorities.[4]

It is known that in general, importing states apply two territorial approaches when they determine an origin of a product, namely the political sovereignty approach or the practical trade approach.[5] The latter usually evaluate the question of origin from a commercial point of view and determines the relevant questions according to the principles of international trade law while the former evaluates the issues of origin from the international politics standpoint and emphasizes the question of sovereignty recognition.[6] Here, it can be seen that the ECJ's ruling in *Anastasiou* contradicts with the *Brita GmbH* in that sense. This contradiction is forming the main focus of this

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1 Patrick Tani, 'The Turkish Republic of Northern Cyprus and International Trade Law'(2012) 12 Asper Rev. Int'l Bus. & Trade L.
<http://heinonline.org/HOL/Pagehandle=hein.journals/asperv12&collection=journals&id=117&startid=&endid=140.html> accessed 18 January 2017, pp. 3

2 C-432/92 *The Queen v. Minster of Agriculture, Fisheries and Food, ex parte S.P Anastasiou (Pissouri) Ltd and others* [1994], E.C.R. I-3116 [Anastasiou 1994].

3 Mosche Hirsch, 'Rules of Origin as Trade or Foreign Policy Instruments?: The European Union Policy on Products Manufactured n the Settlements in the West Band and the Gaza Strip' (2002), Fordham Int'l LJ, Vol. 26, No. 3, <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1879&context+ilj> accessed on 28 January 2017, pp. 557.

4 C-386/08, *Brita GmbH v. Hauptzollamt Hamburg-Hafe*n, 2009 ECJ (Opinion of Adv. Gen'l Yves Bot) <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-386/08> accessed 10th January 2017 [hereinafter Brita v. Hauptzollamt AG Decision].

5 Hirsch, *supra* note 3, pp. 577.

6 *Ibid.*

paper; to analyse the different judgments of the ECJ, to know more about the above-mentioned approaches and eventually to create an argumentation on the possible application of the practical-trade approach in the case of TRNC.

In that respect, the paper briefly focused on Cyprus dispute and the current legal status of the TRNC and analysed this from the perspective of state recognition. There is also a brief explanation of how international trade law is being regulated under the TRNC where the discussion focused on trade via Turkey and the 2004 Green Line Regulation. The paper also analysed the qualitative research data collected through the focused interviews made with the main TRNC exporters on difficulties suffered by them due to the current laws in order to be able to illustrate that the current legal regulations are not practical in practice. During these face to face interviews, nine questions directed to the interviewees where each interviewee had thirty minutes in total to provide answers. In total, there were 7 interviewees mostly selected from the field of agriculture & livestock farming as these are forming the main exporters of the TRNC. Interviews recorded and transcript of each prepared where coding used as an interpretation technique when analysing the responses. The results of these interviews are anonymized due to the requests of the interviewees where these can be found integrated into the argumentation section of the paper. Afterward, the paper proceeded to study the *Anastasiou I and II* cases where the discussion of political trade approach adopted by the ECJ and its effect on the trade of the TRNC can be found. Besides, as the aim of the paper is to illustrate that the practical-trade approach could have been used in the case of TRNC, the State of Palestine taken into consideration. Discussion of practical trade approach, arising from the judgment of the ECJ in *Brita GmbH* case held in order to illustrate that two cases and two States share similar characteristics. Yet the reasonings of the ECJ differed. Finally, a comparison between the two approaches followed in order to argue against the decision of the *Anastasiou* cases, to show how the ECJ contradicts within itself due to its foreign policy and to suggest why the practical trade approach should apply in case of the TRNC when compared to Palestine.

A. TURKISH REPUBLIC OF NORTHERN CYPRUS

i. An Insight to Cyprus Dispute:

Cyprus is an island, located in the Mediterranean Sea, famous with its capital as many know it with the name of 'Nicosia, the last divided capital' in Europe. Before the island became the Crown Colony of the British Empire, the communities were in peace. However, following the independence given to the Cyprus in 1960 by the United Kingdom, tensions between the Turkish and Greek residents arising from the ethnicity have peaked and resulted with the island's most bloodiest wars to occur within the period of 1960-1974.[7] As a consequence of the Greek military junta's coup, the island invaded by the Turkey and 35% of the island occupied in July 1974. On 15th November, the Northern part of the island declared its independence under the name of the Turkish Republic of Northern Cyprus with a separate government and a legal system.[8] However, this independence only recognized by Turkey. On the other hand, the Republic of Cyprus as being accepted as the *de jure* government of the whole island currently controls the 60% of the island on the South and entered into the European Union in 2004.[9] Besides, the UK holds the 3% of the island as its sovereign bases while the rest belongs to the UN as its buffer zone.[10] This can be seen from the map below.[11]

Currently, the 'Peace Talks' between the President of the Republic of Cyprus, Nicos Anastasiades and the Turkish leader, Mustafa Akinci is in progress under the auspices of the UN Secretary-General with an aim to have a unified Cyprus, albeit the end result does not look crystal clear so far.[12]

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7 Tani, *supra* note 1.
8 *Ibid.*
9 *Ibid.*
10 *Ibid.*
11 Republic of Cyprus, Geological Survey Department, <http://www.moa.gov.cy/moa/gsd/gsd.nsf/0/43CA34467BC412EAC2256FB30035287E$file/GeologicalMapOfCyprus_250k_en.jpg?OpenElement> accessed 17th January 2017.
12 'About the Peace Talks' (UN Cyprus Talks) <http://www.uncyprustalks.org/sample-page/html.> accessed 9 May 2017.

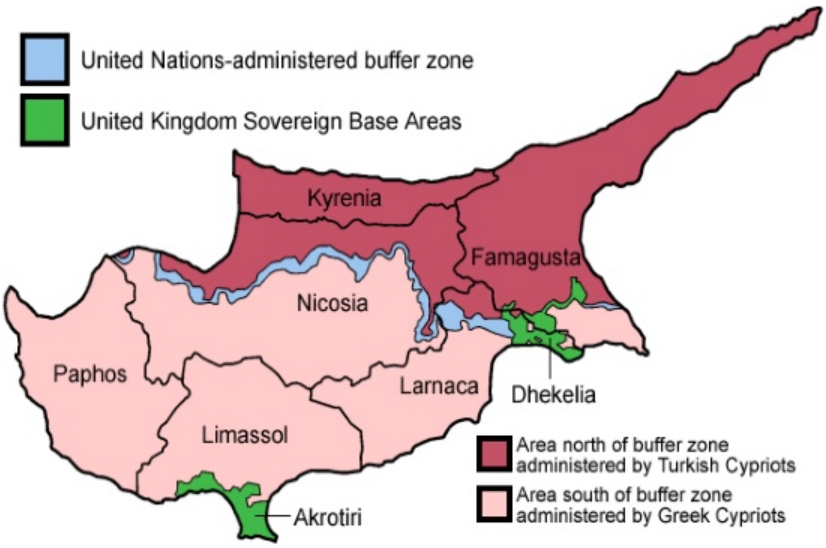

Image accessed from the Republic of Cyprus, Geological Survey Department website.

ii. The Analysis of the Current Legal Status of the Turkish Republic of Northern Cyprus:

Two theories usually govern the recognition of a state. These are known as the declarative and the constitutive theories.[13] The evaluation of the current legal status of the TRNC and Palestine made from the perspectives of both theories in this paper.

If simply explain what constitutive theory requires, one can argue that a state needs to be recognized by other states in order to exist where the recognition itself creates the state.[14] Albeit, this theory is created by genuine practice and is not completely acknowledged in these days because according to some commentators state practice prefers the declarative theory. However, it can be seen from some case-law that despite the decisions supported the declarative theory, the constitutive theory mostly endorsed in practice.[15]

On the other hand, under the declaratory theory, there are necessary factors to fulfil when describing an entity as a state. These can be found in Article 1 of the *Montevideo Convention on*

13 William Worster, 'Sovereignty: two Competing Theories of State Recognition' (University of Hague, 2015), pp. 125.
14 Linda A. Malone, 'International Law' (New York: Aspen Publishers, 2008) pp. 44.
15 Judge Li in separate opinion of *Tadić* case at the International Criminal Tribunal for the former Yugoslavia emphasized that the majority applied the constitutive theory and debated that the conflict should have been accepted international starting from the moment when Croatia and Slovenia declared their independence, not due to their recognition by others. Case No. IT-94-1-I, *Prosecutor v. Tadić,* Decision on the Defense Motion for Interlocutory Appeal on Jurisdiction (Oct. 2, 1995) (Separate opinion of Judge Li), pp. 128.

Rights and Duties of States.[16] According to Article 1, a state should have i) a permanent population, ii) territory that is defined, iii) a government and iv) a capacity to enter into relations with other states.[17] Therefore, it can be argued from this perspective that the TRNC is actually a state as it fulfils all the criterion of Article 1. It has a permanent population; to be estimated around 313, 626, a defined territory; constituting 35% of the island, an effective government; coalition between the National Unity Party and the Democratic Party that indeed provide services and controls the territory. Finally, it can be argued that the TRNC has the capacity to enter into relations with other states once the other states recognise it. In this respect, the term 'capacity' should also be examined as well.

