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# The Montreux Convention: A Regional And Global Safety Valve

Teoman Ertuğrul TULUN



Ankara • 2020

# Report

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**Center for Eurasian Studies (AVİM)**

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## FOREWORD

**T**he Center for Eurasian Studies (AVİM) has been continuing its work in the framework of the Eurasia concept that covers Europe and Asia. In this general context, AVİM particularly focuses on the Balkans, the Caucasus, the Wider Black Sea Region, the Caspian basin, and Central Asia.

There is no doubt that developments in the Black Sea region have come to the fore in recent years, particularly with regard to security issues in the wider Black Sea area. AVİM recognizes the merit of the principle that the Black Sea must be an area of peace where rule of international law should reign supreme to sustain cooperation as opposed to creating conflicts. The existence of peace, stability, and security in the Black Sea region is of great importance not only for the Black Sea littoral countries but for Europe and beyond.

The Turkish Straits of the Bosphorus and the Dardanelles are deemed to constitute a natural border between Europe and Asia. However, at the same time, they bring together these two continents. Hence, from our perspective, they very much symbolize Eurasia.

As part of the Eurasian geography, the Bosphorus and the Dardanelles are strategically a vital link between the Black Sea and Mediterranean Sea. Their control has historically been an important issue for Europe and wider Eurasia. The Montreux Convention Regarding the Regime of the Straits of 1936 endowed Turkey with full control of the Turkish Straits. Throughout those years, the Convention has maintained its validity and importance. It continues to serve as the security valve for regional and global security. With this in mind, we considered that it is timely to highlight it with a report on the Montreux Convention.

It is our hope that this report by PhD candidate Teoman Ertuğrul Tulun entitled “The Montreux Convention: A Regional and Global Safety Valve” will contribute to recall the various historical aspects of this historical convention and to help us better understand its current validity.

**Alev KILIÇ**

Ambassador (R), AVİM Director

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**Teoman Ertuğrul TULUN**

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**T**eoman Ertuğrul Tulun completed his undergraduate studies at McGill University by graduating from the Department of Political Science in 2003. He served as a Senior Research Fellow between 2003 and 2004 at the European Union Communication Group (ABİG) in Ankara. He was a Research Assistant at Bilkent University's Department of International Relations between 2004 and 2006. He received his master's degree from Bilkent University Department of International Relations in 2009. Between 2010 and 2015, he worked as a Research Assistant and Teaching Assistant at the same department and taught courses there between 2012 and 2015. He has been continuing his doctoral studies at Bilkent University Department of Political Science and Public Administration

as PhD candidate. Teoman Ertuğrul Tulun has been serving as an Analyst at the Center for Eurasian Studies (AVİM) since 2016.

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## PREFACE

**T**his report is prepared to draw attention the significance of The Montreux Convention Regarding the Regime of the Straits of 1936 which entrusted Turkey with the full control of the Turkish Straits and restored Turkey's absolute sovereignty over one of the most strategic waterways in the world that converge Europe and Asia.

The report starts with explaining the historical background of the regime of the Turkish Straits until the Montreux Convention and incorporates detailed analysis of the core articles of the Convention, dwells on the current developments in today's crisis-ridden world that bring the Montreux Convention to renewed prominence. The report, furthermore, suggests that Montreux Convention continues to be a functional regional and global safety valve for today's world.

I would like to sincerely thank for the guidance and support given to me by AVİM Director Alev Kılıç and AVİM Consultant Yiğit Alpogan for writing this report. I commemorate with great respect the Founder and Honorary President of AVİM Ambassador Ömer Engin Lütem.

**Teoman Ertuğrul TULUN**  
AVİM Analyst





## Introduction

2020 will witness the 84<sup>th</sup> anniversary of the signing of the Montreux Convention on 20 July 1936 regarding the regime of the Turkish Straits. The term Turkish Straits denotes a unique system of waterways consisting of the Istanbul Strait (Bosphorus) and Çanakkale Strait (Dardanelles) and the Marmara Sea connecting the Black Sea to the Mediterranean Sea. It is considered to be one of the most strategically significant waterways of the world.<sup>1</sup>

### 1. The Strategic Importance Of The Black Sea Region And The Turkish Straits

As it was mentioned in one of our previous AVİM articles, the Black Sea region forms the key intersection linking Russia, the Caucasus, the Middle East, and Central Asia. Access to and exit from the Black Sea is vital for all littoral states and nearby neighbors for projecting power into several adjacent regions.<sup>2</sup> Critical regions for power projection in this respect include especially the Eastern Mediterranean and Northern Middle East. Potential power projection regions can be extended to Gibraltar from where access to the Atlantic Ocean can be realized.

As AVİM, we extensively examined the strategic importance of the Turkish Straits for Russia in another article titled “Black Sea, A Potential Friction Venue between Russia and the West: Turkey Holds the Key to the Region.”<sup>3</sup> We pointed out in that article that Russia had endeavored to establish exclusive control of the Black Sea for more than two centuries and waged numerous wars to control the Turkish Straits. In this respect, it is worth to remember our following evaluation regarding the Russian historic ambitions towards the Turkish Straits:

“Black Sea and the Turkish straits of Bosphorus and the Dardanelles are extremely important for the historical Russian quest for warm water

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1 Republic of Turkey Ministry of Foreign Affairs, “Note on the Turkish Straits” (Republic of Turkey Ministry of Foreign Affairs, 2011), <http://www.mfa.gov.tr/the-turkish-straits.en.mfa>.

2 Teoman Ertuğrul Tulun, “Black Sea Needs Confidence and Security Building Measures More Than Ever,” *Center For Eurasian Studies (AVİM)*, n.d., sec. Analysis, 2018 / 30, <https://avim.org.tr/en/Analiz/BLACK-SEA-NEEDS-CONFIDENCE-AND-SECURITY-BUILDING-MEASURES-MORE-THAN-EVER>.

3 Teoman Ertuğrul Tulun, “Black Sea, A Potential Friction Venue Between Russia And The West: Turkey Holds The Key To The Region.” (Center For Eurasian Studies (AVİM), March 13, 2017), <https://avim.org.tr/en/Analiz/BLACK-SEA-A-POTENTIAL-FRICTION-VENUE-BETWEEN-RUSSIA-AND-THE-WEST-TURKEY-HOLDS-THE-KEY-TO-THE-REGION>.

ports since time of Peter the Great. A glance at the map shows that after nearly two centuries of effort, the maritime conditions for Russia is still disadvantageous. Although Russia is one of the predominant powers of the Eurasian Continent, geography has not been friendly to her in term of access to the oceans and the seas. While the other prominent powers of the West like the US, the UK and France have free access to all the oceans and the seas, Russia on the other hand is land-locked in the south of Europe especially because of the Turkish straits, partially ice-locked in the northern Europe in the Baltic Sea region and western Europe blocks her entry into the Atlantic Ocean and the Mediterranean Sea. In addition to Europe, she does not have access to the Arabian Sea because of Iran, Afghanistan, and Pakistan. In the East, China and Korea separate her from the South China Sea. Her sole warm water port Vladivostok in the Far East is largely neutralized by the strait of Tsushima which is under the control of South Korea and Japan.

Russian strategists have over the last two hundred years sought to remedy this disadvantage and drawing upon the thinking of Peter the Great considered that acquiring ‘warm water ports’ where the water does not freeze in the winter is the best option for neutralizing this geographical disadvantage.”

In fact, when we study the discussions between the United Kingdom, the United States, and the Soviet Union (USSR) in the documents opened to the public years later, we see that the major Allied countries during the last phase of the Second World War and in the immediate post-war period discussed the fate of the Montreux Convention and the Turkish Straits in the context of a wider region starting from the Black Sea, Eastern Mediterranean, Suez Canal, Gibraltar. The discussion extended up to the Kiev Canal, the Baltic Sea, and Scandinavia.

## **2. Brief Explanation On The Historical Background Of The Regime Of The Turkish Straits Until The Montreux Convention**

The Ottoman Empire founded in Anatolia in the fourteenth century carried itself into Europe in a short span of time. The Turkish crossing into Europe was the Dardanelles which runs from the Sea of Marmara to the Aegean Sea. After the conquest of Istanbul (Constantinople) in 1453, the Ottoman Turks also secured the full control of the Bosphorus, the Sea of Marmara and the whole length of the waterway from the Black Sea to the Aegean Sea. The further conquest of the Crimea on the northern shore of the Black Sea turned that sea, in a sense, into a Turkish lake. It continued until the signing of the

Treaty of Kucuk Kainarji (Küçük Kaynarca: A small village in northeastern part of today's Bulgaria) in 1774. During these three centuries, the Ottoman Empire established the rule of excluding all foreign ships from the Black Sea.

With the Treaty of Kainarji, Crimea became a Russian protectorate and Article XI of the treaty prescribed free and unimpeded navigation for merchant ships of Russia. So, the Black Sea was opened and Russia obtained the right of free passage through the Straits for her merchant shipping. The date 1774 thus marks the beginning of the decline of the full authority of the Turkish control over the Straits.<sup>4</sup>

59 years after the Treaty of Kucuk Kainarji, the Treaty of Unkiar Skelessi (Hünkar İskelesi) was signed between the Ottoman Empire and Russia on 8 July 1833. It was an eight-year mutual defensive alliance, with pledges to consult with one another in matters of security. A 'secret' article was included in the treaty by which the Ottomans guaranteed to close the Dardanelles to all foreign warships in the event of an attack on Russia.<sup>5</sup> The relevant part of the said article was reflected in an academic source as follows:

“The Sultan's *quid pro quo* was indicated in a separate, secret clause:

His Majesty, the Emperor of all the Russians, wishing to spare the Sublime Ottoman Porte the expense and inconvenience which might be occasioned by affording substantial aid, will not ask for that aid if circumstances should place the Sublime Porte under the obligation of furnishing it. The Sublime Ottoman Porte, in place of the help which it is bound to furnish in case of need, according to the principle of reciprocity in the open treaty, shall limit its action in favor of the Imperial Court of Russia to closing the Straits of the Dardanelles, that is to say, not to permit any foreign ship of war to enter therein under any pretext whatever.”<sup>6</sup>

Within this context, it can be said that while the Treaty of Kainarji had opened the Straits to commercial ships, the 1833 Treaty closed the Straits to all warships.

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4 Ahmet Şükrü Esmer, “The Straits: Crux of World Politics,” *Foreign Affairs* 25, no. 2 (January 1947): 290–302.

5 Virginia H. Aksan, *Ottoman Wars, 1700–1870. An Empire Besieged*, 1st ed. (New York: Routledge, 2007), 375.

6 James T. Shotwell, “Short History of the Question of Constantinople and the Straits,” *International Conciliation* 180 (November 1922): 503.

Following these arrangements regarding the Straits, a Conference was held in London on 13 July 1841 where the 1833 Treaty of Unkiar Skelessi was abrogated. The Article IV of the London Straits Convention is reflected in the above-mentioned source as follows:

“Article IV. It is, however, expressly understood, that the cooperation mentioned in the preceding Article, and destined to place the Straits of the Dardanelles and of the Bosphorus, and the Ottoman capital, under the temporary safeguard of the High Contracting Parties against all aggression of Mehmet Ali, shall be considered only as a measure of exception adopted at the express demand of the Sultan, and solely for his defense in the single case above-mentioned; but it is agreed that such measure shall not derogate in any degree from *the ancient rule of the Ottoman Empire, in virtue of which it has in all times been prohibited for ships of war of foreign Powers to enter the Straits of the Dardanelles and of the Bosphorus*. And the Sultan, on the one hand, hereby declares that, excepting the contingency above-mentioned, it is his firm resolution to maintain in future this principle invariably established as the ancient rule of his Empire; and as long as the Porte is at peace, to admit no foreign ship of war into the Straits of the Bosphorus and of the Dardanelles; on the other hand, their Majesties the Queen of the United Kingdom of Great Britain and Ireland, the Emperor of Austria, King of Hungary and Bohemia, the King of Prussia, and the Emperor of all the Russians, engage to respect this determination of the Sultan, and to conform to the above-mentioned principle.”<sup>7</sup> [Italics added for emphasis]

As it can be understood from the above-mentioned article, the 1841 London Straits Convention kept the Russian navy out of the Mediterranean and British navy out of the Black Sea. Thus, it created a certain balance between the naval forces of the major powers of the time under the full control of the Ottoman Empire. The fundamental rule laid down in 1841 has remained the same for years.

After the Crimean War, in which the UK and France were involved as allies of the Ottoman Empire, a peace treaty was signed in Paris in 1856. With this Treaty, the Black Sea became a neutral territory and its waters and ports were opened to the merchant vessels of every nation. Following the Franco-Prussian War of 1870, Russia denounced certain terms of the 1856 Paris Treaty and a conference was held in London in 1871. This conference

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7 Shotwell, 508–9.

abrogated the provisions of the Treaty of 1856 neutralizing the Black Sea; but it maintained the principle of the Treaty of 1841 with regard to closing the Straits to the passage of foreign warships with the provision that the Ottoman Empire could open the Straits in times of peace to war vessels of friendly powers.<sup>8</sup>

After the First World War, the regime set up by the defunct Treaty of Sevres, opening the Straits to both merchant and war vessels during both war and in peace, was never ratified by Turkey. The Turkish Grand National Assembly Government did not recognize any arrangement with regard to the Straits that did not recognize Turkey's sovereignty and not safeguard the security of the Powers bordering on the Black Sea. Because of this understanding, Turkey insisted on the participation of Russia in the negotiations at Lausanne concerning the settlement of the Straits question. A final agreement was signed in Lausanne on 24 July 1923, which laid down the principle of the freedom of passage. Thus, it completely changed the provisions of the Treaty of 1841 which closed the Straits to warships of foreign powers.<sup>9</sup>

The countries that participated in the negotiations of the Convention Relating to the Regime of the Straits were Britain, France, Italy, Japan, Bulgaria, Greece, Romania, Russia, the Serb-Croat-Slovene State and Turkey. The Convention was concluded in accordance with the principle laid down in Article 23 of the Lausanne Peace Treaty. Article 23 of the Peace Treaty is as follows:

“The High Contracting Parties are agreed to recognize and declare the principle of freedom of transit and of navigation by sea and by air, in time of peace as in time of war, in the strait of the Dardanelles, the Sea of Marmora and the Bosphorus, as prescribed in the separate Convention signed this day, regarding the regime of the Straits. This Convention will have the same force and effect in so far as the present High Contracting Parties are concerned as if it formed part of the present Treaty.”<sup>10</sup>

Political historian Ahmet Şükrü Esmer succinctly explains the provisions of Lausanne Convention on the warships as follows:

“Warships, (a) In time of peace. Freedom of passage, with the provision that no Power might send into the Black Sea a force larger than that of

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8 Esmer, “The Straits: Crux of World Politics,” 293.

9 Esmer, 294.

10 “Treaty with Turkey and Other Instruments Signed at Lausanne” (Republic of Turkey Ministry of Foreign Affairs, July 24, 1923), [http://www.mfa.gov.tr/lausanne-peace-treaty-part-i\\_-political-clauses.en.mfa](http://www.mfa.gov.tr/lausanne-peace-treaty-part-i_-political-clauses.en.mfa).

the most powerful fleet maintained in that sea by a littoral state. But the Powers reserved to themselves the right to send into the Black Sea at all times and under all circumstances a force of not more than three ships, of which no individual ship should exceed 10,000 tons, (b) In time of war, Turkey being neutral. The same rules and limitations applied with regard to neutral ships, (c) In time of war, Turkey being belligerent. Freedom of passage of neutral ships only, under the same rules and limitations.”

Esmer continued by stating:

“To ensure execution of the above provisions, the Convention provided for the demilitarization of both banks of the Dardanelles and Bosphorus, the islands in the Sea of Marmara and the Greek and Turkish islands commanding the entrance to the Straits.”

Lastly Esmer pointed:

“An International Straits Commission was set up to supervise the freedom of passage and ensure proper application or the other provisions of the Convention.”<sup>11</sup>

As it will be seen from the above explanations, the Straits Convention of Lausanne restricted the absolute sovereignty of Turkey over the Turkish Straits. First restriction is the demilitarization of both shores of the Straits of the Dardanelles and the Bosphorus, and all the islands in the Sea of Marmara except the island of Emir Ali Adası (Article 4/ 2 of the Convention).<sup>12</sup> Second one is the Straits Commission set up to supervise the freedom of passage through the Turkish Straits. The Commission was composed of Turkey, who is the President and representatives of the signatory states.

It should be underlined that these restrictions on the Turkish Sovereignty over the Turkish Straits were lifted with the Montreux Convention Regarding the Regime of the Turkish Straits.

### **3. The Montreux Convention Regarding The Regime Of The Turkish Straits**

As the League of Nations started to weaken and the international order deteriorated by the unilateral actions of Italy and Germany, the Turkish

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11 Esmer, “The Straits: Crux of World Politics,” 295.

12 “II. Convention Relating to the Régime of the Straits” (Republic of Turkey Ministry of Foreign Affairs, July 24, 1923).

government raised the issue of remilitarization of the Straits and a conference was held at Montreux beginning on 22 June 1936. The conference ended with the signing of the “Convention Regarding the Regime of the Straits” on 20 July 1936.<sup>13</sup> The signatories of the Convention are the UK, Bulgaria, France, Greece, Japan, Romania, Turkey, the Soviet Union and Yugoslavia.<sup>14</sup> Australia has also signed the Convention as the Commonwealth of Australia. Japan, with article 8 of the Treaty of Peace with Japan of 8 September 1951, renounced “all such rights and interests as it may derive from being a signatory power of the... Straits Agreement of Montreux of July 20, 1936.”<sup>15</sup> Turkey acceded to the Treaty of Peace with Japan on 24 July 1952.<sup>16</sup> In a number of sources, there is a mention of Italy’s accession to the Montreux Convention on 2 May 1938. It is stated in this respect that Italy, although a party to the 1923 Lausanne Convention on the Straits, did not participate in the Montreux conference because of her involvement in war with Ethiopia in 1936. Italy acceded to the Montreux Convention resting on its Article 27 which stipulates that “The present Convention shall, as from the date of its entry into force, be open to accession by any Power signatory to the Treaty of Peace at Lausanne signed on the 24th July, 1923.”<sup>17</sup>

The French official text of the Convention communicated by the Permanent Delegate of Turkey to the League of Nations. The registration of the Convention took place on 11 December 1936. Translation of the Convention into English was made by the “His Britannic Majesty’s Foreign Office”. The details of the deposit of ratification and entry into force procedure are reflected in the League of Nations Treaty Series as follows:

13 “Convention Concernant Le Regime Des Droits, Avec Annexes et Protocole. Signés Montreux, Le 20 Juillet 1936,” *League of Nations Treaty Series* CLXXHI, no. 4001–4032 (137 1936): 213–41.