It can be argued that the principle of the term 'capacity' within the context of *Montevideo Convention* is extracted from the 'independence'[18] Besides, as 'independence' explained by Judge Anzilotti in the *Austro-German Customs Union* case, it simply means that the state has only the authority of the international law over it however, he also mentioned that there is no need to be free from outside interference just to be independent.[19]

When evaluated from this perspective, it can be argued that the TRNC is independent because it is working in a structure of a semi-presidential representative democratic republic. There is head of state, the government with an executive, legislative and judicial powers and its own constitution without the control of any other foreign authority but only the authority of the international law. Despite, the influence of the Turkey over the TRNC can be argued as being a strong one. This can be accepted as a fact. However, according to the perspective of Anzilotti, the TRNC can be argued as sufficiently independent. Therefore, it arguably has the 'capacity' to enter into relations with the other countries.

Notwithstanding to the above argumentation, all the United Nations (UN) members are currently refusing to recognise the TRNC as a sovereign state due to UN *Resolution 541*. The UN *Resolution 541* provided that all UN members should recognise only the Republic of Cyprus and not any other entity within the island.[20] This resulted in the government of the TRNC to have no appellation in international organisations. Also, TRNC citizens are forbidden to take part in such international activities as well. Eventually, such barriers started to cause some grave problems,

16 *Montevideo Convention on Rights and Duties of States,* 26 December 1933, 165 LNTS 19.
17 *Ibid. A*rticle 1.
18 David Raic, 'Statehood and the Law of Self-determination' (The Hauge: Kluwer Law International, 2002) pp.74.
19 *Customs Regime Between Germany and Austria* (Protocol of March 19th, 1931), Advisory Opinion, PCIJ, Ser. A/B, No 41, Anzilotti J, separate opinion, pp. 45, 57-58.
20 *The Situation in Cyprus,* S Res 541, UNSCOR, 2500th Mrg, (1983) 14, pp. 16.

specifically on international trade as it broadens the economic disparity between the North and the South.

iii. How the international trade law is being regulated in the TRNC?:

TRNC's trade policy can be argued as being liberal. She has trade relations with more than 60 countries, mainly for imports.[21] Turkey and the United Kingdom are the major trade partners.[22] Albeit, the partnership of the UK has ended in 1994 once restrictions imposed on exports to the UK and the other European states from the TRNC.[23] The situation altered since then and major declines in exports to the Europe and to the UK observed. TRNC usually export agricultural goods, mainly dairy products, live lambs, fresh vegetables, potatoes, citrus crop, carobs, concentrated citrus, olive and olive oil.[24]

Detailed information in regard to trade via Turkey and Green Line Regulation can be found below.

a. International Trade via Turkey:

TRNC's trade policy with the third countries and the EU is currently being regulated under the TRNC's 'Foreign Trade (Regulation and Supervision) Law, No. 12/1983'.[25] The Law contains mainly three parts, Part I describes certain terminology, Part II explains how foreign trade should be executed, regulated and controlled while Part III is about sanctions.[26] Despite a couple of bilateral agreements signed between the TRNC and other countries, goods have to be shipped to Turkey ports, mainly to Mersin where it receives the 'Turkey's (Mersin)' stamp in order to be able to export to the third countries due to embargoes on the TRNC.[27] That is why this option is mainly called the trade via Turkey despite the existence of bilateral agreements. In that sense, it can be argued that the TRNC products are actually being subject to double procedures, one before leaving the TRNC ports and another one when leaving the ports of Turkey which usually leaves the TRNC exporters in a

21 Salih Katircioglu, (2010) 'Trade and growth in a non-recognized small island state: Evidence from the Turkish Republic of Northern Cyprus', Journal of Business Economics and Management, Vol. 11, No. 1, pp. 5-6.
22 N. Skoutaris. The Cyprus Issue: The Four Freedoms In a Member State under Siege. (Hart Publishing, 1st edt. 2011), pp. 103.
23 Katircioglu, *supra* note 21.
24 *Ibid.*
25 Foreign Trade (Regulation and Supervision) Law, No. 12/1983 made by the jurisdiction of the Turkish Republic of Northern Cyprus Federal Council.
26 *Ibid.*
27 Apart from the detour of the product, other disadvantages include the money and time spend for this detour. However, the most important disadvantage encountered by the TRNC exporters is that they can not sell their products as the product of the TRNC since the products receives an origin stamp of Turkey and therefore accepted as the products of Turkey due to this detour according to the information obtained from the interviews.

vulnerable position.[28] Eventually, some of these products are being treated as Turkish products after receiving the 'Turkey's (Mersin)' stamp.[29]

According to the Part II, Article 5(1), if private individuals or legal entities whose their residency are registered in the TRNC wishes to export their goods, they must be registered as 'exporters' at the Ministry of Commercial Affairs of the TRNC. These private individuals and legal entities are also required to be the member of either the Turkish Cypriot Chamber of Commerce, Turkish Cypriot Chamber of Industry or the Chambers of the Turkish Cypriot Artisans and Craftsmen.[30] Besides, each product must be subject to the authorization of the Ministry of Commercial Affairs. If the product falls under the export with specific features, then further authorization must be obtained from the Ministry.[31] Certain documentations are expected to be submitted once the product receives the certain authorizations from the Ministry during the procedure at the customs.[32] These documentations are the papers which specifically explains how the product grows, under what circumstances, if any subsidies are given or if any chemical additives used during its grow.[33] On the other hand, Part III is all about the sanctions in case of violation of the rules stated under the Part II.[34]

In that respect, it can be argued that the Law, No. 12/1983 is not a very detailed regulation since it contains only three parts and it lacks many detailed considerations, especially in Part II regarding how trade should be controlled, regulated and executed. This should be an enough evidence to show how the trade relations of TRNC is not actually governed by her government but mostly according to what Turkey dictates at its customs.[35]

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28 For example, it is highly possible that the checks at the Turkey ports will be taken on hold due to diplomatic/political related crisis. Usually, the duration of these holds are unknown and depends to the discussions between the TRNC government and the government of Turkey. For instance it is known that citrus crops can be really vulnerable due to specific weather conditions. If they are being hold more than couple of days under poor conditions, such as extreme cold or hot weather, they eventually start to rot and melt. After that point, even if the checks continue, those crops become unable to be exported due to its bad condition. This eventually leaves the TRNC exporters to suffer economically. *Ibid.*Pp. 6-8.

29 'However, under some conditions, due to bribery at Turkish customs, some TRNC exporters have an illegal opportunity to had special stamps with 'made in TRNC' sentence and the TRNC flag on their products. This can not be seen on a daily basis but it is not impossible to do so either where these products would eventually find their way into the EU and other countries as the products of the TRNC.' Tani, *supra* note 1, pp. 15.

30 Foreign Trade (Regulation and Supervision) Law, No. 12/1983. Part II, Article 5(1), pp. 4.

31 *Ibid*. Part II, Article 8(1), 9(1).

32 *Ibid.* Part II, Article 10(1), pp. 5.

33 *Ibid.*

34 Foreign Trade (Regulation and Supervision) Law, No. 12/1983, Part III, pp. 6-9.

35 'After all, even if a legal entity or a private person wishes to export a specific product and fulfills all the conditions specified under the above-mentioned law, the trade is still governed according to the rules decided by the Turkey at it's custom gates. This occurs due to high level of corruption at the customs.' Katircioglu, *supra* note 21, pp. 10.

b. International Trade via EU Council Regulation (EC) No 866/2004 (hereto Green Line Regulation):

The Green Line Regulation came into force on 29th April 2004 in order to regulate the special rules on movement of goods, services, and persons between the TRNC and the Republic of Cyprus.[36] The main aim of the regulation is to facilitate the trade between the both sides while guaranteeing the convenient standards of protection.[37] This option is preferred by the TRNC exporters as well since it became available to use the ports of the Republic of Cyprus to export their goods to the third countries and to the EU. However, there are certain conditions that need to be fulfilled. Title III; Article 4, 4(a), 5 and 5(a) regulates these conditions. However, this paper specifically focuses on to the '*treatment of goods arriving from the areas not under the effective control of the Government of the Republic of Cyprus*' under Article 4.[38] This is because Article 4 specifically deals with products coming from the TRNC and the products which will have the potential to be stamped as the products of the Republic of Cyprus.

According to Article 4(1), "goods that have obtained or undergone their last, substantial, economically justified processing or working in an undertaking equipped for that purpose in the areas not under the effective control of the Government of the Republic of Cyprus within the meaning of Article 23 and 24 of the Council Regulation (EEC) No 2913/92, may be introduced in the areas under the effective control of the Government of Republic of Cyprus."[39] Furthermore, according to Article 4(2), the goods mentioned above should not need customs declarations and they should be free from custom duties or charges having equivalent effect. Albeit, the quantities that cross the border should be registered for an effective control.[40] For the crossings, list of specific points can be found in the Annex I of the Regulation, otherwise it is not allowed to use any gate that is not subject to the Annex I.[41] It should also be known that these goods have to go through checks and are subject to the requirements due to the Community legislation.[42] Besides, Article 4(5) requires the TRNC exporters to obtain a document that must be issued by the Turkish Cypriot

36 Preamble, Recital 4, EU Council Regulation (EC) No 866/2004, OJ L 206, 9.6.2004, pp. 3.
37 *Ibid.* Recital 5.
38 "Article 4(a) concerns temporary introduction of goods for the purposes of sporting activities or exhibitions while Article 5 concerns goods sent to the areas not under effective control of the Government of the Republic of Cyprus. Article 5(a) focuses on treatment of goods which are taken out of the areas under the effective control of the Government of the Republic of Cyprus and taken back into those areas after passing through the areas not under the effective control of the Government of the Republic of Cyprus." *Ibid.* Title III, pp. 8.
39 'Council Regulation (EEC) No 2913/92 is the regulation that establishes the Community Customs Code.' *Ibid.* Article 4(1), pp. 5.
40 *Ibid*. Article 4(2).
41 *Ibid.* Article 4(3).
42 *Ibid.* Article 4(4).

Chamber of Commerce.[43] This usually helps the Commission to keep track of the type and amount of goods crossing the borders. After the goods cross the border to the South, they become subject to the checks by the competent authorities of the Government of Cyprus where the authenticity of their documentations and their correspondence with the consignment is being checked.[44] The movement of live animals and animal products are prohibited unless a permission is specifically provided by the Commission.[45] Last but not least, goods that comply with the rules in paragraph 1 to 10 obtain the status of Community goods.[46]

In theory, this regulation can be argued as being well-planned and might look easier to follow. However, in practice, there are too many technicalities that the TRNC exporters face on a daily basis, especially during the authorization process since these can also be put on hold due to the diplomatic crisis in between both sides.[47] The biggest problem that exporters have to encounter under this regulation can be debated as obtaining the documentation that proves the origin of their products as required by Article 4(1) and (5).[48] This is because the rules of origin can be argued as being thematic to the territorial disputes as in international law, the origins of products are usually determined on a territorial basis. Therefore, it is likely that an issue concerning the competence emerges when a product comes from an unrecognised state like the TRNC or a disputed territory where it's certification is provided by an unrecognised state.[49] However, the discussion concerning this issue can be found in detail below.

v. Case-Study: *Anastasiou I* and *Anastasiou II:*

a. C-432/92 *The Queen v. Minster of Agriculture, Fisheries and Food, ex parte S.P. Anastasiou (Pissouri) Ltd and others* [Anastasiou I]:

The *Anastasiou I case* first brought to the UK High Courts in 1993. However, the UK court decided to refer the case to the ECJ for a preliminary ruling in 1994 where 5 important questions

43 *Ibid.*.Article 4(5).
44 *Ibid.* Article 4(6), pp. 6.
45 *Ibid.* Article 4(9).
46 '… within the meaning of Article 4(7) of Regulation (EEC) No. 2913/92.' *Ibid*. Article 4(11).
47 Ahmet C. Gazioglu, (2001), 'Security Council Resolution 186 and UN Force in Cyprus (UNFICYP)', Journal of International Affairs, Vol. VI, No.1 <http://sam.gov.tr/wp-content/uploads/2012/02/AhmetGazioglu4.pdf> accessed 15th January 2017, pp. 130.
48 'When determining the rules of origin, if to follow the well-known WTO criteria, there are four wide categories of tests used to specify the origin, albeit the categories are not exhaustive. Usually, the place, a product goes through the last significant process, or adequate processing or working is the originating State while other three categories are economic tests. First is being the value-added test, second is technical test and third is change in tariff classification test.' Hirsch, *supra* note 3, pp. 575, 576.
49 *Ibid.*

asked in that respect.[50] The claimants were thirteen citrus product producers and exporters from Cyprus while the respondent was the Minister of Agriculture, Fisheries, and Food of the UK.[51] The complaint made when the citrus and potato products produced in the TRNC had given a phytosanitary certification along with the custom stamps issued by the TRNC authorities because it was believed that the TRNC authorities were not empowered to issue such certificates. Instead, complainants claimed that the Republic of Cyprus should be the sole and legitimate entity authorized to issue these certificates at that time[52]. In that respect, two issues emerged before the ECJ. First one was the determination of the appropriate customs authority for the exporting state where the Court focused on the 1977 Protocol in order to answer that question.[53] According to Article 6(1) of this protocol, the proof of originating status of a product should be provided by the movements certificate 'EUR. 1' while Articles 7(1) and 8(1) requires the movement certificate to be given by the customs authorities of the exporting state.[54] According to Article 8(3), it is the responsibility of the exporting state to guarantee the completion of the forms referred in Article 9 on time.[55] In the beginning, the ECJ believed that accepting certificates from the TRNC authorities should not be seen as an equivalent to the recognition of the TRNC. Further, the Court believed that this acceptance should be seen as a representation of the essential and justifiable outcome of the exigency to take the interests of the whole Cypriot population into consideration.[56] Albeit, the Court emphasized that the interpretation of the protocol would not change by the special political situation in Cyprus.[57] Furthermore, the Court analysed the preamble of the protocol where it found that the aim of it is to provide a system where movement certificates given as an evidence of origin should be based on the principle of mutual reliance and cooperation between the qualified authorities of the both exporting and importing States.[58] Accordingly, the Court decided that the TRNC that is not recognised by the EU and its Member States should be excluded from the recognition by the

50 "Five questions referred to the Court for the interpretation of the Association Agreement and the Plant Health Directive focused on the essence of which was whether the Agreement or the Directive precluded or required, acceptance by the national authorities of the member states of certificates issued by authorities other than those of the Republic of Cyprus when citrus fruit or potatoes were imported from northern part of Cyprus and whether the answer would be different if certain circumstances connected with the special situation of the island of Cyprus were taken as established." Anastasiou 1994. Para. 14-15.

51 *Ibid.* Para. 2.

52 *Ibid.*

53 Council Regulation on the Conclusion of the Additional Protocol to the Agreement Establishing an Association between the European Economic Community and the Republic of Cyprus, (EEC) No 2907/77 of 20 December 1977.

54 Anastasiou 1994. Para. 7.

55 *Ibid.*

56 *Ibid.* Para. 34.

57 'The Court emphasized that the problems that occur in regard to the application of the Association Agreement due to *de facto* partition of the island in 1974 with the intervention of the Turkish armed forces should not be accepted as a deviation from unconditional, clear and precise provisions of the 1977 Protocol on the origin of products and administrative cooperation.' *Ibid*. Para. 37.

authorities because their system cannot work warrantably unless they precisely comply with the procedures of the administrative cooperation.[59] Therefore, it can be argued that the only acceptable certificates were the ones that issued by the Republic of Cyprus in this case despite the changed political circumstances within the island.

The second issue arose in regard to the denied certificates authorized by the TRNC, especially whether these have been subject to discrimination according to Article 5 of the Association Agreement.[60] The 1972 Agreement established an association between the EU and the Republic of Cyprus to promote trade in citrus fruit and potatoes.[61] Therefore, the agreement came up with a system where it created preferential tariffs for the Cypriot products. However, in order to prove the origin, there was a requirement of obtaining an EUR. 1 movement certificate while it was emphasized that a discrimination was strictly forbidden.[62] Therefore, denying the certificates from the TRNC raised the question of discrimination in that respect where the Court responded by referring to Article 3 of that Agreement.[63] All the alternative means of proof expected to be discussed so that a decision could be made by the Community and Cyprus according to the framework of the institutions that were in accordance with the Association Agreement and enforced in a uniform manner by both of the Parties.[64] In that respect, it can be argued that the Court believed in a balanced interpretation of the fundamental principle of non-discrimination inversely to the convenient operation of the agreement, uniformity, principle of mutual reliance and duty of cooperation between the Parties. Thence, according to the Court, Article 5 should not have been interpreted as conferring a right to the EU Community to involve in the internal affairs of the island

58 "Acceptance of certificates **by** the customs authorities of the importing State reflects their total confidence in the system of checking the origin of products as implemented **by** the competent authorities of the exporting State. It also shows that the importing State is in no doubt that subsequent verification, consultation and settlement of any disputes in respect of the origin of products or the existence of fraud will be carried out efficiently with the cooperation of the authorities concerned." *Ibid.* Para. 38-39.
59 *Ibid.* Para. 40.
60 Article 5: "The rules governing trade between contracting parties may not give rise to any discrimination between nationals or companies of Cyprus." Regulation on the conclusion of an Agreement establishing an Association between the European Economic Community and the Republic of Cyprus, (EEC) No. 1246/73 of 14 May 1973.
61 *Ibid.*
62 "EUR 1 certificates are also known as 'movement certificates' and they enable importers in specific countries to import their products at a deductible or zero rate of import duty under the trade agreements of the EU and beneficiary countries." Chamber of International (2015) <https://www.chamber-international.com/exporting-chamber-international/documentation-for-export-and-import/eur-1-certificates/> accessed 03rd June 2017.
63 Article 3: "The contracting parties shall take all appropriate measures whether general or particular to ensure fulfillment of the obligations arising out of the agreement. They shall refrain from any measure likely to jeopardize the achievements of the aims of the agreement." Regulation on the conclusion of an Agreement establishing an Association between the European Economic Community and the Republic of Cyprus, (EEC) No. 1246/73 of 14 May 1973.
64 Anastasiou 1994. Para. 46.

and resolving such problems should have been left to the Republic of Cyprus.[65] Eventually, claim based on Article 5 refused.