14 Formal title of the Convention in the League of Nations Treaty Series is “Great Britain And Northern Ireland, Australia, Bulgaria, France, Greece, Japan, Roumania, Turkey, Union Of Soviet Socialist Republics, Yugoslavia- Convention regarding the Regime of the Straits, with Annexes and Protocol. Signed at Montreux, July 20th, 1936.” Representation Of The UK Is Reflected At The Preamble As Follows: “His Majesty The King Of Great Britain, Ireland And The British Dominions Beyond The Seas, Emperor Of India:

For Great Britain And Northern Ireland And All Parts Of The British Empire Which Are Not Separate Members Of The League Of Nations : The Right Honourable Lord STANLEY, P.C., M.C., M.P., Parliamentary Secretary to the Admiralty ; FOR THE COMMONWEALTH OF AUSTRALIA:

The Right Honourable Stanley Melbourne BRUCE, C.H., M.C., High Commissioner for the Commonwealth of Australia in London;

15 “Treaty of Peace with Japan (with Two Declarations): Signed at San Francisco, on 8 September 1951,” *United Nations Treaty Series* 136 (1952), <https://treaties.un.org/doc/Publication/UNTS/Volume%20136/v136.pdf>.

16 “Ratifications by Turkey, Cuba, Belgium, Union of South Africa and Costa Rica,” *United Nations Treaty Series* 163 (1953): 385.

17 Sevin Toluner, “The Regulation of Passage through the Turkish Straits and the Montreux Convention,” *Annales de La Faculté de Droit d’Istanbul* 28, no. 44 (September 16, 2011): 79–95.



“The *procès-verbal* of deposit of the first six ratifications, including that of Turkey, provided for in Article 26 of the Convention, was drawn up on November 9th, 1936. The present Convention, the provisions of which were provisionally applied as from August 15th, 1936, came finally into force on November 9th, 1936.”

The Convention, which gives Turkey full control over the Turkish Straits, consists of five Sections, twenty-nine Articles, four Annexes, and one Protocol.

First (Articles 2-7), second (Articles 8-22), third (Article 23), fourth (Articles 24-25) and fifth (Articles 26-29) sections of the Convention bear the titles of “Merchant Vessels”, “Vessels of War”, “Aircraft”, “General Provisions”, and “Final Provisions” respectively.

Annex one deals with the taxes and charges; Annex two deals with Standard Displacement, Categories and Over-Age; Annex three names the three over-age training ships belonging to the Japanese Fleet, and Annex four includes sub-categories of vessels to be included in the calculation of the total tonnage of the Black Sea Powers.

The Protocol stipulates that “Turkey may immediately remilitarize the zone of the Straits as defined in the Preamble to the said Convention.” It also states that “As from the 15th August, 1936, the Turkish Government shall provisionally apply the regime specified in the said Convention.”

The following first preambular paragraph of the Convention explains not only the Turkish Straits terminology but also the basic premise of the Montreux Convention:

“Desiring to regulate transit and navigation in the Straits of the Dardanelles, the Sea of Marmora and the Bosphorus comprised under the general term ‘Straits’ in such manner as to safeguard, within the framework of Turkish security and of the security, in the Black Sea, of the riparian States, the principle enshrined in Article 23 of the Treaty of Peace signed at Lausanne on the 24th July, 1923;”

Article 1 of the Convention states that “The High Contracting Parties recognize and affirm the principle of freedom of transit and navigation by sea in the Straits. The exercise of this freedom shall henceforth be regulated by the provisions of the present Convention.”

As to the merchant vessels, the Convention states in Article 2 that “In time of peace, merchant vessels shall enjoy complete freedom of transit and

navigation in the Straits, by day and by night, under any flag and with any kind of cargo, without any formalities...”

In contrast to the merchant vessels, the Convention regulates the passage of “vessels of war” under the strict control of Turkey. There exist a series of highly specific restrictions for the passage of vessels of war. These restrictions vary for the Black Sea and non- Black Sea countries.

The Black Sea countries cannot pass warships solely designed to carry airplanes. They can pass submarines if they are joining their base in the Black Sea for the first time after their construction or purchase and the said submarines must travel by day and on the surface and must pass through the Straits singly (Article 12). As far as warships are concerned, they can pass with the advance notification of 8 days through diplomatic channels. However, the maximum aggregate tonnage of all foreign naval forces which may be in course of transit through the Straits shall not exceed 15,000 tons and all the forces cannot comprise more than 9 vessels (Article 14).

As to the non-Black Sea countries, they cannot pass aircraft carriers or submarines to the Black Sea. They can pass warships, but the aggregate tonnage of the non-Black Sea countries shall not exceed 30,000 tons. However, if at any time the tonnage of the strongest fleet in the Black Sea shall exceed by at least 10,000 tons the tonnage of the strongest fleet in that sea at the date of the signature of the Convention, the aggregate tonnage of 30,000 tons shall be increased by the same amount, up to a maximum of 45,000 tons. For this purpose, each Black Sea power shall inform the Turkish Government, on 1 January and the 1 July of each year, the total tonnage of its fleet in the Black Sea and the Turkish Government shall transmit this information to the other High Contracting Parties. Non-Black Sea countries cannot stay in the Black Sea for more than 21 days (Article 18). The passage of these ships is subject to the 15 days of prior notification (Article 13).

In addition to all these restrictions, Turkey has exclusive rights in time of war as belligerent party and “the passage of warships are left entirely to the discretion of the Turkish Government” (Article 20). If Turkey considers herself to be threatened with imminent danger of war, she has the similar right for the passage of the warships (Article 21).

While Articles 20 and 21 provide exclusive rights to Turkey as belligerent in time of war and in cases that she considers herself to be threatened with imminent danger of war, Article 19 of the Convention deals with the situation when Turkey is not belligerent in time of war. Article 19 states that “In time of war, Turkey not being belligerent, warships shall enjoy complete freedom

of transit and navigation through the Straits under the same conditions as those laid down in Article 10 to 18.” The same Article, however, states further the following:

“Vessels of war belonging to belligerent Powers shall not however, pass through the Straits except in cases arising out of the application of Article 25 of the present Convention, and in cases of assistance rendered to a State victim of aggression in virtue of a treaty of mutual assistance binding-Turkey, concluded within the framework of the Covenant of the League of Nations, and registered and published in accordance with the provisions of Article 18 of the Covenant.”<sup>18</sup>

In this context, it is worth to draw the attention to the point that Article 19 which regulates the cases that Turkey is not belligerent in time of war, vests Turkey with the right to let the passage of vessels of war of the belligerent countries from the Straits in order to assist a State victim of aggression if Turkey is party to a “mutual assistance treaty.”

In my judgement, Article 19 of the Convention, together with the Articles 20 and 21, constitute the critical backbone of the Montreux Convention.

#### **4. Novelties That The Montreux Convention Brought To The Strategic Equation**

With the conclusion of the Montreux Convention, Turkey took full control of the Turkish Straits, regained its centuries-old privileged and dominant status among the Black Sea littoral countries and become the custodian and the guardian of the strategic balance between the great powers that had superiority in the Black Sea and the Mediterranean region.

In the context of assessing the value of the Montreux Convention for Turkey and its strategic value for whole Europe, it would be beneficial remember the views of Ambassador of Germany to Turkey Friedrich Von Keller during that period. His political report to Berlin on 28 July 1936 concerning the Montreux Convention includes the following assessments:

“1. *Turkey as the basic factor*

From now on, international policy must, in theory, take into account a Turkey who, strongly fortified at one of her gates of entry and that the

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18 Article 25 is as follows: “Nothing in the present Convention shall prejudice the rights and obligations of Turkey, or of any of the other High Contracting Parties members of the League of Nations, arising out of the Covenant the League of Nations.”

most coveted one can, in view of the local conditions there, on the one hand defy any attack, and, on the other, serve as the point of departure for military actions- also in favor of possible allies. The moment from which this situation may in practice be regarded as having come into existence and as forming a factor in strategic calculations, depends on the speed with which Turkey is able to carry out the fortifications of the Straits taking into account her financial capacity and the technical conditions...

Even now, however, the increased prestige, the expectation of future armament on the Straits and the self-confidence based on the successes (skillfully presented to the outside world) of a Turkey who has proved herself as a European Power, must be assessed as a political imponderable (but within the limits of this term, as an imponderable of great significance).

## 2. Relations with Russia

This will above all make itself felt in her relations Soviet Russia. If it was Turkey's hope to emerge, by the fortification of the Dardanelles, from her previous role of the weaker partner (a role forced upon her in her treaty relationship with Russia), then she has to a large extent succeeded in doing so, despite the advantages which the Soviet Union enjoys under the new Convention."<sup>19</sup>

German Ambassador ends his political report with the following information and final assessment:

"The formal final act in the Straits will be performed by the Turkish Government on July 30 at a special session of the Grand National Assembly in Ankara... It may be assumed that in addition, on this occasion either Atatürk himself or Minister President İsmet İnönü will make statements about the basic principles of Turkish policy, and that with these statements Turkey will assume her new elevated position amongst the European Power."<sup>20</sup>

Germany was not represented at the Montreux conference on Straits and not a party to the Montreux Convention and in fact reacted unfavorably to the

19 Department of State Publication, *Documents on German Foreign Policy 1918-1945. Series C (1933-1937). The Third Reich. First Phase-*, vol. V (Washington: United States Government Printing Office, 1966), 834-35.

20 Department of State Publication, V:839.

Convention. Subsequently, Germany on 26 February 1937 “gave practical expression to its dislike of the Montreux Convention by informing the Turkish government through diplomatic channels that certain shipping clauses in it were disapproved of strongly... and particularly those clauses which allowed the Soviet Union to send its warships into the Mediterranean.”<sup>21</sup>

Ambassador Von Keller’s above-mentioned assessment of the Montreux Convention immediately after the signing of the Convention reflected that Turkey, with the conclusion of this Convention, “proved herself as a European Power.” This characterization, from my perspective, elucidates the strategic importance of the Montreux Convention, and Turkey’s successful diplomacy in forging a treaty on such a delicate issue.

## **5. The Soviet Government’s Requests To Revise The Montreux Convention During The Last Phase Of And After The Second World War**

After the signing of the Montreux Convention, the deterioration of the relations between the Soviet Union and Turkey came to its climax at the last phase of the Second World War. The details of this gradual deterioration in relations with Russia between 1936 and 1945 are beyond the scope of this report. In this respect, it would be sufficient to briefly refer to the infamous Soviet demands from Turkey which were made verbally in 1945 and formally in 1946.<sup>22</sup>

These demands, which completely changed the nature of the friendly relations between Turkey and Soviet Union, were reflected in the Keesing’s Contemporary Archives of the time in the following way:

“Following the Soviet Government’s denunciation on March 19, 1945, of the Soviet-Turkish Treaty of Friendship, a progressive deterioration in the relations between the 2 countries took place in the second half of 1945, due largely to sudden Soviet territorial claims on Turkey. Developments in the situation are summarized below,

M. Vinogradov (Soviet Ambassador to Turkey) informed the Turkish Government that the Soviet would be willing to conclude a new Treaty of Friendship on condition that Turkey agreed to: (1) the retrocession of the Turkish districts of Kars, Artvin, and Ardahan;(2) the granting of bases in the Straits to Russia; (3) revision of the Montreux

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21 Yücel Güçlü, “Turkish - German Relations From Montreux To The Second World War,” *The Turkish Yearbook of International Relations* 29 (1999): 55.

22 Esmer, “The Straits: Crux of World Politics,” 297.

Convention (due in 1946) (4) certain unspecified changes in Turkish Thrace in favor of Bulgaria and Greece.”<sup>23</sup>

In this context, it would be a great remiss for this report if we did not emphasize that the territorial demands of the Soviet government of the time created deep wounds in the minds of the Turkish people against the Soviet Union and hence Russia. It is not possible to ignore what has happened in the past in today’s assessments. This is a reality for all countries, especially for the region to which Turkey belongs.

It should be noted that the analysis of the attitudes of the UK and the US at that time regarding the Soviet demands on Montreux Convention may shed light on their current approach toward the said Convention. Such an analysis may help us to understand their current priorities regarding the Black Sea, the Mediterranean Sea, and the Baltic region.

## **6. The Soviet Government’s Requests To Revise The Montreux Convention - The Approach Of The UK And The US**

According to British Prime Minister Winston Churchill’s comprehensive memoirs of the Second World War, the Soviet Union expressed insistently its views and demands on the Turkish Straits during the bilateral and trilateral talks between Churchill, Soviet leader Joseph Stalin and, the US Presidents Franklin D. Roosevelt and Harry S. Truman.

The first example we can give in this regard is the talks in the Tehran Conference (28 November-1 December 1943) between Churchill, Stalin, and Roosevelt. Churchill reflects a conversation on the Straits at this conference as follows:

“After a short interval, the Marshal and I separately proceeded to the President’s quarters for the luncheon of ‘Three Only’ (with our interpreters) to which he had invited us... When Marshal Stalin raised this question of warm water ports for Russia, I said there were no obstacles. He also asked about the Dardanelles and the revision of the Treaty of Sevres. I said that I wanted to get Turkey into the war, and this was an awkward moment for raising the question. Stalin replied that the time would come later. I said I expected Russia would sail the oceans with her Navy and Merchant fleet and we would welcome her ships. At this Stalin remarked that Lord Curzon had had other ideas. I said that in those days we did not see eye to eye with Russia.

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23 Kessing, *Kessing’s Contemporary Archives*, vol. 5 (Kessing’s Publications, 1946), 7737.

The President said that the Baltic should be free to all nations for merchant shipping. There should be free zones in the ports, and trustees should be appointed for the Kiel Canal, while the Dardanelles ought to be free to the commerce of the world. Stalin asked whether this would apply to Russian commerce, and we assured him that it would.”<sup>24</sup>

The second example in this respect is the conversation between Churchill and Stalin in the Potsdam Conference (17 July to 2 August 1945). Churchill, Stalin, and Truman were the participants of the Conference. Churchill describes the Turkish Straits and Montreux Convention as part of his long conversation at dinner with Stalin at the conference as follows:

“That night, July 18, I dined with Stalin. We were alone except for Birse and Pavlov. We conversed agreeably from half- past eight in the evening to half-past one next morning without reaching any crucial topic. Birse produced a fairly long note which I summarise here. My host seemed indeed to be physically rather oppressed, but his easy friendship was most agreeable...

Our conversation continued. I said that it was my policy to welcome Russia as a Great Power on the sea. I wished to see Russian ships sailing across the oceans of the world. Russia had been like a giant with his nostrils pinched by the narrow exits from the Baltic and the Black Sea. I then brought up the question of Turkey and the Dardanelles. The Turks were naturally anxious. Stalin explained what had happened. The Turks had approached the Russians about a treaty of alliance. In reply the Russians had said that there could only be a treaty if neither side had any claims. Russia however wanted Kars and Ardahan, which had been taken away from her at the end of the last war. The Turks said that they could not consider this. Russia then raised the question of the Montreux Convention. Turkey said she could not discuss that either, so Russia replied that she could not discuss a treaty of alliance. I said that I personally would support an amendment to the Montreux Convention, throwing out Japan and giving Russia access to the Mediterranean. I repeated that I welcomed Russia’s appearance on the oceans, and this referred not only to the Dardanelles, but also to the Kiel Canal, which should have a regime like the Suez Canal, and to the warm waters of the Pacific. This was not out of gratitude for anything Russia had done, but was my settled policy.”<sup>25</sup>

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24 Winston Churchill, *Closing the Ring: The Second World War*, vol. 5, Winston Churchill World War Two Collection (New York: Rosetto Books, 2010), 463.

25 Winston Churchill, *Triumph and Tragedy: The Second World War*, vol. 6, Winston Churchill World War Two Collection (New York: Rosetto Books, 2014), 751–52.

## 7. British Chiefs Of Staff Committee Report On Montreux Convention And The Baltics

In this context, during our examination of the matter, a top secret report dated 12 July 1945 prepared by the British Chiefs of Staff Committee (during the Second World War, it served as the sub-committee of the War Cabinet which included the three armed forces service chiefs) titled “Montreux Convention and Security of the Baltics” was encountered in the British archival documents. It is noteworthy that the report was prepared only six days before the Churchill-Stalin dinner on 18 July 1945. The said report in its introductory paragraph states that “We have examined the demands which the U.S.S.R have made to the Turkish Government prior to negotiating a new Russo-Turkish Treaty together with the views of the Foreign Office on this subject.”<sup>26</sup>

Selected relevant paragraphs of the report are quoted and paraphrased here below:

“2. The Baltic and the Dardanelles constitute the two main ocean gateways for the Russians. In dealing with one alone, there is a risk that a solution in one case may be used as an argument against us in the other. We have, therefore, considered these problems together.

Account must also be taken the Straits of Gibraltar and the Suez namely, the Straits of Gibraltar and the Suez Canal. The Russians have already shown interest in the former by expressing a wish to take part in the Tangier discussions. So far, they have shown no sign of raising the question of control of the Suez Canal, but we must take into account the possibility that may do so.

10. We conclude that (a) The Russian demands right of passage through the Dardanelles is a reasonable one. They already have right of passage through Baltic entrances in time of war, (b) Russia bases in these areas to secure those passages are not really necessary on military ground and Russian demands should be strongly resisted, c) From our strategic point of view, the best solution should be the maintenance of the status quo regarding bases covering sea gateways, (e) If the Russians persist in their demands for bases in the Dardanelles, the question must be referred for discussion by the four Great Powers or the World Organization rather than settled bilaterally between Russia and Turkey.”

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26 “CAB 80. Memoranda (O) Nos. 404-476” (Foreign & Commonwealth Office, July 17, 1945), 80, CAB 80/95, <https://discovery.nationalarchives.gov.uk/details/r/C387318>.



The report has two Annexes which incorporate the Staff Study regarding the “Montreux Convention” (Annex I) and “Kiel Canal” (Annex II). It is useful in this respect to quote the paragraph 4 (a) of Annex I which clearly states the “strategic local interest” of Britain in the Eastern Mediterranean without mentioning the strategic value of Cyprus island:

“The conclusions of this Staff Study were that: (a) it is contrary to our local strategic interest in East Mediterranean to agree to a revision of the Montreux Convention.”

### **8. Different Approaches Of Winston Churchill And British Chiefs Of Staff To Soviet Demands**

As the aforesaid information concerning the meetings of Churchill with Stalin reveals, the British Prime Minister was exceedingly committing himself to a policy of securing for Russia free access to warm waters and oceans. For instance, while narrating the dinner with Stalin at Potsdam, Churchill states that;

“I repeated that I welcomed Russia’s appearance on the oceans, and this referred not only to the Dardanelles, but also to the Kiel Canal, which should have a regime like the Suez Canal, and to the warm waters of the Pacific. This was not out of gratitude for anything Russia had done, but was my settled policy.”

However, the above-mentioned Chiefs of Staff Committee report, after pointing out that Baltic and the Dardanelles constitute the two main gateways to all seas, proposes a cautious approach to Russian demands. The said report also considers the Strait of Gibraltar and the Suez Canal as two main gateways of Mediterranean to oceans and adopts a holistic strategic approach for all the straits in the northern and southern flanks of Europe. Within this perspective, the report proposes also the involvement of newly founded United Nations in the straits issue.

According to British historian Alexander Lyon Macfie, British Foreign Minister Antony Eden was also skeptical about the Russian demands. He considered the Russian demands as;

“brazen policy of aggrandizement, as seen in its claims to participate in discussions concerning the future of Tangier, the Levant and Tripolitania, its demands on China and its policy of sovietization in northern Persia... Britain’s willingness to concede changes in the

Montreux Convention had merely encouraged the Russians to put forward further demands, which if conceded would place Constantinople under Russian guns, and lead to the ultimate subjugation of Turkey”.<sup>27</sup>

Macfie reflects the views of Clement Attlee, who replaced Churchill as Prime Minister on 26 July 1945 by the end of the Potsdam conference, as follows:

“Clement Attlee, who accompanied the British delegation as leader of the opposition, on the other hand, while admitting that Russia’s present policy regarding the Straits might be seen as a ‘crude exercise in power politics’, suggested that it was nevertheless necessary to look at the question from the Russian point of view. The facts of geography had denied Russia an unimpeded approach to the oceans, except in the icebound north and the Far East; and its weakness in the past had all too often placed it at the mercy of the powers controlling the gateways to the Baltic and the Mediterranean. Now that Russia was strong, it would undoubtedly seek to obtain free access to the oceans and a strategic position to enforce it. Ancient treaties and precedents were of no avail; nor could Britain count on American support, though the USA would no doubt be stiff enough in its defense of its own position on the Panama Canal. The only effective way of responding to Russia’s claims regarding the Straits and avoiding confrontation, therefore, would be to place all such strategic areas under international control, organized by the general world organization for peace. Such an arrangement would not necessarily imply a great sacrifice on Britain’s part, as modern war conditions, in which air power ‘transcends all frontiers and menaces all homelands’, had greatly reduced the strategic significance of such areas”.<sup>28</sup>

## 9. Agreement In Potsdam To Revise The Montreux Convention

At the final Allied conference in Potsdam, the US President Truman, the British Prime Ministers Churchill and then Attlee and Soviet leader Stalin agreed on the conclusions of the conference on 1 August 1945. Article XVI of the Potsdam Agreement which bears the title of Black Sea Straits is as follows:

“The Three Governments recognized that the Convention concluded at Montreux should be revised as failing to meet present-day conditions.

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27 Alexander Lyon Macfie, “The Straits Question at the Potsdam Conference: The British Position,” *Middle Eastern Studies* 23, no. 1 (1987): 77, <https://doi.org/10.1080/00263208708700689>.

28 Macfie, 77.

It was agreed that as the next step the matter should be the subject of direct conversations between each of the three Governments and the Turkish Government.”<sup>29</sup>

It is worth noting that the Soviet version of the article in question was reflected slightly differently in the Soviet diplomatic note delivered to the Turkish Government on 7 August 1946.<sup>30</sup>

## 10. US Diplomatic Note To Turkey For The Revision Of The Montreux Convention

It can be said that the Potsdam Agreement formally recognized the interest of the US in the revision of the Montreux Convention.<sup>31</sup>

In this context, the US Ambassador to Turkey Edwin C. Wilsons sent a Note Signée (First Person Note) dated 2 November 1945 to the Turkish Minister of Foreign Affairs Hasan Saka concerning the revision of the Montreux Convention. The last operative paragraph of the note is as follows;<sup>32</sup>

“The Government of the United States is of the opinion that a revision of the Montreux Convention undertaken to meet changed world conditions should be based on the following principles:

- (1) The Straits to be open to merchant vessels of all nations in all times;
- (2) The Straits to be open to the transit warships of Black Sea Powers at all times;
- (3) Save for an agreed limited tonnage in time of peace, passage through the Straits should to be denied to the warships of non-Black Sea powers at all times, except with the specific consent of the Black Sea powers or except when acting under the authority of the United Nations; and

29 “Potsdam Agreement Protocol of the Proceedings” (The North Atlantic Treaty Organization, August 1, 1945), [https://www.nato.int/ebookshop/video/declassified/doc\\_files/Potsdam%20Agreement.pdf](https://www.nato.int/ebookshop/video/declassified/doc_files/Potsdam%20Agreement.pdf).

30 Harry N. Howard and Harry Nicholas, *The Problem of the Turkish Straits* (Washington: Department of State, 1947), 47, [https://archive.org/details/ldpd\\_10984798\\_000/page/4](https://archive.org/details/ldpd_10984798_000/page/4). According to Foreword of this publication, the material in the “publication was written and compiled by Harry N. Howard, Chief of the Near Eastern Branch of the Division of Research for Near East and Africa, Office of Intelligence Research, Department of State.

31 Esmer, “The Straits: Crux of World Politics,” 297.

32 Howard and Nicholas, *The Problem of the Turkish Straits*, 47.

(4) Certain changes to modernize the Montreux Convention; such as the substitution of the United Nations system for that of the League of Nations and the elimination of Japan as a signatory.

The British and Soviet Governments are also being informed of the American Governments views set forth above.”

Following the US, according to the US Department of State publication of 1947, the British government on 21 November 1945 presented a memorandum to the Turkish Government “indicating that it was agreeable to the American proposal, but adding that the matter did not seem urgent.”<sup>33</sup> The same source also points out that “On December 6 Turkey replied to the US and accepted the US Note of November 2 as a basis of discussion.”

### **11. The Soviet Diplomatic Note Of 7 August 1946 And Subsequent Exchange Of Notes Regarding The Revision Of The Montreux Convention**

The Soviet government presented a detailed diplomatic note concerning the revision of the Montreux Convention to the Turkish Government on 7 August 1946 and transmitted the full text of this note to the US by the note signee of Soviet *Chargé d’Affaires ad interim* (in Turkish, “Geçici İşgüder”) at Washington, Fedor Orekhov, to the US Acting Secretary of State Dean Acheson.<sup>34</sup> The Soviet Government with this diplomatic note to the Turkish Government proposed to establish for the Turkish Straits a new regime. The relevant part of this note is as follows:

“For its own part, the Soviet Government proposes to establish for the Straits, a new regime, proceeding from the following principles:

- 1) The Straits should be always open to the passage of merchant ships of all countries.
- 2) The Straits should be always open to the passage of warships of the Black Sea powers.
- 3) Passage through the Straits for warships not belonging to the Black Sea powers shall not be permitted except in cases specially provided for.
- 4) The establishment of a regime of the Straits, as the sole sea passage, leading from the Black Sea and to the Black Sea, should under the competence of Turkey and other Black Sea powers.

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33 Howard and Nicholas, 37.

34 Howard and Nicholas, 47–49.

5) Turkey and the Soviet Union as the powers most interested and capable of guaranteeing freedom to commercial navigation and security in the Straits, shall organize joint means of defence of the Straits for prevention of the utilization of the Straits by other countries for aims hostile to the Black Sea powers.”<sup>35</sup>

The Turkish government gave a very detailed reply to the Soviet diplomatic note on 22 August 1946. In its note Turkey, while stating that it was prepared for a revision of the Montreux convention, clearly said that it would not accept points 4 and 5 of the above-cited Soviet principals. It is underlined in the Turkish note concerning the fifth Soviet principal that;

“From the national point view, the Soviet proposition is not compatible with the inalienable rights of sovereignty of Turkey nor with its security which brooks no restriction. Moreover, from the international point of view, the same proposition raises as well the gravest objections.”<sup>36</sup>

In this context, the US replied to the above-mentioned Soviet note on 19 August 1946 by the note signee of Acting Secretary of State Dean Acheson to the Soviet *Chargé d’Affaires* at Washington and expressed the view that the establishment of a regime of the Straits is not the exclusive concern of Black Sea powers. The US also declared that “It is the firm opinion of this Government that Turkey should continue to be primarily responsible for the defence of the Straits”. The UK replied to the Soviet note in a similar way on August 21 1946.<sup>37</sup>

The exchange of diplomatic notes between Turkey, the Soviet Union, the US, and the UK continued until the October of 1946 and all participants of this debate put on paper their official positions concerning the issue.

## **12. How Does The Biography Of Dean Acheson Evaluate The Soviet Demands Regarding The Revision Of Montreux Convention?**

“Acheson - The Secretary of State Who Created the American World” is the biography of Secretary of State Dean Acheson written by American historian James Chace in 1988.

This biographical work includes, among number of events of the time, the background of the US response to the Soviet Government’s note of 7 August

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35 Howard and Nicholas, 49.

36 Howard and Nicholas, 50–55.

37 Howard and Nicholas, 49–50.

1945 on the revision of the Montreux Convention. The relevant parts of this biography, which may give inspiration to the interdepartmental discussions taking place nowadays in the US regarding Turkey, are quoted here below:

“The interdepartmental meetings, leading up to a crucial meeting with the president on August 15, produced one of the toughest recommendations for policy yet offered to Harry Truman. Flanked by Forrestal (note added by author: Secretary of Navy, James Forrestal) and the top military brass, Acheson presented the joint report. In essence, it stated that where the Russians had valid criticisms of the Montreux Convention, Washington should say so, but the United States government should make it absolutely clear that the Straits were a matter of international concern.

‘In our opinion,’ the report read, ‘if the Soviet Union succeeds in its objective of obtaining control over Turkey, it will be extremely difficult, if not impossible, to prevent the Soviet Union from obtaining control over Greece and over the whole Near and Middle East.’... The president did not hesitate: ‘We might as well find out whether the Russians were bent on world conquest now as in five or ten years.’ He was prepared to pursue the policy to the end... Truman then took from the drawer of his desk a large map of the Middle East and eastern Mediterranean and asked those present to gather around him. After unfolding the map, he gave a short lecture on the historical background and current strategic importance of the region. Echoing Acheson’s report, he said it was vital to protect the Straits from any Russian incursion; otherwise, Soviet troops would soon be used to control all of Turkey, and in the natural course of events Greece and the Near East would fall under Soviet domination.

Four days later Acheson, with Truman’s assent, rejected the Soviet demand of August 7. The message dismissed any notion that Russia should share responsibility with Turkey for the defense of the Straits.

Confronted by American resolve and the naval task force in the Turkish Straits, the Russians backed down. A month later their tone on the Dardanelles was much softer. (In due course, after Stalin’s death in 1953, Moscow abandoned the question of even revising the Montreux Convention)”<sup>38</sup>

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38 James Chance, *Acheson: The Secretary of State Who Created the American World* (New York: Simon & Schuster, 1998), 154–55.

### 13. Clarification For The Soviet Demand On Turkish Provinces Of Kars, Artvin, And Ardahan

While examining the issue, we noticed that a number of Turkish academic articles which state that the demand of the Soviet Union for Kars, Artvin, and Ardahan provinces was conveyed to Turkey in written form through a diplomatic note. However, according to credible sources, these demands were first conveyed verbally by the Soviet Foreign Minister Vyacheslav Molotov during his meeting with Turkish Ambassador to Moscow Selim Sarper on 7 June 1945. According to these sources, the only document of this meeting was the cable Ambassador Sarper had sent to Ankara.<sup>39</sup> They point out that the text of the cable can be found in the book titled “World War II (1939-1946)” published by the Turkish Ministry of Foreign Affairs on the occasion of the 50<sup>th</sup> anniversary of the foundation of the Republic of Turkey.<sup>40</sup>

The report sent by Ambassador Sarper to Ankara concerning the Molotov-Sarper meeting of 7 June 1945 is in fact reflected in the book titled “Turkish Foreign Policy, 1919-2006 Facts and Analyses with Documents”, edited by Prof. Dr. Baskın Oran. Following is the relevant section from the aforementioned book:

“Selim Sarper had a two-hour meeting with Molotov on 7 June 1945. His report to Ankara contains the following exchange:

Molotov: Before we conclude a new alliance agreement, we must resolve all of the outstanding questions between our countries. I will now enumerate these questions. The 1921 treaty, which brought about some territorial changes, was concluded at a time when the Soviet state was in a weak condition. Our first task must be to correct this.

Sarper: Are you referring to changes to be made in Turkey’s eastern frontiers?

Molotov: Yes, I am referring to righting past wrongs.

Sarper: The 1921 treaty was not imposed on the Soviets by force. In regard to the search for past wrongs that need correction, this can be done by scrutinizing the bilateral relations of the two countries over the centuries, but such a search can yield no positive results. In any case, I

39 Cüneyt Akalin, “‘Sovyet Talepleri’ Söyleninin Dayanılmaz Hafifliği,” *Teori Dergisi* 181 (February 2005).

40 *Türkiye Dış Politikasında 50 Yıl İkinci Dünya Savaşı Yılları 1939-1946* (Ankara: T.C. Dışişleri Bakanlığı, 1946).

do not consider the outcome of the 1921 treaty to be a historic wrong but rather the correction of a past injustice. It was Lenin himself who detected a wrong and decided to correct it.

Molotov: An unfair treaty signed between the Soviets and Poland in 1921 has been rectified by Poland. As a result of this, it has become possible to establish a long-term friendship between Poland and the Soviet Union.

Sarper: ... First of all, no Turkish government could explain such a course to the public. Furthermore, I could not convey such a message to my government. Finally, I personally cannot justify what you are saying to myself ... There is no way that your request can be met ... I am therefore asking you to set this matter aside.

Molotov: Let us now pass to another subject ... In the course of this war we have suffered grievous losses. Even during our darkest hours, we had to worry about our security in the Black Sea. We may have been mistaken in our concerns, and in the final analysis Turkey's policies and actions did not create any difficulties for us. However, the fate of 200 million people is ultimately dependent on Turkey's goodwill ... We have no doubts about Turkey's goodwill. But we must be sure that the Straits are properly defended.

Sarper: If Turkey's defense inadequacies lead you to the conclusion that bases must be granted in the Straits to the USSR ... let me say right away that this is out of the question.

Molotov: You appear not to want to provide bases in time of peace. Could you consider doing so in time of war?

Sarper: I implied nothing of the sort ...

Molotov: It will be useful to conduct the negotiations for the revision of the Montreux Convention parallel to the negotiations for a treaty of alliance.

Sarper: ... I do not consider it of any use to discuss this ... When we exercise our sovereign rights, contractual obligations apart, we do not seek anyone's permission..."<sup>41</sup>

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41 Baskin Oran, Atay Akdevelioğlu, and Mustafa Aksin, eds., *Turkish Foreign Policy, 1919-2006: Facts and Analyses with Documents*, trans. Mustafa Akşin, Utah Series in Turkish and Islamic Studies (Indiana: University of Utah Press, 2011), 280.



In this context, it should be mentioned that Churchill in his memoirs refers to the Soviet territorial demands advanced against Turkey. In this context, as mentioned above, while he reports his dinner with Stalin on 18 July 1945 in Potsdam, he narrates the Soviet demands with reference to Stalin's own explanations.<sup>42</sup>

Apart from Churchill's memoirs, we find the traces of Molotov's verbal demand regarding the aforesaid Turkish provinces in the US archive documents. In this regard, the secret cable of the US Ambassador in Turkey (Edwin C. Wilson) to the Acting Secretary of State dated June 18, 1945 is quoted below:

“The Acting FonMin informed me this morning as follows:

The Turk Amb at Moscow called on Molotov at the latter's [former's] request on June 7. At the outset of the conversation Molotov said that before it would be possible to conclude a new treaty with Turkey it would be necessary to settle all outstanding questions between the two countries. Embs 786, June 12. Molotov then raised three specific questions:

1. The situation which he said was created for Russia by the treaty of 1921 which had ceded certain territories in the east to Turkey. Molotov said that the Soviet Union desired to have these territories returned. The Turk Amb said he must refuse to discuss any question affecting Turkey's territorial integrity. Molotov then said that they would lay the question aside for the time being but the Ambassador should understand that it remained unsettled.

2. The question of the Straits: ....”<sup>43</sup>

In another Secret Cable dated 22 June 1945, the US Ambassador in Turkey Edwin C. Wilson informed the Acting Secretary of State of the following:

“Acting FonMin has informed me as follows:

A second conference took place between the Turk Amb at Moscow and Molotov on June 18 (Embs 817, June 181). Turk Amb said to Molotov that he had been instructed to state the Turk Govt could not accept as a

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42 Churchill, *Triumph and Tragedy: The Second World War*, 6.752.