Consequently, the Court's reasoning can be argued as supporting the 'political-sovereignty approach' that grants substantial importance to the preferential determination of recognition or sovereignty in regard to a specific territory where the former stage might likely to leave the process of determination of origin unknown.

b. C-219/98 *The Queen v. Minister of Agriculture, Fisheries and Food, ex parte S.P. Anastasiou (Pissouri) Ltd and others* [Anastasiou II]:

Following the decision in 1994, the TRNC exporters found an alternative way to export their products to the third countries and especially to the UK. A group mainly formed from citrus exporters signed an agreement with a company established in Turkey where it was allowing the citrus products originating from the TRNC with phytosanitary certificates provided by the TRNC officials to be shipped to Turkey.[66] Due to this agreement, ship goes to a Turkish port where it waits less than 24 hours and thereafter it continues its voyage to the UK without any cargo being unloaded.[67] The reason for this hold at a Turkish port is being made so that a phytosanitary certificates can be issued by the Turkish authorities once an inspection on board occurs.[68]

While these were taking place on the northern side of the island, the *Anastasiou* case brought up again by the House of Lords where a referral made to the ECJ. The case called *Anastasiou II*.[69] According to the Court, the system of checks to prevent the introduction and spread of harmful organisms in imported products should be carried out by the experts that are lawfully authorised for that by the Government of the exporting State where an appropriate phytosanitary certificate should be provided for a guarantee.[70] The Court stated that importation of citrus products from an unrecognised state does not affect the validity of certificates as long as the protection is being guaranteed by the cooperation. In this case, Turkey found to be the lawful authority to provide the certificates, therefore the cooperation was feasible.[71] For this reason, the arrangement made between

65 *Ibid.* Para. 47.
66 Tani, *supra* note 1, pp. 127.
67 *Ibid.*
68 *Ibid.*
69 C-219/98, *The Queen v. Minister of Agriculture, Fisheries and Food, ex parte S.P. Anastasiou (Pissouri) Ltd and others,* ECR. I-5241 [Anastasiou II].
70 "The aim of this certificate is to protect the EU territory from the spread and introduction of organisms harmful to plants." *Ibid.* Para. 22, 32.
71 "This is because Turkey is a fully recognized state in the international community." Patrick Tani, *supra* note 1, pp. 128.

Turkey and the TRNC to check the products and to issue a phytosanitary certificate can be argued as being an adequate one as it was providing a cooperation between importing and exporting States.[72]

The Court specifically dealt with a question on special requirement embarked in item 16.1 of the Council Directive 77/93 which was specifically required that packaging must carry a convenient origin mark on itself.[73] It has been claimed that this can only be fulfilled within the country of origin thus, Minister of Agriculture, Fisheries, and Food did not have the right to accept the phytosanitary certificates provided by the Turkish authorities.[74] Furthermore, the Advocate General also claimed that such action should not be permissible under such circumstances, therefore, the case referred back to the ECJ once again in 2003.[75] During the hearings, it was argued that the requirement of an appropriate origin mark could be satisfied in another country besides the country of origin as long as the checks for the validity of a mark made by a lawfully authorised inspector in that country.[76] This argumentation rejected by the Court for several reasons.[77] Furthermore, there was a special provision which was requiring a phytosanitary certificate to state a record of the origin of a plant in case if the mark printed on to the package is lost once the packaging is damaged. For this reason, the Court decided that the analysis of official statements required under the items 16.2 – 16.3 would go against the object of the reinforcing phytosanitary safeguards.[78]

In abstract, it can be argued that the TRNC assumed as politically unrecognised in these cases where the authority coming from the TRNC is found inadmissible by the *Anastasiou I* case. Overall, it can be clearly seen that the decisions of the *Anastasiou* cases followed a political sovereignty approach in their reasonings which mainly based on the TRNC's political nonrecognition by the international and EU community.

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72 "while limiting the risks in which products would be certified when they were merely passing through the territory of a non-member state." Anastasiou II. Para. 37.
73 *Ibid.* Para. 23.
74 *Ibid.*
75 C-140/02, *The Queen v. Minister of Agriculture, Fisheries and Food, ex parte S.P Anastasiou (Pissouri) Ltd and others*, ECR. I-0635, [Anastasiou 2003].
76 *Ibid.* Para. 62.
77 "First, such an analysis of item **16.1,** interpreting **it** as requiring merely a subsequent check that the packaging bears an appropriate origin mark, is contrary to the purpose of that item, which requires actual performance of that marking requirement. Second, the inspector responsible for issuing the phytosanitary certificate in that other country is not in the same situation as his counterpart in the country of origin for the purpose of detecting any falsification of the origin mark designed to derive improper advantage from a satisfactory phytosanitary finding as to the country of origin, in as much as he will be able to act on the basis only of invoices or transport or dispatch documents. Finally, the cooperation which the competent authorities of the importing Member State build up with those of a non-member country other than the country from which the imported plants originate cannot establish itself under conditions as satisfactory as in the case of direct cooperation with the competent authorities of the country of origin. Effective cooperation with the latter authorities is especially important, particularly in the case of contamination." *Ibid.* Para. 63.
78 *Ibid.* Para. 69.

That is why a sharp contrast can be drawn when the outcome of these cases and the issue of the TRNC are compared to the outcome of the *Brita GmbH* case and the issue of the Palestine.

B. State of Palestine

i. An Insight to Israel – Palestine Dispute:

The wide-range of conflict between the Palestine and Israel started in the mid-20th century. Incidents were taking place in between the Arab population and the Jewish '*yishuv*' during the British rule.[79]. Especially after the Declaration of the Establishment of the State of Israel in May 1948, the 1948 Arab-Israeli War started when the Arab League intervened.[80] Starting from the 1950s, specifically after the establishment of the Palestine Liberation Organization (PLO) by Yasser Arafat who secured himself and the PLO a place in the Arab League, the situation has worsened.[81]

Following the Six-Day War in 1967, Israel occupied the territories known as Golan Heights, Sinai Peninsula, Gaza Strip and the West Bank. By 1987 Palestinians started to uprise against this occupation and the escalating attacks where international efforts to settle the conflict had begun in the 1990s.[82] This occupation can be seen in the map below.[83]

Following Oslo Accords of 1993 on the Israeli-Palestinian peace process, PLO had granted a chance to set up its headquarters in the West Bank and Gaza Strip where Palestinian National Authority established. However, the negotiation failed. The Second Intifada took place seventeen years later where this eventually let Israeli settlers and soldiers to leave Gaza.[84] Albeit, some commentators still argue that the Israel is still in the position of the occupying power of the Gaza Strip as it controls the airspace, movement of people and goods and its territorial waters. The tension between the two has escalated during late 2008 where Israel initiated an operation upon Gaza but an armistice concluded by 2009 through an international mediation. Furthermore, Palestinian Authority tried to have a UN membership as a fully sovereign state. Full member status denied by the UN Security Council, however, the de facto recognition of sovereign Palestine

79 '*Yishuv*' is a Hebrew word that is usually relied on to explain the Jewish community who lives in Palestine before the declaration of the State of Israel.' Zionism and Israel – Encyclopedic Dictionary, '*Yishuv*' definitions, <http://www.zionism-israel.com/dic/Yishuv.htm> accessed 9th June 2017.
80 Mark Tessier, "A History of the Israeli-Palestinian Conflict" (Bloomington and Indianapolis: Indiana University Press, 2009, 2nd edt.), pp. 125.
81 *Ibid*. P. 273.
82 *Ibid.*
83 Occupied Palestine, World Press, <https://occupiedpalestine.files.wordpress.com/2013/06/israel-palestine_map_19225_2469.jpg> accessed 17th January 2017.
84 *Ibid.* P. 277.

approved by the UN General Assembly in 2012 where a non-member observer State status granted to the Palestine.[85]

Overall, it can be argued that this conflict so far is the most tenacious one since Israel's occupation of the Gaza Strip and the West Bank reached its 50th year. Israel or for the purpose of this paper the State of Palestine is approximately 267km away from the East of Cyprus and in that sense, it arguably forms a good research subject since both States share similar characteristics in regard to their geographical location, international legal status, and occupation.

Image accessed from the World Press website.

ii. <u>The Analysis of the Current Legal Status of Palestine:</u>

If to look at the Palestine's international legal status from a declarative theory perspective, it can be argued that the conditions laid down in the *Montevideo Convention* must be fulfilled as explained in the case of TRNC as well.

85 UN News Center, (2012), 'General Assembly grants Palestine non-member observes State status at UN, <http://www.un.org/apps/news/story.asp?NewsID=43640#.WTqpU8aB2u4> accessed 9th May 2017.

That is why a few defects suffered by Palestine can be determined under this theory. If to analyse these, it can be observed that there is a major discussion between the advocates of Palestine and the others. Former argues that Palestine includes the West Bank and the Gaza Strip only, while the latter advocates that the Palestine includes all of the modern day Israel.[86] This group also refuses to accept Palestine as a legitimate State. Therefore, it can be argued that a 'defined territory' in that respect is contingent upon disputes in Palestine. Furthermore, it can be argued that the Palestine does not have an exclusive authority over these territories as such.[87]

Moreover, there are arguably some problems with an 'effective government' of Article 1. It can be argued that there is no such entity as an effective government that adequately controls the area due to the disagreements taking place in between Hamas and Fatah. Therefore, it can be argued that the alleged Palestine government does not exist in reality to hold an effective control over the disputed territory.