43 “Foreign Relations Of The United States: Diplomatic Papers, The Conference Of Berlin (The Potsdam Conference), 1945, Volume I” (Office of Historian, June 18, 1945), 1020, <https://history.state.gov/historicaldocuments/frus1945Berlinv01/d684>.

basis for discussion the three points proposed. There was then a lengthy discussion not acrimonious, in the course of which Molotov indicated the Soviet Govt was prepared to envisage the negotiation of a treaty of “collaboration and alliance” between the Soviet Union and Turkey.

Molotov then brought out a new point. He stated the Soviet Govt might desire to present to Turkey the point of view of the Balkan States re certain questions affecting those states and Turkey. (Re this point the Acting FonMin said Molotov had not indicated what these questions might relate to, whether territorial, economic or other matters. In any case there were no questions pending between the Balkan States and Turkey. The Balkan States had been belligerents, they were at present under the authority of ACC’s and the Turk Govt could not agree to receive any claims on their behalf put forward by the Soviet Union).<sup>44</sup>

#### **14. Nikita Khrushchev’s Criticism Of The Soviet Territorial Claims From Turkey**

It is noteworthy that the Soviet territorial claims from Turkey was harshly criticized by Nikita Khrushchev as the First Secretary of the Communist Party of the Soviet Union at the June 1957 Plenum of the Central Committee of the Soviet Communist Party. In the said plenum, the Anti-Party Group within the leadership of the Communist Party of the Soviet Union unsuccessfully attempted to depose Khrushchev as First Secretary of the Party. One academic source describes this Plenum as follows:

“In 1957 Nikita Khrushchev affirmed himself as the undisputed leader of the Communist Party of the Soviet Union. The June 1957 Plenum of the Central Committee was an essential landmark in his victorious struggle. In a ritualized course of action it wrested power from one political clique and gave it to a new one formed out of the Khrushchev’s supporters. His victory was a battle of two generations that cleared the way to power for the next cohort of the Soviet leaders.”<sup>45</sup>

Another academic source describes this plenum as:

“... because Khrushchev used the issue of Stalin’s crimes to demolish his foes, it was one of the most extraordinary plenums in Soviet history.

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44 “Foreign Relations Of The United States: Diplomatic Papers, The Conference Of Berlin (The Potsdam Conference), 1945, Volume I,” 1024.

45 Katya Vladimirov, “The Art of the Arcane: The June Plenum of 1957 and the Clash of Generations,” *The Soviet and Post-Soviet Review* 32, no. 2–3 (2005): 175.

In comparison, Khrushchev's 1956 secret speech only scratched the surface. This time speakers cited the number of those murdered and named those who were guilty. Molotov, Malenkov, and Kaganovich mostly tried to save themselves, but their sniping provoked Khrushchev to a fury."<sup>46</sup>

As per the another academic source which refers to the archival documents of the Central Committee of the Soviet Communist Party, Khrushchev in his aggressive speech against Molotov stated the following in regards to Soviet territorial claims from Turkey:

"We had close relations with Turks after the bourgeois revolution. For example, comrade Voroshilov was an honorary citizen of İzmir. Turks have not yet renounced his citizenship though they have had all grounds to do that. We defeated Germany and we had our head filled with success. The Turks are our friends. Let us write a note and do you think they will immediately give us the Dardanelles? Not on your life! The Dardanelles is not Turkey; it's the pivot of the nation. In fact we spat upon Turks. And they say we harbored a grunge against them. It was Georgians headed by Beria and some others who stirred up this provocation. There are 300.000 Ukrainians in Canada but that is not to say that Canada belongs to the Soviet Union. It's stupid. At any rate, we've lost friendly Turkey and now there are American bases in the south that are targeted against our south. Comrade Molotov was Foreign Minister and it is interesting how he argued his claims when he handed his notes to Turkey."<sup>47</sup>

## 15. Major Issues Turkey Faced In The Implementation Of The Montreux Convention During The 1980s And 1990s

Article 1 of the Montreux Convention stipulates "the principle of freedom of transit and navigation by sea in the Straits" and states that "the exercise of this freedom shall henceforth be regulated by the provisions of the present Convention." However, the Convention does not include regulatory provisions concerning safety of navigation during the passage through Turkish Straits. The density in marine traffic in and around the Turkish Straits has enormously increased over time. According to a note prepared by the Ministry of Foreign Affairs of Turkey, "in 1936 only 17 vessels passed through İstanbul Straits on average, while that figure stands around 50.000 today, which means 130

46 William Taubman, *Khrushchev: The Man and His Era* (London: Simon & Schuster, 2005), 320.

47 Jamil Hasanlı, *Stalin and the Turkish Crisis of the Cold War, 1945–1953* (New York: Lexington Books, 2011), 383.

vessels on an average day. In other words, there has been an eight-fold increase in the number of vessels passing through the Turkish Straits since the signing of the Montreux Convention. Furthermore, Istanbul Strait is always busy with local traffic of fishing boats and other personal vessels using this waterway.”<sup>48</sup>

The note mentioned above also points that not only the frequency of vessel traffic has increased but also the size of vessels and the nature of cargoes have drastically changed. As a result, the ratio of oil, oil products and other dangerous and hazardous materials transported by large tankers has rapidly increased. In this context, it is underlined in the note that as of the date note prepared “403 main accidents have been recorded in the Strait of Istanbul alone since 1948. The number of collisions has been 292, crashing into buildings in the residential areas along the Strait of Istanbul have been 27, grounding 35 and fire 6.” In fact, a catastrophic accident occurred in the strait of İstanbul in 1979 has opened a new chapter for the implementation of the Montreux Convention.

### **15.1. Collision Between The Romanian Tanker “Independenta” And The Greek Freighter “Evriali”**

On 15 November 1979, a collision between the Romanian tanker “Independenta” carrying 95,000 tons of crude oil and the iron loaded Greek freighter “Evriali” resulted in over 30 deaths. 30,000 tons of crude oil was burned and 65,000 tons of oil spilled into the sea. An area of 5.5 km in diameter was coated with a thick tar. The mortality rate in this area among marine species was estimated at 96%.<sup>49</sup> Almost all the crew of the Romanian tanker lost their lives (out of 46 only three survived).<sup>50</sup> Because of the fire and tanker’s wreck, the whole area was deeply affected. This catastrophic accident raised the public awareness of the risks brought by shipping of dangerous and hazardous cargo through the Turkish Straits and started discussions on the need to improve the navigation safety.<sup>51</sup> As it will be discussed below in details, these discussion brought to the fore the issue of maritime traffic regulations for and the necessity to create a traffic separation scheme in the Turkish Straits. Moreover, for the creation of a funding for improving the

48 Republic of Turkey Ministry of Foreign Affairs, “Note on the Turkish Straits.”

49 Toluner, “The Regulation of Passage through the Turkish Straits and the Montreux Convention,” 79.

50 Cahit İstikbal, “Turkish Straits: Difficulties and the Importance of Pilotage,” in *Turkish Straits: Maritime Safety and Environmental Aspects*, ed. Bayram Öztürk (Turkish Marine Research Foundation, 2006), 74.

51 Nilüfer Oral, “The Turkish Straits and the IMO: A Brief History,” in *Turkish Straits: Maritime Safety and Environmental Aspects*, ed. Nilüfer Oral and Bayram Öztürk (Turkish Marine Research Foundation, 2006), 23.

navigation safety in the Turkish Straits, the proposals on the introduction of new calculation methods for taxes and charges that Turkey may levy in accordance with the Annex 1 of the Montreux Convention were started to be discussed.

It should be noted in that respect that “Independenta” incident was followed by other serious accidents in the Turkish Straits. In 1991, Lebanese “Rabunion” collided with another vessel in which 8 crewmen were killed and the Lebanese vessel sank with its cargo of 20,000 live sheep causing a serious environmental damage.<sup>52</sup> In 1994, “M/T Nassia” collided with bulk carrier “M/V Shipbroker”-both Greek Cypriot flagged vessels. The fire on Nassia lasted for over a week, resulting in the closure of the Strait to maritime traffic. Twenty-nine officers and crewmembers of both ships lost their lives. Approximately 20,000 tons of crude oil caused fire, spilled over the sea and created heavy environmental damage.<sup>53</sup>

## **15.2. The Issue Of Dues Levied On Vessels Passing The Straits In Accordance With The Gold Franc Values**

Article 2 of the Montreux Convention stipulates the following:

“In time of peace, merchant vessels shall enjoy complete freedom of passage and navigation in the Straits, by day and by night, under any flag and with any kind of cargo, without any formalities, except as provided in Article 3 below. No taxes or charges other than those authorized by Annex I to the present Convention shall be levied by the Turkish authorities on these vessels when passing in transit without calling at a port in the Straits. In order to facilitate the collection of these taxes or charges, merchant vessels passing through the Straits shall communicate to the officials at the stations referred to in Article 3 their name, nationality, tonnage, destination and last port of call (provenance). Pilotage and towage remain optional.”

Annex 1 of the Convention states that “The taxes and charges which may be levied in accordance with Article 2 of the present Convention shall be those set forth in the following table. Any reductions in these taxes or charges which the Turkish Government may grant shall be applied without any distinction based on the flag of the vessel...” The said Annex enumerates the services rendered which may be levied as sanitary controls, lighthouses or lifesaving services

52 Republic of Turkey Ministry of Foreign Affairs, “Note on the Turkish Straits.”

53 İstikbal, “Turkish Straits: Difficulties and the Importance of Pilotage,” 75.

(including Life - boats, Rocket Stations, Fog Sirens, Direction - finding Stations, and day Light Buoys ... or other similar installations). Amount of tax or charge to be levied on each ton of net register tonnage. Paragraph 4 of the Annex 1 states that “they shall be payable in gold francs or in Turkish currency at the rate of exchange prevailing on the date of payment.”<sup>54</sup>

The use of “gold franc” in the collection of Montreux Convention fees is explained succinctly in an academic article as follows:

“With the Convention’s entry into force, the Turkish authorities had begun to charge the vessels in Turkish liras, based on the current rate of exchange applicable to golden franc. This practice seemed to have worked without any difficulties for a long time because the value of gold was officially fixed by member states and kept stable as it had been backed by the dollar convertibility of gold in accordance with the Bretton Woods agreement. However, following the collapse of the Bretton Woods system, the official dollar price for gold ceased to correspond with the value of gold in private markets as the market price for gold has gradually surpassed the official rates of exchange. ... The reform came in the shape of amendments effected to the Articles of Agreement of the International Money Fund, which have abolished the existing par value system and allowed the members to adopt any exchange arrangement as they see fit as long as they do not maintain the external value of its currency in terms of gold. Therefore, by doing away with the existing par value system, the amendments abolished both the official price of gold and the member state obligations to maintain the value of their currency in accordance with it.”<sup>55</sup>

In 1982, Prof. Dr. Tahir Çağa, Chairperson of Istanbul University Faculty of Law Maritime, Air and Insurance Law department, in his article entitled “Regarding the dues levied on vessels on the basis of the Gold Franc values” convincingly defended the view that gold francs should be converted into Turkish lira by adopting a formula based on the market price of gold, and the collection of the taxes and charges stipulated in the Montreux Convention be made in line with such calculation.<sup>56</sup>

54 Gold franc is defined in Farlex Financial Dictionary online as “An accounting currency used by the Bank for International Settlements between 1930 and 2003. The gold franc was equal in value to 0.290 grams of fine gold, which was also the peg used by the Swiss franc for a time. The BIS replaced the gold franc with Special Drawing Rights.” “Gold Franc,” in *Gold Franc* (The Free Dictionary By Farlex, December 30, 2019), <https://financial-dictionary.thefreedictionary.com/Gold+Franc>.

55 Selim Çiğer, “Turkish Straits and Safety of Navigation: The Case of the Vitaspirit,” *Maritime Safety and Security Law Journal* 20, no. 6 (July 2019): 15–16.

56 Tahir Çağa, ‘Gemilerden Altın Frank Esasi Üzerinden Alınan Resimlere Dair’ (Regarding the dues levied on vessels on the basis of the Gold Franc values) (1982) 3 *İdare Hukuku ve İlimleri Dergisi* (Journal of Administrative Sciences and Law) 35, 36-37.

As it was noted earlier (see footnote 52), one gold franc is equal in value to 0,290 gr of fine or almost pure gold. Calculating the taxes and charges stipulated in Annex 1 of the Montreux Convention on the basis of the current market price of the gold according to the each ton of net register tonnage of vessels transiting through the Turkish Straits makes considerable change in the total amount of charges collected. In fact, Turkey started to implement the real value of gold franc in 1982 and an almost ten-fold increase in charges applicable to transit of vessels through the Turkish Straits were put into practice. However, due to strong objections from the foreign and domestic shipping companies, it reconsidered the implementation and made a considerable reduction in the charges. It is mentioned in the academic articles that in accordance with the current tariff, Turkey collects 150 million US\$ a year in transit fees. It is also asserted in these articles that if Turkey implements the current real value of gold franc, this amount would rise to 8.1 billion US\$.<sup>57</sup>

The current gold franc market value is about 14.45 US\$ according to latest fluctuating exchange rates.<sup>58</sup> It is mentioned in a number of sources that Turkey has been charging well below the amounts that are permitted under the Montreux Convention since 1982.<sup>59</sup> In consideration of the foregoing, it should be underlined that Turkey, in accordance with the provisions of the Montreux Convention, has the right to implement the real market value of gold franc at any time it deems appropriate.

### 15.3. Introduction Of Maritime Traffic Regulations For The Turkish Straits

As it was mentioned above, the grave accidents raised the public awareness on the safety of navigation in the Straits and a commission was formed in 1990 for studying the safety of navigation in the Turkish Straits.<sup>60</sup> The Commission dwelled especially on the necessity of a traffic separation scheme

57 Cihat Yaycı, Montrö Sözleşmesi Hükümleri Çerçevesinde Altın Frank Uygulamasına İlişkin Tartışmaların Değerlendirilmesi (An Assessment on the Implementation of Gold Franc in the Framework of Montreux Convention), pp. 162-163. Bilge Strateji (Bilge Strategy) Volume 5, Number 8, Spring 2013, pp. 149-167.

58 One gold franc equals approximately the value of 0,290 gr fine gold. According to the current exchange rate XAU (gold ounce) /USD is approximately US\$ 1550 as of 9 January 2020 (<https://www.fxstreet.com/rates-charts/xauusd>). One troy ounce of gold is equivalent to 31.1 grams. Hence, 1 gr of gold is approximately worth US\$ 49, 8 and gold franc is about US\$ 14, 45.

59 Selim Ciğer, 'Turkish Straits and Safety of Navigation: the Case of the Vitaspirit' in Maritime Safety and Security Law Journal", p 17.

60 Nilüfer Oral, 'The Turkish Straits and the IMO: A Brief History', (pp. 22-29) in Nilüfer Oral and Bayram Öztürk (eds), Turkish Straits: Maritime Safety and Environmental Aspects, p. 23

in the Straits.<sup>61</sup> The Commission drafted the regulations which were adopted by the Turkish government and published in Official Gazette on 11 January 1994 under the heading of “Maritime Traffic Regulations for the Turkish Straits and the Marmara Region”.<sup>62</sup>

It should be noted that Turkey, before adopting the “Maritime Traffic Regulations for the Turkish Straits and the Marmara Region”, consulted with the International Maritime Organization (IMO) and in March 1993 invited the Maritime Safety Committee of the IMO “to take note of ... maritime traffic and navigational risks and hazards in the Turkish Straits” and proposed a “traffic separation scheme and traffic routing/lanes” for maritime traffic through the Bosphorus and Dardanelles. In that respect, Turkey declared that these measures are “to protect the public and environment as well as to ensure the safety of navigation and efficiency of traffic in the straits. The Oil Companies International Marine Forum, in its report submitted to the IMO’s Sub-Committee on Safety and Navigation, shared Turkey’s concerns regarding maritime safety.<sup>63</sup> On 16 May 1994, the IMO opened a ten day conference on maritime navigation through the Bosphorus and Dardanelles. During this conference, the Maritime Safety Committee adopted traffic separation schemes for the Turkish Straits and made other recommendations. Turkey considered the IMO Rules and Recommendations insufficient, and introduced the regulations on 1 July 1994 as mentioned in the decree published in the Official Gazette.

It is important to underline at this point that certain states opposed to “Maritime Traffic Regulations for the Turkish Straits and the Marmara Region”. Prof. Dr. Yüksel İnan explains this objection as follows:

“Russian Federation, Ukraine, Romania, Bulgaria, Greece, Greek Cypriot Administration and Oman opposed to Turkey’s 1994 domestic regulation and to the adoption of the stated IMO documents on grounds that Turkey’s unilateral measures do fall contrary to the aims, purposes and also to the provisions of the Montreux Convention. In addition, they also claimed that Turkey’s regulations contradict with UNCLOS

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61 According to International Maritime Organization (IMO) web page, The International Convention for the Safety of Life at Sea (SOLAS) is an international maritime treaty adopted on 1 November 1974 and entered into force on 25 May 1980. Chapter V of the treaty bears the title of “Safety of navigation”. IMO web site describes the traffic separation scheme as “a routing measure aimed at the separation of opposing streams of traffic by appropriate means and by the establishment of traffic lane.” Accessed 10 January 2020 <http://www.imo.org/en/OurWork/Safety/Navigation/Pages/ShipsRouteing.aspx>

62 Republic of Turkey, Official Gazette, 11 Jan 1994, Vol. 21815, pp. 3-48. Accessed 10 January 2020, <https://www.resmigazete.gov.tr/arsiv/21815.pdf>

63 Debora Schweikart, ‘Dire Straits: The International Maritime Organization In The Bosphorus And Dardanelles’ (1996-1997), p. 34, Yearbook of International Law Vol.5. pp. 29-50.



(United Nations Convention on the Law of the Sea) and with the customary rules of the law of the sea. According to their point of view, measures to regulate passage through the Straits should first of all be jointly decided by the parties to the Montreux Convention. But the majority, including the EU countries, did not support those arguments and for this reason the issues was removed from IMOs agenda in 1999.”<sup>64</sup>

Before the removal of the issue from the IMO agenda Turkey, taking into account the certain IMO recommendations, has made several changes to the 1994 Regulations, and the new version of the regulations entered into force on 6 November 1998 under the new title of “Maritime Traffic Regulations for the Turkish Straits.”<sup>65</sup> In addition to these measures, Turkey has also established a Vessel Traffic Management Information System (VTMIS) and constructed Vessel Traffic Services (VTS) along the Turkish Straits. The VTSs provide anticipation to the regulation of traffic flow and greatly enhance the pilot’s ability.<sup>66</sup>

#### **15.4. How Did The United Nations Convention On Law Of The Sea Affect The Montreux Convention Regarding The Regime Of The Straits?**

As the result of the third United Nations Conference on the Law of the Sea (UNCLOS III) which took place between 1973 and 1982, the United Nations Convention on the Law of the Sea (UNCLOS) was concluded in 1982. UNCLOS replaced the four treaties (Convention on the Territorial Sea and Contiguous Zone; Convention on the Continental Shelf; Convention on the High Seas; Convention on Fishing and Conservation of Living Resources of the High Seas) concluded as a result of UNCLOS I in 1958.

In 1958 UNCLOS, the basic terminology which is most relevant for the Turkish Straits was included in the Convention on the Territorial Sea and the Contiguous Zone. Article 16/4 of the Convention states that “There shall be no suspension of the innocent passage of foreign ships through straits which are used for international navigation between one part of the high seas and another part of the high seas or the territorial sea of a foreign State.”<sup>67</sup>

64 Yüksel İnan, “The Turkish Straits,” in *The Europeanization of Turkey’s Security Policy: Prospects and Pitfalls*, ed. Ali L. Karaosmanoğlu and Seyfi Taşhan (Turkish Foreign Policy Institute, 2004), 169–70.

65 “Official Gazette,” *Başbakanlık Mevzuatı Geliştirme ve Yayın Genel Müdürlüğü* 23515 (November 6, 1998): 1–38, [https://www.resmigazete.gov.tr/arsiv/23515\\_1.pdf](https://www.resmigazete.gov.tr/arsiv/23515_1.pdf).

66 İnan, “The Turkish Straits,” 8–9.

67 “Treaty Series: Treaties and International Agreements registered or Filed and Recorded with the Secretariat of the United Nations” (United Nations, 1966), 219, 516/7477, <https://treaties.un.org/doc/Publication/UNTS/Volume%20516/v516.pdf>.

As may be seen from the said Article, it stresses two important concepts, namely “straits” and “innocent passage”. There is no mention as a term to “international straits” in the Convention.<sup>68</sup> It should be expressed in that context that as stressed in an academic source, “the coastal state’s control over territorial seas, which until the 1982 United Nations Law of the Sea Convention, had usually covered a 3-mile zone, was restricted by the principle of ‘innocent passage’, preventing the coastal state from interfering with the transit passage of a foreign ship so long as the passage was inoffensive.”<sup>69</sup>

One of the outstanding aspects of the 1982 UNCLOS is that it does not give a definition of the “straits used for international navigation”. Also, there was no mention to the term of “international straits”. Part III of the UNCLOS bears the title of “Straits Used for International Navigation”. Part III, Section 1 (General Provisions), Article 34 which bears the title of “Legal status of waters forming straits used for international navigation” is as follows:

“1. The regime of passage through straits used for international navigation established in this Part shall not in other respects affect the legal status of the waters forming such straits or the exercise by the States bordering the straits of their sovereignty or jurisdiction over such waters and their air space, bed and subsoil.

2. The sovereignty or jurisdiction of the States bordering the straits is exercised subject to this Part and to other rules of international law.”<sup>70</sup>

The 1982 UNCLOS, in addition to the “innocent passage” introduces the new concept of “transit passage”. Part III, Section 2 (Transit Passage), Article 37 of the UNCLOS defines its scope as the “straits which are used for international navigation between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone”.<sup>71</sup>

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68 In the case of the Corfu Channel, brought by Albania against Great Britain in 1949, the International Court of Justice’s decision was based on its determination that the character of an international strait was determined by its connection of two parts of the high seas.

69 Gündüz Aybay and Nilüfer Oral, “Turkey’s Authority to Regulate Passage of Vessels through the Turkish Straits,” *Perceptions: Journal of International Affairs* 3, no. 2 (August 1998): 3–17.

70 “MULTILATERAL United Nations Convention on the Law of the Sea (with Annex, Final Act and Procès-Verbaux of Rectification of the Final Act Dated 3 March 1986 and 26 July 1993). Concluded at Montego Bay on 10 December 1982” (United Nations, November 16, 1994), 410, 1833/1-31363, <https://treaties.un.org/doc/Publication/UNTS/Volume%201833/volume-1833-A-31363-English.pdf>.

71 “MULTILATERAL United Nations Convention on the Law of the Sea (with Annex, Final Act and Procès-Verbaux of Rectification of the Final Act Dated 3 March 1986 and 26 July 1993). Concluded at Montego Bay on 10 December 1982,” 410.

Article 38 of the UNCLOS defines the “Right of transit passage” as follows:

“1. In straits referred to in article 37, all ships and aircraft enjoy the right of transit passage, which shall not be impeded; except that, if the strait is formed by an island of a State bordering the strait and its mainland, transit passage shall not apply if there exists seaward of the island a route through the high seas or through an exclusive economic zone of similar convenience with respect to navigational and hydrographical characteristics.

2. Transit passage means the exercise in accordance with this Part of the freedom of navigation and overflight solely for the purpose of continuous and expeditious transit of the strait between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone. However, the requirement of continuous and expeditious transit does not preclude passage through the strait for the purpose of entering, leaving or returning from a State bordering the strait, subject to the conditions of entry to that State.

3. Any activity which is not an exercise of the right of transit passage through a strait remains subject to the other applicable provisions of this Convention.”

It would be fair to state that:

“The right of transit passage arbitrarily restricts the legislative competence of the coastal State, and limits this to the adoption of laws and regulations as regards some aspects of this passage, and even, some of these involve limitations. Thus, as regards the safety of navigation and the regulation of sea traffic, the coastal State proposes but the International Maritime Organization adopts the measures. In relation to the preservation of the marine environment, it is limited to implementing the applicable regulations concerning the unloading of certain harmful substances. Among the omissions of the regulating competence of the coastal State of a strait, attention should be drawn to the absence of the recognition of legislative competence concerning air navigation, as well as the omission of any reference to its right to establish air corridors and devices for the separation of air traffic.”<sup>72</sup>

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72 Martín Ana G. López, *International Straits: Concept, Classification and Rules of Passage* (Heidelberg: Springer-Verlag, 2010). 201

It should be underlined at this juncture that the Montreux Convention includes an article entitled “Aircraft” on the air corridors over the Straits. Article 23 of the Convention is as follows:

“In order to assure the passage of civil aircraft between the Mediterranean and the Black Sea, the Turkish Government will indicate the air routes available for this purpose, outside the forbidden zones which may be established in the Straits. Civil aircraft may use these routes, provided that they give the Turkish Government, as regards occasional flights, a notification of three days, and as regards flights on regular services, a general notification of the dates of passage.

The Turkish Government moreover undertake, notwithstanding any remilitarization of the Straits, to furnish the necessary facilities for the safe passage of civil aircraft authorized under the air regulations in force in Turkey to fly across Turkish territory between Europe and Asia. The route which is to be followed in the Straits zone by aircraft which have obtained an authorization shall be indicated from time to time.”

As far as the relationship between the Montreux Convention and the UNCLOS is concerned, the most important provision included in the UNCLOS is the following Article 35/c which exempts the Turkish Straits from the scope of the “right of transit passage”:

“Nothing in this Part affects ... the legal regime in straits in which passage is regulated in whole or in part by long-standing international conventions in force specifically relating to such straits.”

Turkey is not a party to the UNCLOS. However, even if Turkey were party to the UNCLOS, the “right of transit passage” provisions, due to the existence of the Article 35/c of the Convention, would not have been applicable for Turkey. Montreux Convention is providing a sui generis regime for Turkish Straits and at the same time conferring Turkey an exceptional political position. It should not be forgotten that if Montreux Convention is terminated one day, a number of states would most probably insist on the application of “right of transit passage” from the Turkish Straits. This possibility urges us to consider, though briefly, the termination, denunciation and revision provisions of the Montreux Convention.

## **16. Termination, Denunciation And Revision Of The Montreux Convention**

The Montreux Convention in its Article 28 provides for the possibility of its termination and gives the details of procedure for its denunciation. The said article is as follows:

“The present Convention shall remain in force for twenty years from the date of its entry into force.

The principle of freedom of transit and navigation affirmed in Article 1 of the present Convention shall however continue without limit of time.

If, two years prior to the expiry of the said period of twenty years, no High Contracting Party shall have given notice of denunciation to the French Government the present Convention shall continue in force until two years after such notice shall have been given. Any such notice shall be communicated by the French Government to the High Contracting Parties.

In the event of the present Convention being denounced in accordance with the provisions of the present Article, the High Contracting Parties agree to be represented at a conference for the purpose of concluding a new Convention.”

The Article of 29 which sets forth the amendment of the Convention is as follows:

“At the expiry of each period of five years from the date of the entry into force of the present Convention each of the High Contracting Parties shall be entitled to initiate a proposal for amending one or more of the provisions of the present Convention.

To be valid, any request for revision formulated by one of the High Contracting Parties must be supported, in the case of modifications to Articles 14 or 18 by one other High Contracting Party, and, in the case of modifications to any other Article, by two other High Contracting Parties.

Any request for revision thus supported must be notified to all the High Contracting Parties three months prior to the expiry of the current period of five years. This notification shall contain details of the proposed amendments and the reasons which have given rise to them.

Should it be found impossible to reach an agreement on these proposals through the diplomatic channel, the High Contracting Parties agree to be represented at a conference to be summoned for this purpose.

Such a conference may only take decisions by a unanimous vote, except as regards cases of revision involving Articles 14 and 18, for which a

majority of three- quarters of the High Contracting Parties shall be sufficient.

The said majority shall include three- quarters of the High Contracting Parties which are Black Sea Powers, including Turkey.”

As is clear from Article 28, the termination clause of the Convention foresees initially 20 years duration. Since no High Contracting Party has given notice of denunciation to the depository of the Convention in the specified period, “the Convention shall continue in force until two years after such notice shall have been given”. According to the last paragraph of the Article 28:

“in the event of the present Convention being denounced in accordance with the provisions of the present Article, the High Contracting Parties agree to be represented at a conference for the purpose of concluding a new Convention.”

It should be noted at this point that with the denunciation of one contracting party, in my opinion, the Convention cannot be deemed automatically come to an end for all the parties. The denunciation would be valid only for the contracting party of the Convention which communicates the denunciation. This communication of denunciation would be an individual withdrawal from the Convention. However, as mentioned in the last paragraph of Article 28, the High Contracting Parties may agree to be represented at a conference for the purpose of concluding a new Convention. In other words, an individual denunciation may not bring about an automatic denunciation of the Convention for all the parties. If other parties agree, the Convention may be in operation for these contracting parties, without convening a Conference for the purpose of concluding a new Convention.

It is also worth to note that in case of denunciation, according to second paragraph of the Article 28, “the principle of freedom of transit and navigation affirmed in Article 1 of the present Convention shall however continue without limit of time.” As it can be remembered, Article 1 of the Montreux Convention stipulates that “The High Contracting Parties recognize and affirm the principle of freedom of transit and navigation by sea in the Straits. The exercise of this freedom shall henceforth be regulated by the provisions of the present Convention.”

This means that if the Montreux Convention becomes invalid because of the denunciation, a default regime of free transit and navigation will come into existence in absence of the Convention. In such a regime, the provisions of

the “right of transit” from the straits as provided in the UNCLOS will eventually come into the agenda.

Another point should be kept in mind is that the any contracting party to the Montreux Convention can invoke *rebus sic stantibus* mechanism at any time for denouncing the Montreux Convention.<sup>73</sup> Even the change in the size and number of vessels passing through the Straits since the signing of the Treaty of Montreux in 1936 can be a justification for invoking the *rebus sic stantibus*.

In Article. 29, in contrast to the rather shortcut denunciation procedure of the Convention contained in Article 28, there exists a complicated revision procedure. In this context, Article 28 gives right to contracting parties to initiate a proposal for amending one or more of the provisions of the present Convention at the expiry of each period of five years from the date of the entry into force of the Convention. This Article also foresees a detailed procedure for tabling a revision proposal and for the voting proceeding in a possible revision conference which may be convened in case that no agreement reached for the amendment proposal through the diplomatic channels.

It should be noted that there is an obvious imbalance between the denunciation or termination provisions in paragraph 28 of the Convention and the amendment procedure in paragraph 29. Normally, the termination of such an important convention should not be easier than its revision. Feridun Cemal Erkin, a former Foreign Minister of Turkey and Ambassador, draws attention to this issue in his book entitled “Turkish-Soviet Relations and the Straits Issue.”<sup>74</sup>

In his book, Erkin provides the texts of the diplomatic notes exchanged between the Turkish and the Soviet governments in 1946 upon the Soviet request to revise the Montreux Convention. As it was mentioned earlier, the Soviet government presented a detailed diplomatic note concerning the revision of the Montreux Convention to the Turkish Government on 7 August 1946 and the Turkish government gave a very detailed reply to the Soviet diplomatic note on 22 August 1946. In the Soviet note, interestingly, there was no mention to the relevant Articles of Montreux Convention regarding the denunciation or revision. The Turkish diplomatic reply note of 22 August

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73 “Rebus sic stantibus” denotes to fundamental change of circumstances. Article 62 of the 1969 Vienna Convention on the Law of Treaties explains this notion as “A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties.”

74 Feridun Cemal Erkin, *Türk-Sovyet İlişkileri ve Boğazlar Meselesi (Turkish-Soviet Relations and the Straits Issue)*, (Ankara: Başnur Matbaası, 1968), 114–21.

1946 however expressly refers to the amendment provisions of the Convention. The Turkish diplomatic note, in that context, states the following:

“ ... To return to practical ends which the Government of Soviet Union would appear to wish attain through note August 7; the Government of Republic (of Turkey) extrapolates that the intention is to putting into application of the procedure for quinquennial revision provided for in Article 29 of the Montreux Convention. Choice of date for giving notice, as well as justifications for proposed amendments would seem to militate in favor of such interpretation. If such is indeed the intention of the Soviet Government, request for revision formulated ought to, in order be admissible, fulfill certain conditions provided for in above-mentioned Article 29 of the Convention. In brief, it is necessary that request be supported by one or two contracting parties depending upon what articles of the Convention requested to be amended. Then request, thus supported, must be notified to all contracting parties three months before expiration of current five years. The Government of Republic, which had noted desire for revision expressed by the Soviet Government and which moreover desires to satisfy the wish expressed by the American public opinion concerning the use of maritime passages, does not intend, insofar as it is concerned, to create any difficulty as regards placing in application, with agreement of signatories of the Montreux Convention and the USA and through international conference including above-mentioned powers, of every demand for revision provided for by convention and examination of proposed amendments in concert with said powers ...”<sup>75</sup> [Text of the diplomatic note is in Turkish. Translation to English was made by the author]

While the content of the Soviet diplomatic note of 7 August 1946 reveals the negligence of the Soviet government at the time with regard to the legal provisions of the Montreux Convention, the Turkish reply of 22 August 1946 demonstrates a solid legal response of the Turkish government to the Soviet demands.

## 17. Conclusion

As it was stated in the introduction, 20 July 2020 is the 84<sup>th</sup> anniversary of the signing of the Montreux Convention. The Convention is among the rare international agreements that have kept their relevance throughout the years. The fact that the Convention is so resilient to the passage of time can be

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<sup>75</sup> Erkin, 420.



attributed to the delicate balance it established between the interests of the Black Sea coastal states and non-Black Sea states back in 1936. The 84 years that have passed also proves the successful implementation of the carefully crafted balance of the Convention by Turkey.

History has shown us that trying to open the Montreux Convention for discussion is equivalent to opening the Pandora's Box. Trying to open the Pandora's Box may cause problems more serious than what we had experienced in the past. It would not be wrong to state that the keeping the Montreux Convention as it stands has gained more validity than ever. As the title of this report suggests, Montreux Convention is still a functional regional and global safety valve for today's world. Based on what past experience has shown us, this safety valve should be kept operational under the control of Turkey.

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**Annex**  
**League of Nations-Treaty Series-Treaties and**  
**International Engagements registered with the Secretariat of the**  
**League of Nations-VOLUME CLXXIII 1936-1937**  
**No: 4001-4032- No. 4015. pp. 213-241**

N° 4015.

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**GRANDE-BRETAGNE  
ET IRLANDE DU NORD,  
AUSTRALIE, BULGARIE,  
FRANCE, GRÈCE, JAPON,  
ROUMANIE, TURQUIE,  
UNION DES RÉPUBLIQUES  
SOVIÉTIQUES SOCIALISTES,  
YOUGOSLAVIE**

Convention concernant le régime des  
Détroits, avec annexes et protocole.  
Signés à Montreux, le 20 juillet  
1936.

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**GREAT BRITAIN  
AND NORTHERN IRELAND,  
AUSTRALIA, BULGARIA,  
FRANCE, GREECE, JAPAN,  
ROUMANIA, TURKEY,  
UNION OF SOVIET  
SOCIALIST REPUBLICS,  
YUGOSLAVIA**

Convention regarding the Régime  
of the Straits, with Annexes and  
Protocol. Signed at Montreux,  
July 20th, 1936.

N<sup>o</sup> 4015. — CONVENTION <sup>1</sup> CONCERNANT LE RÉGIME DES DÉTROITS.  
SIGNÉE A MONTREUX, LE 20 JUILLET 1936.