On the other hand, if to look at the issue from a constitutive theory, Palestine can always rely on this to argue that its statehood has received international approval. This is because the General Assembly Resolution A/67/L.28 which granted Palestine its 'non-member observer State status' received votes from 138 nations which in a way can be argued as an international approval of its legal status[88] Albeit the rule under the constitutive theory requires a formal acknowledgment from States thus an entity can be accepted as a state. However what would happen if not all but some States give such consent? Nevertheless, it should be remembered that there were 41 abstentions and 9 nations who voted against this Resolution.[89] Therefore, it can be argued that such a partial statehood cannot be accepted because such rule does not exist under the international law. Yet, it can be argued that an existence of a State is not usually affected by the denial of one or several States.

To sum up, it can be acknowledged that Palestine is still an unrecognised state according to the declarative theory while the Resolution can be argued as being a step forward to the recognition of Palestine as a state under the constitutive theory.

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86 John M. B. Balouziyeh, (2015), "Palestinian Statehood under International Law", (LexisNexis Legal Newsroom International Law Blog), <https://www.lexisnexis.com/legalnewsroom/international-law/b/international-law-blog/archive/2015/01/05/palestinian-statehood-under-international-law.aspx> accessed 9th May 2017.
87 'Gaza Strip is under the rule of Hamas while the West Bank is being administered with Israel together.' *Ibid.*
88 *Ibid.*
89 Balouziyeh, *supra* note 85.

iii. How the international trade law is being regulated in Palestine?:

Regulation of international trade law in Palestine can be divided into two; pre-Oslo trade regime from 1967 to 1994 and post-Oslo trade regime under 'the Paris Protocol on Economic Relations and its Implementation'.[90] However, for the logical flow of this topic, the paper focused on the latter and most recent developments in this field.

a. The Paris Protocol on Economic Relations and its Implementation:

The Paris Protocol is attached to the Oslo Accords with an aim to regulate economic relations between the two sides where it is designed to provide legal, institutional and procedural instruments to the Palestinian Authority to develop and manage their external trade.[91] It further promotes the free trade between areas under the Palestine Authority's control and Israel.[92]

Under this Protocol, import policies of Israel continue to apply where some flexibility to the Palestinian Authority is allowed only under the two lists of goods with specified quantities as long as these goods fulfil Israeli specifications.[93] Also, Palestine is subject to Israeli import taxes and rebates of customs where the goods originating in Palestine has to be transited through Israel or Jordan.[94]

Exports under this Protocol mostly includes products from labour-intensive sectors such as clothing and shoes while agricultural products are less in numbers.[95] Albeit, the Second Intifada caused a significant effect on the Palestinian exports. Therefore, it can be argued that the exports from Palestine are currently suffering from stringent Israeli access and movement restrictions, harsh regulatory requirements and licensing as it happens under the case of TRNC. This is because strict provisions regarding sanitary and phytosanitary requirements are hindering the trade flows under the Paris Protocol, causing non-trade barriers to be formed for the Palestinian exports.[96] Consequently, this is causing Palestinian economy to be affected harshly where the trade is also being deteriorated.

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90 United Nations Conference on Trade and Development, 'The Palestine economy: Macroeconomic and trade policymaking under occupation', UNCTAD/GDS/APP/2011/1, pp. 10-11.
91 *Ibid.*
92 Where there is an exception for six agricultural products with a quantitative restriction. *Ibid.*
93 'A1 and A2 as identified in the Protocol.' *Ibid.*
94 *Ibid.*
95 *Ibid.* P. 12
96 *Ibid.*

However, occupied Palestine territories are still a partner to this one-sided custom union with Israel even the conditions can be argued as being uneven because Palestine is still required to implement the trade policies of a developed economy without enjoying the free trade or any other advantages included within this standard customs union.[97] Notwithstanding, this Protocol allows the Palestinian Authority to enter into trade relations with the third countries as far as these agreements do not violate Israel's import policy.

Furthermore, besides the Paris Protocol, there are several bilateral agreements that regulate the international trade under the State of Palestine.

b. Bilateral Trade Relationships of Palestine:

Palestine entered into a number of international trade agreements in the 1990s besides the Paris Protocol. The most significant free trade agreement it entered into can be argued as the one that is signed with the EU because it is the largest trading partner of Palestine after Israel.[98] There are also other FTAs concluded with Jordan, Turkey, Egypt, United States and GAFTA (Greater Arab Free Trade Agreement).[99] However, the FTA signed with the EU is going to be the focus due to the framework of this paper.

Relations with the EU and the occupied Palestine started when EU gave preferential treatment to Palestinian products due to their entrance to the community during the 1986.[100] Yet, this was contested by Israel as being contrary to the Paris Protocol where it was argued that the treatment violated the Oslo Accords.[101] This was because the preferential treatment accepted Palestinian and Israeli markets as two distinct entities. Therefore, potential benefits arising from this association became limited for the Palestine due to these argumentations made by Israel.

Notwithstanding, a trade agreement called ‘EuroMed’ concluded between Palestine and the EU in 1997 with an aim to support the progressive establishment of free trade, especially in regard to manufacturing products where limited and mutual preferential trade agreements for agricultural products provided.[102]

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97 Balouziyeh, *supra* note 85.
98 Eugene Kontorovich, ‘Economic Dealings with Occupied Territories’ (Northwestern University School of Law, 2015), pp. 593.
99 *Ibid.*
100 Zero tariff rates applied to the above-mentioned products at that time. *Ibid.* P. 596.
101 Israel argued that this was *de facto* affecting their dominance because goods specifically produced both in Israel and in the occupied Palestine would no longer be able to enjoy duty-free entry into the community. *Ibid.*
102 Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West

Furthermore, another agreement finalised between Palestine and the EU Free Trade Association in 1998.[103] Agreement entered into force with the interim agreement made between the PLO and the EU. This agreement grants duty-free treatment to the industrial commodities while some duty-free access is being provided to the processed agricultural, marine and fish products coming from the occupied Palestine with reduced tariff rates.[104]

Nevertheless, it can be argued that despite its unrecognised status, occupied Palestine had the chance to conclude several FTAs with the EU along with its chance to finalise bilateral trade agreements with other States due to the Paris Protocol. In that respect, it can be argued that the EU granted more chance to Palestine when entering into trade agreements and it has been granted more opportunities to trade freely than the TRNC since there is no FTAs signed between the EU and the TRNC in that respect.

iv. Case-Study: *Brita GmbH vs. Hauptzollamt Hamburg-Hafen:*

In this case, the parties were Brita GmbH, a German water filtration company and *Hauptzollamt Hamburg-Hafen* (HHH), the Port of Hamburg custom office.

Brita GmbH used to import products produced by an Israeli company called Soda Club Ltd. into the EU.[105] The company's plant is located in the industrial area of the West Bank. The Brita GmbH registered 62 customs declarations starting from February until the June 2002 in accordance with the EC-Israel Agreement where it made several declarations that their products originated in Israel.[106] These declarations arguably made according to the information obtained from the invoices of Soda Club and EUR. 1 certificates provided by the Israeli customs authorities.[107] However, HHH which have been accepting these declarations before decided to challenge them later.

As a result, Israeli customs authorities challenged the HHH where they stated that the goods were originating in a territory that is under the responsibility of Israeli authorities thus the products should have been entitled to the preferential treatment according to the EC-Israeli Association Agreement.[108] Consequently, the HHH asked if the products manufactured in the Israeli-occupied

Bank and the Gaza Strip, of the other part, OJ L 187, 16/07/1997, pp. 0003-0135.
103 Kontorovich, *supra* note 97, pp. 596.
104 *Ibid.*
105 C-386/08, *Brita GmbH v. Hauptzollamt Hamburg-Hafe*n, 2009 ECJ (Opinion of Adv. Gen'l Yves Bot) <http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=C-386/08> accessed 10th January 2017 [hereinafter Brita v. Hauptzollamt AG Decision], para. 49.
106 *Ibid*. Para. 49-51.
107 Authorities were approving that the products are originated in Israel. *Ibid.* Para. 66.
108 Brita GmbH vv. Hauptzollamt Judgment. Para. 32.

areas of Golan Heights, East Jerusalem, West Bank or the Gaza Strip where the Court found out that the Israeli authorities never answered these questions. That is why HHH refused to accept the request made by the Brita for duty-free treatment.[109]

Hereby, the Brita GmbH brought an action for annulment in the Hamburg Finance Court where it decided that the result should have depended on the interpretation of the trade agreements in question. Thus the Court referred four discrete questions to the ECJ for a preliminary ruling where the Court reevaluated these questions as in two issues. The first question was asking if Israeli authorities can have the power to provide EUR. 1 certificate for the products produced in the entire or in part of the West Bank while the second question was asking if the EU Member States' custom authorities are required to file the dispute to the Customs Cooperation Committee in order to determine the origin of the products.[110] Whereupon, the Advocate-General Yves Bot opined that the territories of the Gaza and the West Bank do not form the parts of Israel thus Israeli authorities cannot be authorised to provide valid EUR. 1 certificates for the products originating in the West Bank.[111]

Consequently, the ECJ reached the same decision but used a different reasoning. First of all, it can be seen that the Court abstained from interpreting the "territory of the State of Israel" that can be found under the EC-Israel Agreement.[112] In lieu, the Court relied on the EC-PLO and EC-Israel Agreements' mutual exclusive territorial scope. Also, it can be observed that the Court referred back to its ruling in the *Anastasiou I.* That is why the Court found out that the EC-Israel Agreement could not grant power to the Israeli authorities to provide certificates that would be contrary to the EC-PLO Agreement. Furthermore, in order to define the areas that do not fall within the "territory of the State of Israel", the Court specifically relied on the EC-PLO Agreement where it reasoned that the question in regard to territories actually decided once the Association Agreement finalised between the EU and the PLO thus further inquiries found to be unnecessary.[113]

Overall, it can be argued that with this decision, only the Palestinian authorities hold the power to provide origin certificates for products originating in the West Bank thus a West Bank exporter who obtained an EUR. 1 certificate from a Palestinian customs authority can be able to benefit from the EU tariff preferences. Therefore, the reasoning of this decision can be argued as based on the practical trade approach since the Court avoided to look at the issues of territory and sovereignty.