*Texte officiel français communiqué par le délégué permanent de la Turquie près la Société des Nations.  
L'enregistrement de cette convention a eu lieu le 11 décembre 1936.*

SA MAJESTÉ LE ROI DES BULGARES, LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE, SA MAJESTÉ LE ROI DE GRANDE-BRETAGNE, D'IRLANDE ET DES TERRITOIRES BRITANNIQUES AU DELA DES MERS, EMPEREUR DES INDES, SA MAJESTÉ LE ROI DES HELLÈNES, SA MAJESTÉ L'EMPEREUR DU JAPON, SA MAJESTÉ LE ROI DE ROUMANIE, LE PRÉSIDENT DE LA RÉPUBLIQUE TURQUE, LE COMITÉ CENTRAL EXÉCUTIF DE L'UNION DES RÉPUBLIQUES SOVIÉTIQUES SOCIALISTES, ET SA MAJESTÉ LE ROI DE YOUGOSLAVIE ;

Animés du désir de régler le passage et la navigation dans le détroit des Dardanelles, la mer de Marmara et le Bosphore, compris sous la dénomination générale de « Détroits », de manière à sauvegarder, dans le cadre de la sécurité de la Turquie et de la sécurité, dans la mer Noire, des Etats riverains, le principe consacré par l'article 23 du <sup>2</sup> Traité de paix signé à Lausanne le 24 juillet 1923 ;

Ont résolu de substituer la présente convention à la Convention <sup>3</sup> signée à Lausanne le 24 juillet 1923 et ont désigné pour leurs plénipotentiaires, savoir :

SA MAJESTÉ LE ROI DES BULGARES :

M. le Docteur Nicolas P. NICOLAEV, ministre plénipotentiaire, secrétaire général du Ministère des Affaires étrangères et des Cultes ;

M. Pierre NEICOV, ministre plénipotentiaire, directeur des Affaires politiques au Ministère des Affaires étrangères et des Cultes ;

<sup>1</sup> Ratifications déposées à Paris :

GRANDE-BRETAGNE ET IRLANDE DU NORD AINSI QUE TOUTES PARTIES DE L'EMPIRE BRITAN- NIQUE NON MEMBRES SÉPARÉS DE LA SOCIÉTÉ DES NATIONS . . . . .	}	9 novembre 1936.	
AUSTRALIE . . . . .			
BULGARIE . . . . .			
FRANCE . . . . .			
GRÈCE . . . . .			
ROUMANIE . . . . .			
TURQUIE . . . . .			
UNION DES RÉPUBLIQUES SOVIÉTIQUES SOCIALISTES YOUGOSLAVIE . . . . .			
JAPON . . . . .			19 avril 1937.

Le procès-verbal de dépôt des six premières ratifications, y compris celle de la Turquie, prévu à l'article 26 de la convention, a été dressé en date du 9 novembre 1936.

La présente convention, dont les dispositions ont été provisoirement appliquées à dater du 15 août 1936, est entrée définitivement en vigueur à partir du 9 novembre 1936.

<sup>2</sup> Vol. XXVIII, page 11, de ce recueil.

<sup>3</sup> Vol. XXVIII, page 115, de ce recueil.



<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 4015. — CONVENTION <sup>2</sup> REGARDING THE RÉGIME OF THE STRAITS. SIGNED AT MONTREUX, JULY 20TH, 1936.

*French official text communicated by the Permanent Delegate of Turkey to the League of Nations. The registration of this Convention took place December 11th, 1936.*

HIS MAJESTY THE KING OF THE BULGARIANS, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, HIS MAJESTY THE KING OF THE HELLENES, HIS MAJESTY THE EMPEROR OF JAPAN, HIS MAJESTY THE KING OF ROUMANIA, THE PRESIDENT OF THE TURKISH REPUBLIC, THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS, AND HIS MAJESTY THE KING OF YUGOSLAVIA ;

Desiring to regulate transit and navigation in the Straits of the Dardanelles, the Sea of Marmora and the Bosphorus comprised under the general term " Straits " in such manner as to safeguard, within the framework of Turkish security and of the security, in the Black Sea, of the riparian States, the principle enshrined in Article 23 of the Treaty<sup>3</sup> of Peace signed at Lausanne on the 24th July, 1923 ;

Have resolved to replace by the present Convention the Convention<sup>4</sup> signed at Lausanne on the 24th July, 1923, and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARIANS :

Dr. Nicolas P. NICOLAEV, Minister Plenipotentiary, Secretary-General of the Ministry of Foreign Affairs and of Cults ;

M. Pierre NEÏCOV, Minister Plenipotentiary, Director of Political Affairs at the Ministry of Foreign Affairs and of Cults ;

<sup>1</sup> Traduction du Foreign Office de Sa Majesté britannique.

<sup>1</sup> Translation of His Britannic Majesty's Foreign Office.

<sup>2</sup> Ratifications deposited at Paris :

GREAT BRITAIN AND NORTHERN IRELAND AND ALL PARTS OF THE BRITISH EMPIRE WHICH ARE NOT SEPARATE MEMBERS OF THE LEAGUE OF NATIONS . . . . .	} November 9th, 1936.
AUSTRALIA . . . . .	
BULGARIA . . . . .	
FRANCE . . . . .	
GREECE . . . . .	
ROUMANIA . . . . .	
TURKEY . . . . .	
UNION OF SOVIET SOCIALIST REPUBLICS . . . . .	
YUGOSLAVIA . . . . .	
JAPAN . . . . .	

The *procès-verbal* of deposit of the first six ratifications, including that of Turkey, provided for in Article 26 of the Convention, was drawn up on November 9th, 1936.

The present Convention, the provisions of which were provisionally applied as from August 15th, 1936, came finally into force on November 9th, 1936.

<sup>3</sup> Vol. XXVIII, page 11, of this Series.

<sup>4</sup> Vol. XXVIII, page 115, of this Series.

**LE PRÉSIDENT DE LA RÉPUBLIQUE FRANÇAISE :**

- M. PAUL-BONCOUR, sénateur, délégué permanent de la France à la Société des Nations, ancien président du Conseil, ancien ministre des Affaires étrangères, chevalier de la Légion d'honneur, Croix de guerre ;  
 M. Henri PONSOT, ambassadeur extraordinaire et plénipotentiaire de la République française à Ankara, grand officier de la Légion d'honneur ;

**SA MAJESTÉ LE ROI DE GRANDE-BRETAGNE, D'IRLANDE ET DES TERRITOIRES BRITANNIQUES AU DELÀ DES MERS, EMPEREUR DES INDES :**

- POUR LA GRANDE-BRETAGNE ET L'IRLANDE DU NORD ET TOUTES LES PARTIES DE L'EMPIRE BRITANNIQUE QUI NE SONT PAS INDIVIDUELLEMENT MEMBRES DE LA SOCIÉTÉ DES NATIONS :**  
 Le très honorable lord STANLEY, P.C., M.C., M.P., secrétaire parlementaire à Son Amirauté ;

**POUR LE COMMONWEALTH D'AUSTRALIE :**

- Le très honorable Stanley Melbourne BRUCE, C.H., M.C., haut commissaire du Commonwealth d'Australie à Londres ;

**SA MAJESTÉ LE ROI DES HELLÈNES :**

- M. Nicolas POLITIS, envoyé extraordinaire et ministre plénipotentiaire de Grèce à Paris, ancien ministre des Affaires étrangères ;  
 M. Raoul BIBICA ROSETTI, délégué permanent de la Grèce auprès de la Société des Nations ;

**SA MAJESTÉ L'EMPEREUR DU JAPON :**

- M. Naotake SATO, Jusammî, grand-cordon de l'Ordre du Soleil-Levant, ambassadeur extraordinaire et plénipotentiaire à Paris ;  
 M. Massa-aki Hotta, Jushii, deuxième classe de l'Ordre du Soleil-Levant, envoyé extraordinaire et ministre plénipotentiaire à Berne ;

**SA MAJESTÉ LE ROI DE ROUMANIE :**

- M. Nicolas TITULESCO, ministre secrétaire d'Etat au Département des Affaires étrangères ;  
 M. Constantin CONTZESCO, ministre plénipotentiaire, délégué de la Roumanie aux Commissions européenne et internationale du Danube ;  
 M. Vespasien PELIA, envoyé extraordinaire et ministre plénipotentiaire à La Haye ;

**LE PRÉSIDENT DE LA RÉPUBLIQUE TURQUE :**

- M. le Docteur RÜŞTÜ ARAS, ministre des Affaires étrangères, député d'Izmir ;  
 M. Suad DAVAZ, ambassadeur extraordinaire et plénipotentiaire de la République turque à Paris ;  
 M. Nuinan MENEMENÇIOĞLU, ambassadeur de Turquie, secrétaire général du Ministère des Affaires étrangères ;  
 M. Asim GÜNDÜZ, général de corps d'armée, sous-chef de l'Etat-Major général ;

- M. Necmeddin SADAK, délégué permanent de Turquie auprès de la Société des Nations, député de Sivas, rapporteur à la Commission des Affaires étrangères ;

**LE COMITÉ CENTRAL EXÉCUTIF DE L'UNION DES RÉPUBLIQUES SOVIÉTIQUES SOCIALISTES :**

- M. Maxime LITVINOFF, membre du Comité central exécutif de l'Union des Républiques soviétiques socialistes, commissaire du Peuple aux Affaires étrangères ;

**SA MAJESTÉ LE ROI DE YOUGOSLAVIE :**

- M. Ivan SOUBBOTITCH, délégué permanent du Royaume de Yougoslavie près la Société des Nations ;

Lesquels, après avoir exhibé leurs pleins pouvoirs, reconnus en bonne et due forme, sont convenus des dispositions suivantes :

## THE PRESIDENT OF THE FRENCH REPUBLIC :

- M. PAUL-BONCOUR, Senator, Permanent Delegate of France to the League of Nations, former President of the Council, former Minister for Foreign Affairs, Chevalier of the Legion of Honour, Croix de Guerre ;  
 M. Henri PONSOT, Ambassador Extraordinary and Plenipotentiary of the French Republic at Angora, Grand Officer of the Legion of Honour ;

## HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA :

## FOR GREAT BRITAIN AND NORTHERN IRELAND AND ALL PARTS OF THE BRITISH EMPIRE WHICH ARE NOT SEPARATE MEMBERS OF THE LEAGUE OF NATIONS :

- The Right Honourable Lord STANLEY, P.C., M.C., M.P., Parliamentary Secretary to the Admiralty ;

## FOR THE COMMONWEALTH OF AUSTRALIA :

- The Right Honourable Stanley Melbourne BRUCE, C.H., M.C., High Commissioner for the Commonwealth of Australia in London ;

## HIS MAJESTY THE KING OF THE HELLENES :

- M. Nicolas POLITIS, Envoy Extraordinary and Minister Plenipotentiary of Greece in Paris, former Minister for Foreign Affairs ;  
 M. Raoul BIBICA ROSETTI, Permanent Delegate of Greece to the League of Nations ;

## HIS MAJESTY THE EMPEROR OF JAPAN :

- M. Naotake SATO, Jusammi, Grand-Cordon of the Order of the Rising Sun, Ambassador Extraordinary and Plenipotentiary in Paris ;  
 M. Massa-aki HÖTTA, Jushii, Second Class of the Order of the Rising Sun, Envoy Extraordinary and Minister Plenipotentiary at Berne ;

## HIS MAJESTY THE KING OF ROUMANIA :

- M. Nicolas TITULESCO, Minister Secretary of State for the Department of Foreign Affairs ;  
 M. Constantin CONTZESCO, Minister Plenipotentiary, Delegate of Roumania to the European and International Commissions of the Danube ;  
 M. Vespasien PELLA, Envoy Extraordinary and Minister Plenipotentiary at The Hague ;

## THE PRESIDENT OF THE TURKISH REPUBLIC :

- Dr. RÜŞTÜ ARAS, Minister for Foreign Affairs, Deputy for Smyrna ;  
 M. Suad DAVAZ, Ambassador Extraordinary and Plenipotentiary of the Turkish Republic in Paris ;  
 M. Numan MENEMENÇIOĞLU, Ambassador of Turkey, Secretary-General of the Ministry for Foreign Affairs ;  
 M. Asim GÜNDÜZ, General Commanding an Army Corps, Deputy Chief of the General Staff ;  
 M. Necmeddin SADAK, Permanent Delegate of Turkey to the League of Nations, Deputy for Sivas, *Rapporteur* for the Committee of Foreign Affairs ;

## THE CENTRAL EXECUTIVE COMMITTEE OF THE UNION OF SOVIET SOCIALIST REPUBLICS :

- M. Maxime LITVINOFF, Member of the Central Executive Committee of the Union of Soviet Socialist Republics, People's Commissar for Foreign Affairs ;

## HIS MAJESTY THE KING OF YUGOSLAVIA :

- M. Ivan SOUBBOTITCH, Permanent Delegate of the Kingdom of Yugoslavia to the League of Nations ;

Who, after having exhibited their full powers, found in good and due form, have agreed on the following provisions :

No. 4015

*Article premier.*

Les Hautes Parties contractantes reconnaissent et affirment le principe de la liberté de passage et de navigation par mer dans les Détroits.

L'usage de ladite liberté est dorénavant réglé par les dispositions de la présente convention.

## SECTION I

## NAVIRES DE COMMERCE.

*Article 2.*

En temps de paix, les navires de commerce jouiront de la complète liberté de passage et de navigation dans les Détroits, de jour et de nuit, quels que soient le pavillon et le chargement, sans aucune formalité, sous réserve des dispositions de l'article 3 ci-après. Aucune taxe ou charge autre que celles dont la perception est prévue par l'annexe I à la présente convention ne sera prélevée par les autorités turques sur ces navires lorsqu'ils passeront en transit sans faire escale dans un port des Détroits.

Afin de faciliter la perception de ces taxes ou charges, les navires de commerce qui franchiront les Détroits feront connaître aux agents du poste visé à l'article 3 leurs nom, nationalité, tonnage, destination et provenance.

Le pilotage et le remorquage restent facultatifs.

*Article 3.*

Tout navire qui pénètre dans les Détroits par la mer Egée ou par la mer Noire s'arrêtera à un poste sanitaire près de l'entrée des Détroits aux fins du contrôle sanitaire établi par les règlements turcs dans le cadre des prescriptions sanitaires internationales. Ce contrôle, dans le cas de navires possédant une patente nette de santé ou présentant une déclaration de santé attestant qu'ils ne tombent pas sous le coup des dispositions de l'alinéa 2 du présent article, s'effectuera de jour et de nuit, avec le plus de rapidité possible, et ces navires ne devront être astreints à aucun autre arrêt au cours de leur passage dans les Détroits.

Les navires qui ont à bord des cas de peste, de choléra, de fièvre jaune, de typhus exanthématique ou de variole, ou qui en ont eu moins de sept jours auparavant, ainsi que les navires qui ont quitté un port contaminé depuis moins de cinq fois vingt-quatre heures, s'arrêteront au poste sanitaire indiqué à l'alinéa précédent pour y embarquer les gardes sanitaires que les autorités turques pourraient désigner. Il ne sera, à ce titre, prélevé aucune taxe ou charge et les gardes devront être débarqués à un poste sanitaire à la sortie des Détroits.

*Article 4.*

En temps de guerre, la Turquie n'étant pas belligérante, les navires de commerce, quels que soient le pavillon et le chargement, jouiront de la liberté de passage et de navigation dans les Détroits dans les conditions prévues aux articles 2 et 3.

Le pilotage et le remorquage restent facultatifs.

*Article 5.*

En temps de guerre, la Turquie étant belligérante, les navires de commerce n'appartenant pas à un pays en guerre avec la Turquie jouiront de la liberté de passage et de navigation dans les Détroits à condition de n'assister en aucune façon l'ennemi.

Ces navires entreront de jour dans les Détroits et le passage devra s'effectuer par la route qui sera, dans chaque cas, indiquée par les autorités turques.

*Article 6.*

Au cas où la Turquie s'estimerait menacée d'un danger de guerre imminent, il continuerait néanmoins à être fait application des dispositions de l'article 2, sauf que les navires devraient

*Article 1.*

The High Contracting Parties recognise and affirm the principle of freedom of transit and navigation by sea in the Straits.

The exercise of this freedom shall henceforth be regulated by the provisions of the present Convention.

## SECTION I.

## MERCHANT VESSELS.

*Article 2.*

In time of peace, merchant vessels shall enjoy complete freedom of transit and navigation in the Straits, by day and by night, under any flag and with any kind of cargo, without any formalities, except as provided in Article 3 below. No taxes or charges other than those authorised by Annex I to the present Convention shall be levied by the Turkish authorities on these vessels when passing in transit without calling at a port in the Straits.

In order to facilitate the collection of these taxes or charges merchant vessels passing through the Straits shall communicate to the officials at the stations referred to in Article 3 their name, nationality, tonnage, destination and last port of call (provenance).

Pilotage and towage remain optional.

*Article 3.*

All ships entering the Straits by the Aegean Sea or by the Black Sea shall stop at a sanitary station near the entrance to the Straits for the purposes of the sanitary control prescribed by Turkish law within the framework of international sanitary regulations. This control, in the case of ships possessing a clean bill of health or presenting a declaration of health testifying that they do not fall within the scope of the provisions of the second paragraph of the present Article, shall be carried out by day and by night with all possible speed, and the vessels in question shall not be required to make any other stop during their passage through the Straits.

Vessels which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox, or which have had such cases on board during the previous seven days, and vessels which have left an infected port within less than five times twenty-four hours shall stop at the sanitary stations indicated in the preceding paragraph in order to embark such sanitary guards as the Turkish authorities may direct. No tax or charge shall be levied in respect of these sanitary guards and they shall be disembarked at a sanitary station on departure from the Straits.

*Article 4.*

In time of war, Turkey not being belligerent, merchant vessels, under any flag or with any kind of cargo, shall enjoy freedom of transit and navigation in the Straits subject to the provisions of Articles 2 and 3.

Pilotage and towage remain optional.

*Article 5.*

In time of war, Turkey being belligerent, merchant vessels not belonging to a country at war with Turkey shall enjoy freedom of transit and navigation in the Straits on condition that they do not in any way assist the enemy.

Such vessels shall enter the Straits by day and their transit shall be effected by the route which shall in each case be indicated by the Turkish authorities.

*Article 6.*

Should Turkey consider herself to be threatened with imminent danger of war, the provisions of Article 2 shall nevertheless continue to be applied except that vessels must enter the Straits by

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entrer de jour dans les Détroits et que le passage devrait s'effectuer par la route indiquée, dans chaque cas, par les autorités turques.

Le pilotage pourrait, dans ce cas, être rendu obligatoire, mais sans rétribution.

*Article 7.*

Le terme « navires de commerce » s'applique à tous les navires qui ne sont pas visés par la section II de la présente convention.

SECTION II

BÂTIMENTS DE GUERRE.

*Article 8.*

Aux fins de la présente convention, la définition applicable aux bâtiments de guerre et à leurs spécifications, ainsi qu'au calcul des tonnages est celle qui figure dans l'annexe II à la présente convention.

*Article 9.*

Les bâtiments auxiliaires de la marine militaire spécifiquement conçus pour le transport des combustibles, liquides ou non, ne seront pas astreints au préavis visé à l'article 13 et n'entreront pas dans le calcul des tonnages soumis à limitation en vertu des articles 14 et 18, à condition de traverser les Détroits isolément. Toutefois ils demeureront assimilés aux bâtiments de guerre en ce qui concerne les autres conditions de passage.

Les bâtiments auxiliaires visés au précédent alinéa ne pourront bénéficier de la dérogation envisagée que si leur armement ne comporte pas : comme artillerie contre objectifs flottants, plus de deux pièces d'un calibre de 105 mm. au maximum ; comme artillerie contre objectifs aériens, plus de deux matériels d'un calibre de 75 mm. au maximum.

*Article 10.*

En temps de paix, les bâtiments légers de surface, les petits navires de combat et les navires auxiliaires, qu'ils appartiennent à des Puissances riveraines ou non de la mer Noire, quel que soit leur pavillon, jouiront de la liberté de passage dans les Détroits sans aucune taxe ou charge quelconque, pourvu qu'ils y pénètrent de jour et dans les conditions prévues aux articles 13 et suivants ci-après.

Les bâtiments de guerre autres que ceux qui entrent dans les classes visées à l'alinéa précédent n'auront le droit de passage que dans les conditions spéciales prévues aux articles 11 et 12.

*Article 11.*

Les Puissances riveraines de la mer Noire sont autorisées à faire passer par les Détroits leurs bâtiments de ligne d'un tonnage supérieur au tonnage prévu à l'alinéa premier de l'article 14, à la condition que ces bâtiments ne franchissent les Détroits qu'un à un, escortés au plus de deux torpilleurs.

*Article 12.*

Les Puissances riveraines de la mer Noire auront le droit de faire passer par les Détroits, en vue de rallier leur base, leurs sous-marins construits ou achetés en dehors de cette mer, si un avis de mise en chantier ou d'achat a été donné en temps utile à la Turquie.

Les sous-marins appartenant auxdites Puissances pourront également traverser les Détroits pour être réparés dans des chantiers situés hors de cette mer à la condition que des précisions à ce sujet soient données à la Turquie.

Dans l'un et l'autre cas, les sous-marins devront naviguer de jour et en surface et traverser les Détroits isolément.

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day and that their transit must be effected by the route which shall, in each case, be indicated by the Turkish authorities.

Pilotage may, in this case, be made obligatory, but no charge shall be levied.

*Article 7.*

The term "merchant vessels" applies to all vessels which are not covered by Section II of the present Convention.

SECTION II.

VESSELS OF WAR.

*Article 8.*

For the purposes of the present Convention, the definitions of vessels of war and of their specification together with those relating to the calculation of tonnage shall be as set forth in Annex II to the present Convention.

*Article 9.*

Naval auxiliary vessels specifically designed for the carriage of fuel, liquid or non-liquid, shall not be subject to the provisions of Article 13 regarding notification, nor shall they be counted for the purpose of calculating the tonnage which is subject to limitation under Articles 14 and 18, on condition that they shall pass through the Straits singly. They shall, however, continue to be on the same footing as vessels of war for the purpose of the remaining provisions governing transit.

The auxiliary vessels specified in the preceding paragraph shall only be entitled to benefit by the exceptional status therein contemplated if their armament does not include: for use against floating targets, more than two guns of a maximum calibre of 105 millimetres; for use against aerial targets, more than two guns of a maximum calibre of 75 millimetres.

*Article 10.*

In time of peace, light surface vessels, minor war vessels and auxiliary vessels, whether belonging to Black Sea or non-Black Sea Powers, and whatever their flag, shall enjoy freedom of transit through the Straits without any taxes or charges whatever, provided that such transit is begun during daylight and subject to the conditions laid down in Article 13 and the Articles following thereafter.

Vessels of war other than those which fall within the categories specified in the preceding paragraph shall only enjoy a right of transit under the special conditions provided by Articles 11 and 12.

*Article 11.*

Black Sea Powers may send through the Straits capital ships of a tonnage greater than that laid down in the first paragraph of Article 14, on condition that these vessels pass through the Straits singly, escorted by not more than two destroyers.

*Article 12.*

Black Sea Powers shall have the right to send through the Straits, for the purpose of rejoining their base, submarines constructed or purchased outside the Black Sea, provided that adequate notice of the laying down or purchase of such submarines shall have been given to Turkey.

Submarines belonging to the said Powers shall also be entitled to pass through the Straits to be repaired in dockyards outside the Black Sea on condition that detailed information on the matter is given to Turkey.

In either case, the said submarines must travel by day and on the surface, and must pass through the Straits singly.

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*Article 13.*

Pour le passage dans les Détroits des bâtiments de guerre, un préavis devra être donné au Gouvernement turc par la voie diplomatique. La durée normale du préavis sera de huit jours ; mais il est désirable que, pour les Puissances non riveraines de la mer Noire, elle soit portée à quinze jours. Il sera indiqué dans le préavis la destination, le nom, le type et le nombre des bâtiments ainsi que la date de passage pour l'aller et, s'il y a lieu, pour le retour. Tout changement de date devra faire l'objet d'un préavis de trois jours.

L'entrée dans les Détroits pour le passage d'aller devra avoir lieu dans un délai de cinq jours à partir de la date indiquée dans le préavis initial. Après l'expiration de ce délai, il devra être donné un nouveau préavis, dans les mêmes conditions que pour le préavis initial.

Lors du passage, le commandant de la force navale communiquera, sans avoir à s'arrêter, à une station de signaux à l'entrée des Dardanelles ou du Bosphore, la composition exacte de la force se trouvant sous ses ordres.

*Article 14.*

Le tonnage global maximum de toutes les forces navales étrangères pouvant se trouver en cours de transit dans les Détroits ne devra pas dépasser 15.000 tonnes, sauf dans les cas prévus à l'article 11 et à l'annexe III à la présente convention.

Toutefois les forces visées à l'alinéa précédent ne devront pas comprendre plus de neuf bâtiments.

Ne seront pas compris dans ce tonnage les bâtiments appartenant à des Puissances riveraines ou non riveraines de la mer Noire qui, conformément aux dispositions de l'article 17, rendent visite à un port des Détroits.

Ne seront pas davantage compris dans ce tonnage les bâtiments de guerre qui auraient subi une avarie lors de la traversée ; ces bâtiments se soumettront, pendant les réparations, aux dispositions spéciales de sécurité édictées par la Turquie.

*Article 15.*

Les bâtiments de guerre en transit dans les Détroits ne pourront, en aucun cas, utiliser les aéronefs dont ils seraient porteurs.

*Article 16.*

Les bâtiments de guerre en transit dans les Détroits ne devront, sauf en cas d'avarie ou de fortune de mer, y séjourner au delà du temps nécessaire pour effectuer leur passage.

*Article 17.*

Les dispositions des articles précédents ne sauraient en aucune manière empêcher une force navale d'un tonnage et d'une composition quelconques de rendre, dans un port des Détroits, sur l'invitation du Gouvernement turc, une visite de courtoisie d'une durée limitée. Cette force devra quitter les Détroits par la même route que pour l'entrée, à moins qu'elle ne soit dans les conditions voulues pour passer en transit dans les Détroits, conformément aux dispositions des articles 10, 14 et 18.

*Article 18.*

1. Le tonnage global que les Puissances non riveraines de la mer Noire peuvent avoir dans cette mer en temps de paix est limité de la façon suivante :

a) Sauf dans le cas prévu au paragraphe b) ci-après, le tonnage global desdites Puissances n'excédera pas 30.000 tonnes ;

b) Au cas où, à un moment quelconque, le tonnage de la flotte la plus forte de la mer Noire viendrait à dépasser d'au moins 10.000 tonnes celui de la flotte la plus forte



*Article 13.*

The transit of vessels of war through the Straits shall be preceded by a notification given to the Turkish Government through the diplomatic channel. The normal period of notice shall be eight days ; but it is desirable that in the case of non-Black Sea Powers this period should be increased to fifteen days. The notification shall specify the destination, name, type and number of the vessels, as also the date of entry for the outward passage and, if necessary, for the return journey. Any change of date shall be subject to three days' notice.

Entry into the Straits for the outward passage shall take place within a period of five days from the date given in the original notification. After the expiry of this period, a new notification shall be given under the same conditions as for the original notification.

When effecting transit, the commander of the naval force shall, without being under any obligation to stop, communicate to a signal station at the entrance to the Dardanelles or the Bosphorus the exact composition of the force under his orders.

*Article 14.*

The maximum aggregate tonnage of all foreign naval forces which may be in course of transit through the Straits shall not exceed 15,000 tons, except in the cases provided for in Article 11 and in Annex III to the present Convention.

The forces specified in the preceding paragraph shall not, however, comprise more than nine vessels.

Vessels, whether belonging to Black Sea or non-Black Sea Powers, paying visits to a port in the Straits, in accordance with the provisions of Article 17, shall not be included in this tonnage.

Neither shall vessels of war which have suffered damage during their passage through the Straits be included in this tonnage ; such vessels, while undergoing repair, shall be subject to any special provisions relating to security laid down by Turkey.

*Article 15.*

Vessels of war in transit through the Straits shall in no circumstances make use of any aircraft which they may be carrying.

*Article 16.*

Vessels of war in transit through the Straits shall not, except in the event of damage or peril of the sea, remain therein longer than is necessary for them to effect the passage.

*Article 17.*

Nothing in the provisions of the preceding Articles shall prevent a naval force of any tonnage or composition from paying a courtesy visit of limited duration to a port in the Straits, at the invitation of the Turkish Government. Any such force must leave the Straits by the same route as that by which it entered, unless it fulfils the conditions required for passage in transit through the Straits as laid down by Articles 10, 14 and 18.

*Article 18.*

(1) The aggregate tonnage which non-Black Sea Powers may have in that sea in time of peace shall be limited as follows :

(a) Except as provided in paragraph (b) below, the aggregate tonnage of the said Powers shall not exceed 30,000 tons ;

(b) If at any time the tonnage of the strongest fleet in the Black Sea shall exceed by at least 10,000 tons the tonnage of the strongest fleet in that sea at the date of the

en cette mer à la date de la signature de la présente convention, le tonnage global de 30.000 tonnes mentionné au paragraphe *a)* sera majoré d'autant, jusqu'à concurrence d'un maximum de 45.000 tonnes. A cette fin, chaque Puissance riveraine fera connaître, conformément à l'annexe IV à la présente convention, au Gouvernement turc, le 1<sup>er</sup> janvier et le 1<sup>er</sup> juillet de chaque année, le tonnage total de sa flotte en mer Noire, et le Gouvernement turc transmettra cette information aux autres Hautes Parties contractantes ainsi qu'au Secrétaire général de la Société des Nations ;

*c)* Le tonnage que l'une quelconque des Puissances non riveraines aura la faculté d'avoir en mer Noire sera limité aux deux tiers du tonnage global visé aux paragraphes *a)* et *b)* ci-dessus ;

*d)* Toutefois au cas où une ou plusieurs Puissances non riveraines de la mer Noire désireraient y envoyer, dans un but humanitaire, des forces navales, ces forces, dont l'ensemble ne devra, en aucune hypothèse, excéder 8.000 tonnes, seront admises à pénétrer dans la mer Noire, sans le préavis prévu à l'article 13 de la présente convention, moyennant une autorisation obtenue du Gouvernement turc dans les conditions suivantes : si le tonnage global visé aux paragraphes *a)* et *b)* ci-dessus n'est pas atteint et ne doit pas être dépassé par les forces dont l'envoi est demandé, le Gouvernement turc accordera ladite autorisation dans le plus bref délai après la réception de la demande dont il aura été saisi ; si ledit tonnage global se trouve être déjà utilisé ou s'il devait être dépassé par les forces dont l'envoi est demandé, le Gouvernement turc donnera immédiatement connaissance de la demande d'autorisation aux autres Puissances riveraines de la mer Noire et si ces Puissances, vingt-quatre heures après en avoir été informées, n'y font pas d'objection, il fera savoir aux Puissances intéressées, au plus tard dans un délai utile de quarante-huit heures, la suite qu'il aura décidé de donner à leur demande.

Toute entrée ultérieure en mer Noire de forces navales des Puissances non riveraines ne s'effectuera que dans les limites disponibles du tonnage global visé aux paragraphes *a)* et *b)* ci-dessus.

2. Quel que soit l'objet de leur présence en mer Noire, les bâtiments de guerre des Puissances non riveraines ne pourront pas y rester plus de vingt et un jours.

#### Article 19.

En temps de guerre, la Turquie n'étant pas belligérante, les bâtiments de guerre jouiront d'une complète liberté de passage et de navigation dans les Détroits dans des conditions identiques à celles qui sont stipulées aux articles 10 à 18.

Toutefois il sera interdit aux bâtiments de guerre de toute Puissance belligérante de passer à travers les Détroits, sauf dans les cas rentrant dans l'application de l'article 25 de la présente convention, ainsi que dans le cas d'assistance prêtée à un Etat victime d'une agression en vertu d'un traité d'assistance mutuelle engageant la Turquie, conclu dans le cadre du Pacte de la Société des Nations, enregistré et publié conformément aux dispositions de l'article 18 dudit pacte.

Dans les cas exceptionnels visés à l'alinéa précédent, ne seront pas applicables les limitations indiquées dans les articles 10 à 18.

Malgré l'interdiction de passage édictée dans l'alinéa 2 ci-dessus, les bâtiments de guerre des Puissances belligérantes riveraines ou non de la mer Noire, séparés de leurs ports d'attache, sont autorisés à rallier ces ports.

Il est interdit aux bâtiments de guerre belligérants de procéder à toute capture, d'exercer le droit de visite et de se livrer à un acte hostile quelconque dans les Détroits.

#### Article 20.

En temps de guerre, la Turquie étant belligérante, les dispositions des articles 10 à 18 ne seront pas applicables ; le passage des bâtiments de guerre sera entièrement laissé à la discrétion du Gouvernement turc.

signature of the present Convention, the aggregate tonnage of 30,000 tons mentioned in paragraph (a) shall be increased by the same amount, up to a maximum of 45,000 tons. For this purpose, each Black Sea Power shall, in conformity with Annex IV to the present Convention, inform the Turkish Government, on the 1st January and the 1st July of each year, of the total tonnage of its fleet in the Black Sea; and the Turkish Government shall transmit this information to the other High Contracting Parties and to the Secretary-General of the League of Nations;

(c) The tonnage which any one non-Black Sea Power may have in the Black Sea shall be limited to two-thirds of the aggregate tonnage provided for in paragraphs (a) and (b) above;

(d) In the event, however, of one or more non-Black Sea Powers desiring to send naval forces into the Black Sea, for a humanitarian purpose, the said forces, which shall in no case exceed 8,000 tons altogether, shall be allowed to enter the Black Sea without having to give the notification provided for in Article 13 of the present Convention, provided an authorisation is obtained from the Turkish Government in the following circumstances: if the figure of the aggregate tonnage specified in paragraphs (a) and (b) above has not been reached and will not be exceeded by the despatch of the forces which it is desired to send, the Turkish Government shall grant the said authorisation within the shortest possible time after receiving the request which has been addressed to it; if the said figure has already been reached or if the despatch of the forces which it is desired to send will cause it to be exceeded, the Turkish Government will immediately inform the other Black Sea Powers of the request for authorisation, and if the said Powers make no objection within twenty-four hours of having received this information, the Turkish Government shall, within forty-eight hours at the latest, inform the interested Powers of the reply which it has decided to make to their request.

Any further entry into the Black Sea of naval forces of non-Black Sea Powers shall only be effected within the available limits of the aggregate tonnage provided for in paragraphs (a) and (b) above.

(2) Vessels of war belonging to non-Black Sea Powers shall not remain in the Black Sea more than twenty-one days, whatever be the object of their presence there.

#### Article 19.

In time of war, Turkey not being belligerent, warships shall enjoy complete freedom of transit and navigation through the Straits under the same conditions as those laid down in Articles 10 to 18.

Vessels of war belonging to belligerent Powers shall not, however, pass through the Straits except in cases arising out of the application of Article 25 of the present Convention, and in cases of assistance rendered to a State victim of aggression in virtue of a treaty of mutual assistance binding Turkey, concluded within the framework of the Covenant of the League of Nations, and registered and published in accordance with the provisions of Article 18 of the Covenant.

In the exceptional cases provided for in the preceding paragraph, the limitations laid down in Articles 10 to 18 of the present Convention shall not be applicable.

Notwithstanding the prohibition of passage laid down in paragraph 2 above, vessels of war belonging to belligerent Powers, whether they are Black Sea Powers or not, which have become separated from their bases, may return thereto.

Vessels of war belonging to belligerent Powers shall not make any capture, exercise the right of visit and search, or carry out any hostile act in the Straits.

#### Article 20.

In time of war, Turkey being belligerent, the provisions of Articles 10 to 18 shall not be applicable; the passage of warships shall be left entirely to the discretion of the Turkish Government.

*Article 21.*

Au cas où la Turquie s'estimerait menacée d'un danger de guerre imminent, elle aurait le droit d'appliquer les dispositions de l'article 20 de la présente convention.

Les bâtiments de guerre qui, après avoir passé par les Détroits antérieurement à l'usage par la Turquie de la faculté que lui confère l'alinéa précédent, se trouveraient ainsi séparés de leurs ports d'attache, pourront rallier ces ports. Il est cependant entendu que la Turquie pourra ne pas faire bénéficier de ce droit les bâtiments de l'Etat dont l'attitude aurait motivé l'application du présent article.