109 *Ibid.* Para. 55,57.
110 C-386/08, *Brita v. Hauptzollamt AG Decision*, 2009, (Opinion of Adv. Gen'l Yves Bot), para. 59.
111 She based her reasoning on to the facts after completing the analysis of the Israeli-Palestinian Interim Agreement (1997), EC-PLO Agreement and EC-Israel Agreement. *Ibid.* Para. 14-48.
112 C-386/08, *Brita GmbH vv. Hauptzollamt Judgment*, 2010, ECLI:EU:C:2010:91.
113 *Ibid.*

By referring to the agreement signed between the EU and the PLO, it can be argued that the Court accepted the products originating in the West Bank to fall under that agreement due to practical reasons. That is why it is emphasized that the ECJ's decision in *Anastasiou I and II* cases contradicts with the decision of the *Brita GmH* even though both have similar backgrounds.

C. Comparison of the Political Sovereignty Approach and the Practical Trade Approach:

i. How did the Court's approach differ in these two identical cases?:

It is known that the ECJ followed the political sovereignty approach in its *Anastasiou I* decision. Therefore, if to analyse the political sovereignty approach first, it can be seen that the issue of origins are usually being considered from an international political perspective where questions in regard to sovereignty and recognition is being stressed.[114] Questions concerning the origin of a product usually flow from the predetermination of the questions on recognition and sovereignty.[115] When a considerable importance is granted to a determination of sovereignty or recognition in a particular territory, it can be argued that this pre-stage puts the process of determination of origin into the shades. As far as it can also be seen from the *Anastasiou I*, only the recognized government is lawfully empowered to provide certificates of origin under this approach especially once the State it belongs to is being identified as 'sovereign' which is also called the State of origin under these circumstances.[116] In *Anastasiou I* case, the Court decided this State be the Republic of Cyprus. Also, it is usually known that the determination of the sovereignty or the recognized government in a disputed area makes use of general international law concerning the acquisition of territory, international recognition and concerned decisions of international organisations like the United Nations (UN) along with the international tribunals such as International Court of Justice (ICJ).[117] In that respect, it can be argued that the Republic of Cyprus has the 60% of the island and is internationally recognized as the sovereign territory of the island as well. Thus, it can be argued that the ECJ mostly considered these factors when making its decision on this case. Also, the effects of political considerations can be argued as being indicative factors.

114 Hirsch, *supra* note 3, pp. 577.
115 *Ibid.*
116 *Ibid.* P. 581.
117 *Ibid.*

In that respect, one can evaluate the UN Resolution 186 as such political consideration in the case of TRNC.[118]

Also, the determination of origin under these circumstances becomes a conductive tool in between the trade policy and a foreign policy of a concerning State. For this reason, this approach might be interpreted as an instrument that puts pressure on States which have illegal control over disputed territories.[119] Albeit, it should be kept in mind that trade policies can be legitimate tools in the eyes of the foreign policy in order to penalize some exporters while favouring others in the form of embargoes against such illegal formations.[120] In that respect, embargoes on the TRNC can be argued from this perspective as well.

However, even it is a legitimate tool to rely on the trade policy in the forms of embargoes to penalize some exporters, it can be argued that this approach is no longer the best fit for the TRNC in this century because the peace is trying to be reached along with a solid unification within the island. At this point, it will be a good opportunity to get rid off old forms of punishments and to try to encourage this process by starting to allow the TRNC exporters to internationally trade as a good gesture. Therefore, it is advisable at this point for the ECJ to overview this issue once again but this time by avoiding the issues in regard to the territorial sovereignty, recognition and politics.

On the other hand, the ECJ adopted the practical trade approach in its decision of the *Brita GmbH*. According to this approach, interpretation of the treaty provisions should be made in accordance with their ordinary meaning as can be found within their particular context and object.[121] This type of interpretation technique can also be seen in the Convention on the Law of Treaties (1969).[122] Further, its frequent use can be observed in the World Trade Organization Tribunals as well.[123]

It is known that trade-related agreements such as those with free-trade areas usually have a purpose of liberalizing trade relations between their parties.[124] Thus, it can be argued that such

118 'The UN Resolution 186 entered into force on 4th March 1964 with a purpose to end the violence in Cyprus. However due to misconception of this Resolution, the Republic of Cyprus relied on it to legitimize itself as the sole recognized authority within the island and refused the basic legal, political and human rights of the Turkish Cypriot population. Withal, the so-called embargoes against the Turkish Cypriot community started in the fields of direct communication, trade, sporting and cultural events, representation, travel etc.' Gazioglu, *supra* note 47, pp. 128.
119 *Ibid.* P. 582.
120 Malone, *supra* note 14, pp. 50.
121 Hirsch, *supra* note 3, pp. 577.
122 Article 31, Vienna Convention on the Law of Treaties, May 23, 1969, 8 I.L.M 679.
123 *See* WTO, Report of the Panel: United States Section 301-310 of the Trade Act of 1974, (1999) <http://www.wto.org/english/tratop-e/dispti-e/dispustatns-e.htm.> accessed 15th January 2017, para. 7.58-7.72.
124 *Ibid.* P. 578.

treaties generally do not aim to set the legal status of specific territories. That is why, interpretation of rules concerning the origin of a product mostly depends on the international responsibility, *de facto* control, and jurisdiction.[125] Therefore, it can be argued that the ECJ should have taken these factors into consideration when analysing the 1977 Protocol in *Anastasiou I* as it did in the *Brita GmbH* in regard to the EC-PLO Agreement. Albeit, it should be kept in mind that there is no general international obligation on the EU to recognise a condition where a violation of *jus cogens* took place.[126]

Furthermore, it can be observed that the General Agreement on Tariffs and Trade (GATT) also supports this approach, specifically under the Article XXVI (5)(a).[127] Consequently, it can be asked which State holds the international responsibility in regard to the relevant territory.[128]

On the other hand, it can be argued that the approach adopted by the World Trade Organisation (WTO) in this respect seems more neutral when compared to the EU's. In that respect, it is known that the WTO membership does not require candidates to be sovereign states.[129] However, each should be able to enjoy full autonomy in organising their external trade relations along with the decisions in the competencies of the WTO.[130] According to this criteria, it can be seen that Macau, Hong Kong, Taiwan and lastly Ukraine became the members of the WTO.[131] On the other hand, Palestine lost its opportunity to fulfil the membership conditions due to the restrictions imposed by the Paris Protocol.[132] Albeit, some researchers tried to argue that Palestine is still eligible to become a member of the WTO even if it does not have a substantial control over its external trade, especially when 1997 Association Agreement signed with the EU is being considered.[133] When discussed from this angle, the same can arguably apply in case of the TRNC as well where an

125 *Ibid.*
126 In this case, EU do not recognize the official acts of Israel in the occupied territories where the Israel presuppose its legitimate sovereignty. This is because of the violation of the prohibition of the use of force which is relied on by Israel to take over the current occupied territories.
127 Article XXVI (5)(a): "Each government accepting this Agreement does so in re- spect of its metropolitan territory *and of the other territories for which it has international responsibility,* except such separate customs territories as it shall notify to the Executive Secretary to the CONTRACTING PARTIES at the time of its own acceptance." General Agreement on Tariffs and Trade (1994) [hereinafter GATT], pp. 45.
128 Rather than asking who is sovereign in this case.
129 United Nations Conference on Trade and Development, 'The 2013 World Trade Organization Agreement on Trade Facilitation: Israel's obligations towards Palestinian Trade', UNCTAD/GDS/APP/2015/2, pp. 4.
130 *Ibid.*
131 WTO Agreement: Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144 (1994), Article 12, par. 1.
132 According to the Paris Protocol, Palestine has a very limited scope to manage its external trade while Israel holds the power to maintain the Palestine's external trade and its economy.
133 This agreement mainly includes goods that are exempt from the three lists specified in the Paris Protocol that aim to keep certain imports from Palestine apart from the provision of Israeli trade regime.

Agreement on Trade Facilitation (ATF) can be considered as an option for both states apart from the two approaches argued above.[134] However, it can be argued that such application also depends on Israel and Turkey's initiative as occupying powers in this case. How willingly they will oblige to apply the ATF is a difficult question to answer and can be another interesting topic to look at.

That is why it was important to interrogate the differed reasonings of the Court in the case of TRNC and Palestine as a starting point in this paper along with the different approach WTO adopts.

ii. Can the EU apply the practical trade approach in case of the TRNC?:

The EU policy regarding products manufactured in the TRNC well illustrates the risks of the political sovereignty approach when determining the origin. The EU's inconsistencies on this issue especially in regard to the disputed areas arguably make it subject to the critiques in this paper regarding the connection between the foreign and legal policies because EU does not have uniform rules in regard to the origin of products manufactured in the disputed territories. While its practice towards the goods from Palestine shows the practice of practical trade approach which aims to refrain the questions in regard to the international recognition and sovereignty, its practice towards the goods manufactured in the TRNC shows the practice of political sovereignty approach that is based on the determination of international recognition and sovereignty. In that respect, the practice of EU in regard to the goods produced in the TRNC can also be argued as not being coherent because it mostly relies on kaleidoscopic political circumstances. Furthermore, according to the *Anastasiou I* decision, goods produced in the TRNC can only transit through the ports controlled by the Government of Cyprus under the provisions of the EU Green Line Regulation as explained above or via the ports of Turkey.[135] These practices can be argued as being expensive and time-consuming for the TRNC exporters in that respect. That is why the TRNC exporters desire more practical approaches under these circumstances. These can be seen from the interviews conducted in this respect. Most of the interviewees informed that they prefer to trade via Turkey as it is cheaper compared to the process under the Green Line Regulation. Transit cost argued to be half while the tests and inspections for phytosanitary certificates emphasized to be less strict. Also, some indicated

134 'ATF adopted during the Ninth Ministerial Conference of the WTO in December 2013 and it became binding for all member-states of the WTO. It aims to boost trade gains and savings in costs and time of imports and exports operations, transit passage and custom clearance. Also, it is designed to provide advantages for shipments to and from land-locked states via adjacent ones besides territories under foreign military occupation and non-sovereign states.' United Nations Conference on Trade and Development, 'The 2013 World Trade Organization Agreement on Trade Facilitation: Israel's obligations towards Palestinian Trade', UNCTAD/GDS/APP2015/2, pp. 4.

135 Vincent Morelli, "Cyprus: Reunification *Proving* Elusive" (Paper prepared for Members and Committees of Congress, **5** January 2011), Congressional Research Service Report, pp. 12.

that language is one of the difficulties they have to deal with when obtaining a rules of origin certificate from the Republic of Cyprus under the Green Line Regulation.[136] That is why trade via South can be argued as not being a good option at this point. Albeit, most of the interviewees admitted that they do not like to rely on Turkey option as well because the TRNC goods are being sold on the market with a rules of origin certificate of Turkey as Turkish products. This is not something desirable for them as they emphasized their wish to introduce their products to the world market as TRNC. On the other hand, an insinuating response received from one of the interviewees. Questions refused to be answered due to business secrecy but the interviewee stated that they mostly prefer trade via Turkey although the products in question is being sent to the UK, Netherlands and the Switzerland with an origin certificate indicating the name of TRNC along with the TRNC flag on packaging.[137] That is why, when asked whether exporters want to obtain origin certificates from the TRNC authorities again as it was pre-1994, all the interviewees said yes. They all suggested that as long as the costs for the transit, inspections and the required tests will be kept on a standard level, they all seem enthusiastic to accept this option. After all, it is their demand to introduce their products to the world but while doing this, they want to have the most profitable and the easiest way they can rely on.

Thereof, if to apply the practical trade approach in case of the TRNC as the Court did in the *Brita GmbH*, it can be argued that the provisions of the 1973 EC-Republic of Cyprus Agreement and its provision concerning the rules of origin aims to support the free-trade area between the EU and the Republic of Cyprus thus it does not determine the disputed question in regard to the legal status of the TRNC.[138] Furthermore, as stated in the rules of the practical trade approach, the Court could have taken the *de facto* government of the TRNC into consideration. One can contest this because the Turkey's occupation over the TRNC still continues up to this day. However, it should be remembered that Turkey does not have any say within the day-to-day governance of the TRNC because there is a government with an effective control of the disputed territory whose members are publicly elected Turkish Cypriots.

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136 Most of the exporters who took place in this research were farmers who do not have any higher education experience with no or beginner level of English and beginner level of Greek. Therefore this information is only limited
to the interviewees who took place in this research.

137 As it is previously mentioned, this is one of the illegal ways to put products into the EU and the world market. It is not common but can be observed in several cases.

138 Agreement establishing an Association between the European Economic Community and the Republic of Cyprus-Protocol concerning the definition of the concept of "originating products" and methods of administrative cooperation-Final Act-Joint Declarations-Unilateral Declarations, OJ L 133, 21/05/1973, pp. 0002-0086.

Thus, in that respect, EU could have adopted a policy that would follow this legal situation where a declaration could have been made, emphasizing that implementation of this policy would not damage the question of the sovereignty over the disputed territory. Furthermore, it is too mythical to think that such policy would advance the international status of the TRNC. However, it can be argued that the Court mostly influenced by the EU's current foreign policy in its judgment of the *Anastasiou I*. On the other hand, *Anastasiou II* decision can be argued to be closer to the practical trade approach because the Court accepted Turkey as being internationally responsible and its customs authorities found to be authorised to issue the certificates before the goods being shipped.

Furthermore, it is known that the 'rules of origin' are structured to facilitate the flow of international trade in estimated ways.[139] Therefore, it can be argued that the certificates of origin issued for the products in unrecognised territories are specifically more sensitive to attract political impact where political influence as such should be avoided. Therefore, according to the above analysis, it can be suggested that the political sovereignty approach should be minimised while practical trade approach should be more credible in regard to the application of the rules of origin. Albeit, this should be done by considering the desire of a State or an international organization not to recognize an illegal situation that is a result of a violation of *jus cogens*.

Consequently, the above question can be answered in 'yes'. The practical trade approach can be relied on in regard to the trade-related issues concerning the TRNC as an unrecognised and occupied state. This approach can also be more desirable in the sense of rules of origin application since it does not amenable to political bias as much as political sovereignty approach and in fact, it will help to diminish such effect.

D. Why Should the EU Change Its Approach Towards the TRNC?

When analysing the EU's approach to Palestine, it arguably becomes transparent that the *Anastasiou I* decision mostly based on the non-recognition factor. Besides, no reference made in regard to any specific ground for the non-recognition. Albeit, Turkey's reliance on the use of force in 1974 can be argued as one. It can be argued that this affected the legality of the government of the TRNC to a major extent. However, the government of TRNC disputed that it was within the power of Turkey to use force according to the Treaty of Guarantee thus the Turkish Cypriot

139 Mosche Hirsch, *supra* note 3, pp. 592.

population would be protected under the Greek coup.[140] Nevertheless, it can be argued within the framework of this paper that even if the Article IV grants such power to its guarantor States, it is debatable whether this right can be exercised on behalf of only one part of the island's population rather than the protection of the whole.

It can also be argued that the illegality of Turkey's occupation of the Northern part shape up the foundation for the obstacles embarked on trade. Therefore, the burden of this illegal occupation arguably should not be put onto the shoulders of the Turkish Cypriot exporters. As it can be seen from the above discussions, the TRNC exporters have the possibility to export their products as long as these products either transit via the ports of the Republic of Cyprus or through the ports of Turkey. Albeit it can be argued that both processes have their own limitations in themselves. In that respect, one can observe the harsh restrictions placed on the transit of TRNC goods imposed by the Government of Cyprus. Arguably these make it difficult and expensive to comply with the EU regulations, while on the other hand, goods transiting through Turkey become subject to heavy transaction costs.[141]

Also, if the TRNC continues to depend on Turkey, it can be argued that the gap between the North and South will eventually continue to exasperate both economically and culturally. This is not a desirable outcome for the unification process as it might create more difficult problems to overcome. It can be argued that the current EU trade policy towards the TRNC damages the possibility of the reunification of the island as well. Therefore, it can be suggested that EU should keep its trade policy separate from the recognition and sovereignty factors. This arguably might not be an unknown case concerning an occupied territory. It can be observed from the above comparison that the trade and sovereignty handled separately in case of Palestine under the *Brita GmbH* case.

Overall, the practical trade approach retains that: "Trade treaties, such as the free trade area agreements, are ordinarily aimed at liberalizing trade relations between the contracting parties, and not at determining the legal status of a certain territory. Consequently, interpretation of the relevant rules of origin included in such agreements should not be based on the various rules regarding

140 'Treaty of Guarantee signed between Turkey, UK, Greece and the Republic of Cyprus in 1960. According to its Article IV guarantor powers which in this case Turkey, UK and Greece holds the power to intervene and to take action in order to restore the state of affairs in the island.' Yael Ronen, 'Transition from Illegal Regimes under International Law' (Cambridge: Cambridge University Press, 2010), pp. 66.

141 'The Cyprus High Commissioner in London were sending threatening letters to some UK businesses in order to stop the promotion and sale of the products originating in the TRNC where some businesses who do not comply with the orders threatened to be prosecuted.' Ipek Ozerim, (2017), 'Bring them back!', Cyprus Today Online, <http://www.cyprustodayonline.com/authors/ipek-ozerim/bring-them-back/46> accessed 26th April 2017.

sovereignty, acquisition of territory, or international recognition, but rather, on factual factors like de facto control, jurisdiction, and ensuing international responsibility."[142]

Therefore, this paper suggests EU to change its trade policy towards the TRNC and to consider to apply the practical trade approach as it did in case of *Brita GmbH* for Palestine because this might likely to lift the bans imposed against the TRNC products and might help to diminish the growing gap between the North and the South. Eventually, this might prepare a more solid, effective and transparent ground for the political reunification of the Cyprus as well. Furthermore, discussions over the international trade might resolve more practically under the Cyprus Peace talks since the inequality between the sides would dissolve.

142 Hirsch, *supra* note 3, pp. 578.

E. Conclusion

The issue of TRNC under the international trade law dealt with in this paper from the EU law perspective where references from the State of Palestine used as well in order to depict a well-structured argumentation for the end result of the paper.

The *Anastasiou I and II* cases proved that current EU trade policy is closer to the political sovereignty approach which accentuates the legal sovereignty and official international recognition. The cases helped to illustrate how difficult it is for the TRNC exporters to take place in international trade. The current laws regulating the international trade in the TRNC proved how immensely difficult to export products originating in the TRNC to the EU and to the other States, especially when the interview responses analyzed.

On the other hand, the *Brita GmbH* case proved that the current EU policy towards Palestine is closer to the practical trade approach which emphasizes the international responsibility, *de facto* control, and jurisdiction. This case helped to illustrate how trade can be made through more practical ways in occupied territories as such by avoiding to evaluate the factors like sovereignty and international recognition.

When compared the both approaches along with the above-mentioned case-law, it became transparent that the practical trade approach can and should actually be applied in the case of TRNC as it might also help to speed up the reunification of Cyprus while not elevating the international status of the TRNC.

Therefore, the paper suggested EU to change its current trade policy towards the TRNC from political sovereignty approach to practical trade approach since it might help to remove the barriers to trade, reduce the cultural and economic gap between the TRNC and the Republic of Cyprus and to create a more effective, transparent and solid structure for the political unification of the island under the Cyprus Peace Talks.

BIBLIOGRAPHY

Primary Sources:

Cases:

- C-432/92 *The Queen v. Minster of Agriculture, Fisheries and Food, ex parte S.P Anastasiou (Pissouri) Ltd and others* [1994] E.C.R. I-3116.
- C-219/98, *The Queen v. Minister of Agriculture, Fisheries and Food, ex parte S.P. Anastasiou (Pissouri) Ltd and others* [2000] E.C.R. I-5241.
- C-386/08, *Brita GmbH vs. Hauptzollamt Hamburg-Hafen* [2010] E.C.R. I -01289.
- United States Section 301-310 of the Trade Act of 1974, Panel Report, WTO (1999).

Advocate General Opinion:

- Case C-386/08, *Brita GmbH vs. Hauptzollamt Hamburg-Hafen* [2010] E.C.R. I-01289, Opinion of AG BOT.

Advisory Opinion:

- J. Anzilotti*, Customs Regime Between Germany and Austria* (Protocol of March 19th, 1931), Advisory Opinion, PCIJ, Ser. A/B, No 41.

International Law Treaties:

- *Montevideo Convention on Rights and Duties of States,* 26 December 1933, 165 LNTS 19.
- *Vienna Convention on the Law of Treaties*, 23 May 1969, 8 I.L.M 679.
- GATT: General Agreement on Tariffs and Trade (1994).
- WTO Agreement: Marrakesh Agreement Establishing the World Trade Organization, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144 (1994).

EU Law Treaties:

- EU Council Regulation (EC) No 866/2004, OJ L 206, 9.6.2004.
- Council Regulation on the Conclusion of the Additional Protocol to the Agreement Establishing an Association between the European Economic Community and the Republic of Cyprus, (EEC) No 2907/77 of 20 December 1977.

- Regulation on the conclusion of an Agreement establishing an Association between the European Economic Community and the Republic of Cyprus, (EEC) No. 1246/73 of 14 May 1973.
- Euro-Mediterranean Interim Association Agreement on trade and cooperation between the European Community, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part, OJ L 187, 16/07/1997.
- Agreement establishing an Association between the European Economic Community and the Republic of Cyprus-Protocol concerning the definition of the concept of "originating products" and methods of administrative cooperation-Final Act-Joint Declarations-Unilateral Declarations, OJ L 133, 21/05/1973.

Domestic Law:

- Foreign Trade (Regulation and Supervision) Law, No. 12/1998.

Secondary Sources:

Books:

- E. D. Mansfield and H. V. Milner. Votes, Vetos and Political Economy of International Trade Agreements. (Princeton University Press, Princeton NJ 2012).
- A. Landau. The International Trading System. (Routledge, London 2005).
- N. Skoutaris. The Cyprus Issue: The Four Freedoms In a Member State under Siege. (Hart Publishing, 1st edt. 2011).
- Linda A. Malone, 'International Law' (New York: Aspen Publishers 2008).
- Mark Tessier, "A History of the Israeli-Palestinian Conflict" (Bloomington and Indianapolis: Indiana University Press, 2nd edt. 2009).
- Malcolm Shaw, International Law, (4th ed. 1997).
- Yael Ronen, 'Transition from Illegal Regimes under International Law' (Cambridge: Cambridge University Press, 2010).

Online Journal Articles:

- P.atrick Tani, 'The Turkish Republic of Northern Cyprus and International Trade Law'(2012) 12 Asper Rev. Int'l Bus. & Trade L. <http://heinonline.org/HOL/Pagehandle=hein.journals/asperv12&collection=journals&id=117&startid=&endid=140.html> accessed 18 January 2017.
- Mosche Hirsch, 'Rules of Origin as Trade or Foreign Policy Instruments?: The European Union Policy on Products Manufactured n the Settlements in the West Band and the Gaza Strip', (2002), Fordham Int'l LJ, Vol. 26, No. 3, <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1879&context+ilj> accessed on 28 January 2017.
- John M. B. Balouziyeh, (2015), "Palestinian Statehood under International Law", (LexisNexis Legal Newsroom International Law Blog), <https://www.lexisnexis.com/legalnewsroom/international-law/b/international-law-blog/archive/2015/01/05/palestinian-statehood-under-international-law.aspx> accessed 9th May 2017.
- Ahmet C. Gazioglu, (2001), 'Security Council Resolution 186 and UN Force in Cyprus (UNFICYP)', Journal of International Affairs, Vol. VI, No.1 <http://sam.gov.tr/wp-content/uploads/2012/02/AhmetGazioglu4.pdf> accessed 15th January 2017.

Journal Articles:

- David Raic, 'Statehood and the Law of Self-determination' (The Hauge: Kluwer Law International, 2002).
- Salih Katircioglu, (2010) 'Trade and growth in a non-recognized small island state: Evidence from the Turkish Republic of Northern Cyprus', Journal of Business Economics and Management, Vol. 11, No. 1.
- Sam Talmon "Cyprus Question Before the European Court of Justice". EJIL (2001).
- William Worster, 'Sovereignty: two Competing Theories of State Recognition', (University of Hague, 2015).
- Eugene Kontorovich, 'Economic Dealings with Occupied Territories' (Northwestern University School of Law, 2015).

Web-pages:

- Republic of Cyprus, Geological Survey Department, <http://www.moa.gov.cy/moa/gsd/gsd.nsf/0/43CA34467BC412EAC2256FB30035287E$file/GeologicalMapOfCyprus_250k_en.jpg?OpenElement> accessed 17th January 2017.
- 'About the Peace Talks' (UN Cyprus Talks) <http://www.uncyprustalks.org/sample-page/html.> accessed 9 May 2017.
- Encyclopedic Dictionary, '*Yishuv*' definitions, <http://www.zionism-israel.com/dic/Yishuv.htm> accessed 9th June 2017.
- Occupied Palestine, World Press, <https://occupiedpalestine.files.wordpress.com/2013/06/israel-palestine_map_19225_2469.jpg> accessed 17th January 2017.
- UN News Center, (2012), 'General Assembly grants Palestine non-member observes State status at UN, <http://www.un.org/apps/news/story.asp?NewsID=43640#.WTqpU8aB2u4> accessed 9th May 2017.
- Ipek Ozerim, (2017), 'Bring them back!', Cyprus Today Online, <http://www.cyprustodayonline.com/authors/ipek-ozerim/bring-them-back/46> accessed 26th April 2017.

Reports:

- *The Situation in Cyprus,* S Res 541, UNSCOR, 2500th Mrg, (1983).
- United Nations Conference on Trade and Development, 'The Palestine economy: Macroeconomic and trade policymaking under occupation', UNCTAD/GDS/APP/2011/1.
- Vincent Morelli, 'Cyprus: Reunification *Proving* Elusive' (Paper prepared for Members and Committees of Congress), Congressional Research Service Report (2011).
- United Nations Conference on Trade and Development, 'The 2013 World Trade Organization Agreement on Trade Facilitation: Israel's obligations towards Palestinian Trade', UNCTAD/GDS/APP/2015/2.