Si le Gouvernement turc fait usage de la faculté que lui confère l'alinéa premier ci-dessus, il adressera une notification à cet effet aux Hautes Parties contractantes ainsi qu'au Secrétaire général de la Société des Nations.

Si le Conseil de la Société des Nations, par une majorité des deux tiers, décide que les mesures ainsi prises par la Turquie ne sont pas justifiées et si tel est également l'avis de la majorité des Hautes Parties contractantes signataires de la présente convention, le Gouvernement turc s'engage à rapporter les mesures en question ainsi que celles qui auraient été prises en vertu de l'article 6 de la présente convention.

*Article 22.*

Les bâtiments de guerre qui ont à bord des cas de peste, de choléra, de fièvre jaune, de typhus exanthématique ou de variole, ou qui en ont eu moins de sept jours auparavant, ainsi que les bâtiments qui ont quitté un port contaminé depuis moins de cinq fois vingt-quatre heures devront passer les Détroits en quarantaine et appliquer par les moyens du bord les mesures prophylactiques nécessaires pour éviter toute possibilité de contamination des Détroits.

## SECTION III

## AÉRONEFS.

*Article 23.*

En vue d'assurer le passage des aéronefs civils entre la Méditerranée et la mer Noire, le Gouvernement turc indiquera, en dehors des zones interdites des Détroits, les routes aériennes destinées à ce passage ; les aéronefs civils pourront utiliser ces routes en donnant au Gouvernement turc, pour les survols occasionnels, un préavis de trois jours et, pour les survols de services réguliers, un préavis général des dates de passage.

D'autre part, nonobstant la remilitarisation des Détroits, le Gouvernement turc fournira les facilités nécessaires pour le passage en toute sécurité des aéronefs civils autorisés d'après la réglementation aérienne en vigueur en Turquie à survoler le territoire turc entre l'Europe et l'Asie. Pour les cas où une autorisation de survol aurait été accordée, la route à suivre dans la zone des Détroits sera périodiquement indiquée.

## SECTION IV

## DISPOSITIONS GÉNÉRALES.

*Article 24.*

Les attributions de la Commission internationale constituée en vertu de la Convention concernant le régime des Détroits en date du 24 juillet 1923 sont transférées au Gouvernement turc.

Le Gouvernement turc s'engage à réunir les statistiques et à fournir les renseignements relatifs à l'application des articles 11, 12, 14 et 18.

*Article 21.*

Should Turkey consider herself to be threatened with imminent danger of war she shall have the right to apply the provisions of Article 20 of the present Convention.

Vessels which have passed through the Straits before Turkey has made use of the powers conferred upon her by the preceding paragraph, and which thus find themselves separated from their bases, may return thereto. It is, however, understood that Turkey may deny this right to vessels of war belonging to the State whose attitude has given rise to the application of the present Article.

Should the Turkish Government make use of the powers conferred by the first paragraph of the present Article, a notification to that effect shall be addressed to the High Contracting Parties and to the Secretary-General of the League of Nations.

If the Council of the League of Nations decide by a majority of two-thirds that the measures thus taken by Turkey are not justified, and if such should also be the opinion of the majority of the High Contracting Parties signatories to the present Convention, the Turkish Government undertakes to discontinue the measures in question as also any measures which may have been taken under Article 6 of the present Convention.

*Article 22.*

Vessels of war which have on board cases of plague, cholera, yellow fever, exanthematic typhus or smallpox or which have had such cases on board within the last seven days and vessels of war which have left an infected port within less than five times twenty-four hours must pass through the Straits in quarantine and apply by the means on board such prophylactic measures as are necessary in order to prevent any possibility of the Straits being infected.

## SECTION III.

## AIRCRAFT.

*Article 23.*

In order to assure the passage of civil aircraft between the Mediterranean and the Black Sea, the Turkish Government will indicate the air routes available for this purpose, outside the forbidden zones which may be established in the Straits. Civil aircraft may use these routes provided that they give the Turkish Government, as regards occasional flights, a notification of three days, and as regards flights on regular services, a general notification of the dates of passage.

The Turkish Government moreover undertake, notwithstanding any remilitarisation of the Straits, to furnish the necessary facilities for the safe passage of civil aircraft authorised under the air regulations in force in Turkey to fly across Turkish territory between Europe and Asia. The route which is to be followed in the Straits zone by aircraft which have obtained an authorisation shall be indicated from time to time.

## SECTION IV.

## GENERAL PROVISIONS.

*Article 24.*

The functions of the International Commission set up under the Convention relating to the régime of the Straits of the 24th July, 1923, are hereby transferred to the Turkish Government.

The Turkish Government undertake to collect statistics and to furnish information concerning the application of Articles 11, 12, 14 and 18 of the present Convention.

Il doit veiller à l'exécution de toute disposition de la présente convention ayant trait au passage des bâtiments de guerre dans les Détroits.

Dès qu'il aura été avisé du prochain passage dans les Détroits d'une force navale étrangère, le Gouvernement turc fera connaître aux représentants à Ankara des Hautes Parties contractantes la composition de cette force, son tonnage, la date prévue pour son entrée dans les Détroits et, s'il y a lieu, la date probable de son retour.

Le Gouvernement turc adressera au Secrétaire général de la Société des Nations ainsi qu'aux Hautes Parties contractantes un rapport annuel indiquant les mouvements des bâtiments de guerre étrangers dans les Détroits et fournissant tous renseignements utiles pour le commerce et la navigation maritime et aérienne envisagée dans la présente convention.

*Article 25.*

Aucune disposition de la présente convention ne porte atteinte aux droits et obligations découlant du Pacte de la Société des Nations pour la Turquie ou pour toute autre Haute Partie contractante, Membre de la Société des Nations.

SECTION V

DISPOSITIONS FINALES.

*Article 26.*

La présente convention sera ratifiée dans le plus court délai possible.

Les ratifications seront déposées aux archives du Gouvernement de la République française à Paris.

Le Gouvernement japonais aura la faculté de se borner à faire connaître au Gouvernement de la République française, par son représentant diplomatique à Paris, que la ratification a été donnée et, dans ce cas, il devra transmettre l'instrument aussitôt que faire se pourra.

Un procès-verbal de dépôt sera dressé dès que six instruments de ratification, y compris celui de la Turquie, auront été déposés. A cette fin, la notification prévue à l'alinéa précédent équivaudra au dépôt de l'instrument de ratification.

La présente convention entrera en vigueur à la date de ce procès-verbal.

Le Gouvernement français remettra à toutes les Hautes Parties contractantes une copie authentique du procès-verbal visé à l'alinéa précédent et des procès-verbaux de dépôt des ratifications ultérieures.

*Article 27.*

A partir de son entrée en vigueur, la présente convention sera ouverte à l'adhésion de toute Puissance signataire du Traité de Paix de Lausanne du 24 juillet 1923.

Toute adhésion sera signifiée par la voie diplomatique au Gouvernement de la République française et, par celui-ci, à toutes les Hautes Parties contractantes.

Elle portera effet à dater du jour de la signification au Gouvernement français.

*Article 28.*

La présente convention aura une durée de vingt ans à dater de son entrée en vigueur.

Toutefois le principe de la liberté de passage et de navigation affirmé à l'article premier de la présente convention aura une durée illimitée.

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They will supervise the execution of all the provisions of the present Convention relating to the passage of vessels of war through the Straits.

As soon as they have been notified of the intended passage through the Straits of a foreign naval force the Turkish Government shall inform the representatives at Angora of the High Contracting Parties of the composition of that force, its tonnage, the date fixed for its entry into the Straits, and, if necessary, the probable date of its return.

The Turkish Government shall address to the Secretary-General of the League of Nations and to the High Contracting Parties an annual report giving details regarding the movements of foreign vessels of war through the Straits and furnishing all information which may be of service to commerce and navigation, both by sea and by air, for which provision is made in the present Convention.

*Article 25.*

Nothing in the present Convention shall prejudice the rights and obligations of Turkey, or of any of the other High Contracting Parties members of the League of Nations, arising out of the Covenant of the League of Nations.

SECTION V.

FINAL PROVISIONS.

*Article 26.*

The present Convention shall be ratified as soon as possible.

The ratifications shall be deposited in the archives of the Government of the French Republic in Paris.

The Japanese Government shall be entitled to inform the Government of the French Republic through their diplomatic representative in Paris that the ratification has been given, and in that case they shall transmit the instrument of ratification as soon as possible.

A *procès-verbal* of the deposit of ratifications shall be drawn up as soon as six instruments of ratification, including that of Turkey, shall have been deposited. For this purpose the notification provided for in the preceding paragraph shall be taken as the equivalent of the deposit of an instrument of ratification.

The present Convention shall come into force on the date of the said *procès-verbal*.

The French Government will transmit to all the High Contracting Parties an authentic copy of the *procès-verbal* provided for in the preceding paragraph and of the *procès-verbaux* of the deposit of any subsequent ratifications.

*Article 27.*

The present Convention shall, as from the date of its entry into force, be open to accession by any Power signatory to the Treaty of Peace at Lausanne signed on the 24th July, 1923.

Each accession shall be notified, through the diplomatic channel, to the Government of the French Republic, and by the latter to all the High Contracting Parties.

Accessions shall come into force as from the date of notification to the French Government.

*Article 28.*

The present Convention shall remain in force for twenty years from the date of its entry into force.

The principle of freedom of transit and navigation affirmed in Article I of the present Convention shall however continue without limit of time.

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Si, deux ans avant l'expiration de ladite période de vingt ans, aucune Haute Partie contractante n'a donné un préavis de dénonciation au Gouvernement français, la présente convention demeurera en vigueur jusqu'à ce que deux années se soient écoulées après l'envoi d'un préavis de dénonciation. Ce préavis sera notifié par le Gouvernement français aux Hautes Parties contractantes.

Si la présente convention venait à être dénoncée conformément aux dispositions du présent article, les Hautes Parties contractantes conviennent de se faire représenter à une conférence en vue d'arrêter les termes d'une nouvelle convention.

*Article 29.*

A l'expiration de chaque période quinquennale à compter de la mise en vigueur de la présente convention, chacune des Hautes Parties contractantes pourra prendre l'initiative de proposer des amendements à une ou plusieurs dispositions de la présente convention.

Pour être recevable, la demande de revision formulée par une des Hautes Parties contractantes doit être appuyée, s'il s'agit de modifications à l'article 14 ou à l'article 18, par une autre Haute Partie contractante et, s'il s'agit de modifications à tout autre article, par deux autres Hautes Parties contractantes.

La demande de revision ainsi appuyée devra être notifiée à toutes les Hautes Parties contractantes trois mois avant l'expiration de la période quinquennale en cours. Ce préavis contiendra l'indication et les motifs des amendements proposés.

S'il est impossible d'aboutir sur ces propositions par la voie diplomatique, les Hautes Parties contractantes se feront représenter à une conférence convoquée à cet effet.

Cette conférence ne pourra statuer qu'à l'unanimité, à l'exception des cas de revision relatifs à l'article 14 et à l'article 18, pour lesquels il suffira d'une majorité des trois quarts des Hautes Parties contractantes.

Cette majorité sera calculée en y comprenant les trois quarts des Hautes Parties contractantes riveraines de la mer Noire, y compris la Turquie.

En foi de quoi, les plénipotentiaires susnommés ont signé la présente convention.

Fait à Montreux, le vingt juillet mil neuf cent trente-six, en onze exemplaires, dont le premier, revêtu des sceaux des plénipotentiaires, sera déposé dans les archives du Gouvernement de la République française et dont les autres ont été remis aux Puissances signataires.

(L. S.) N. P. NICOLAEV.

(L. S.) Pierre NEÏCOV.

(L. S.) J. PAUL-BONCOUR.

(L. S.) H. PONSOT.

(L. S.) STANLEY.

(L. S.) S. M. BRUCE.

(L. S.) N. POLITIS.

(L. S.) Raoul BIBICA ROSETTI.

Les soussignés, plénipotentiaires du Japon, déclarent, au nom de leur gouvernement, que les dispositions de la présente convention ne modifient en rien la position du Japon comme Etat non membre de la Société des Nations, tant à l'égard du Pacte de la Société des Nations qu'à l'égard des traités d'assistance mutuelle conclus dans le cadre dudit Pacte, et que le Japon conserve



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If, two years prior to the expiry of the said period of twenty years, no High Contracting Party shall have given notice of denunciation to the French Government the present Convention shall continue in force until two years after such notice shall have been given. Any such notice shall be communicated by the French Government to the High Contracting Parties.

In the event of the present Convention being denounced in accordance with the provisions of the present Article, the High Contracting Parties agree to be represented at a conference for the purpose of concluding a new Convention.

*Article 29.*

At the expiry of each period of five years from the date of the entry into force of the present Convention each of the High Contracting Parties shall be entitled to initiate a proposal for amending one or more of the provisions of the present Convention.

To be valid, any request for revision formulated by one of the High Contracting Parties must be supported, in the case of modifications to Articles 14 or 18, by one other High Contracting Party, and, in the case of modifications to any other Article, by two other High Contracting Parties.

Any request for revision thus supported must be notified to all the High Contracting Parties three months prior to the expiry of the current period of five years. This notification shall contain details of the proposed amendments and the reasons which have given rise to them.

Should it be found impossible to reach an agreement on these proposals through the diplomatic channel, the High Contracting Parties agree to be represented at a conference to be summoned for this purpose.

Such a conference may only take decisions by a unanimous vote, except as regards cases of revision involving Articles 14 and 18, for which a majority of three-quarters of the High Contracting Parties shall be sufficient.

The said majority shall include three-quarters of the High Contracting Parties which are Black Sea Powers, including Turkey.

In witness whereof, the above-mentioned Plenipotentiaries have signed the present Convention.

Done at Montreux the 20th July, 1936, in eleven copies, of which the first copy, to which the seals of the Plenipotentiaries have been affixed, will be deposited in the archives of the Government of the French Republic and of which the remaining copies have been transmitted to the signatory Powers.

(L. S.) N. P. NICOLAEV.

(L. S.) Pierre NEICOV.

(L. S.) J. PAUL-BONCOUR.

(L. S.) H. PONSOT.

(L. S.) STANLEY.

(L. S.) S. M. BRUCE.

(L. S.) N. POLITIS.

(L. S.) Raoul BIBICA ROSETTI.

The undersigned, Plenipotentiaries of Japan, declare, in the name of their Government, that the provisions of the present Convention do not in any sense modify the position of Japan as a State not a member of the League of Nations, whether in relation to the Covenant of the League of Nations or in regard to treaties of mutual assistance concluded within the framework of the

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notamment, pour ce qui concerne ce Pacte et ces traités dans les dispositions des articles 19 et 25, une pleine liberté d'appréciation.

- (L. S.) N. SATO.
- (L. S.) Massa-aki HOTTA.
- (L. S.) N. TITULESCO.
- (L. S.) CONS. CONTZESCO.
- (L. S.) V. V. PELLA.
- (L. S.) D<sup>r</sup> R. ARAS.
- (L. S.) Suad DAVAZ.
- (L. S.) N. MENEMENCIOGLU.
- (L. S.) Asim GÜNDÜZ.
- (L. S.) N. SADAK.
- (L. S.) Maxime LITVINOFF.
- (L. S.) D<sup>r</sup> I. V. SOUBBOTITCH.

ANNEXE I

1. Les taxes et charges qui peuvent être prélevées conformément à l'article 2 de la présente convention seront celles qui sont indiquées dans le tableau ci-après. Les réductions éventuelles de ces taxes et charges que le Gouvernement turc admettrait seront appliquées sans distinction de pavillon.

Nature du service rendu	Montant de la taxe ou de la charge à percevoir sur chaque tonne de jauge nette (net register tonnage)
	<i>Francs-or</i> <sup>1</sup>
a) Contrôle sanitaire . . . . .	0,075
b) Phares, bouées lumineuses et bouées de chenaux ou autres :	
Jusqu'à 800 tonnes . . . . .	0,42
Au-dessus de 800 tonnes . . . . .	0,21
c) Service de sauvetage, y compris les canots de sauvetage, les postes de fusées porte-amarres, les sirènes de brume, les radiophares, ainsi que les bouées lumineuses non comprises sous b), ou autres installations du même genre . . . . .	0,10

2. Les taxes et charges définies au tableau annexé au paragraphe premier de la présente annexe s'appliqueront à une double traversée des Détroits (c'est-à-dire à un passage de la mer Egée à la mer Noire et au voyage de retour vers la mer Egée ou bien à une traversée des Détroits de la mer Noire à la mer Egée suivie du retour en mer Noire) ; toutefois, si un navire de commerce franchit à nouveau les Détroits en vue de retourner en mer Egée ou en mer Noire, selon le cas, plus de six mois après la date d'entrée dans les Détroits pour le voyage d'aller, le navire pourra être appelé, sans distinction de pavillon, à acquitter une seconde fois ces taxes et charges.

<sup>1</sup> Actuellement 100 piastres équivalent à environ 2 francs 50 centimes-or.

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said Covenant, and that in particular Japan reserves full liberty of interpretation as regards the provisions of Articles 19 and 25 so far as they concern that Covenant and those treaties.

(L. S.) N. SATO.  
 (L. S.) Massa-aki HOTTA.  
 (L. S.) N. TITULESCO.  
 (L. S.) Cons. CONTZESCO.  
 (L. S.) V. V. PELLA.  
 (L. S.) Dr. R. ARAS.  
 (L. S.) Suad DAVAZ.  
 (L. S.) N. MENEMENCIOGLU.  
 (L. S.) Asim GÜNDÜZ.  
 (L. S.) N. SADAK.  
 (L. S.) Maxime LITVINOFF.  
 (L. S.) Dr. I. V. SOUBBOTITCH.

## ANNEX I.

The taxes and charges which may be levied in accordance with Article 2 of the present Convention shall be those set forth in the following table. Any reductions in these taxes or charges which the Turkish Government may grant shall be applied without any distinction based on the flag of the vessel :

Nature of service rendered	Amount of tax or charge to be levied on each ton of net register tonnage
	<i>Francs gold</i> <sup>1</sup>
(a) Sanitary Control Stations . . . . .	0.075
(b) Lighthouses, Light and Channel Buoys :	
Up to 800 tons . . . . .	0.42
Above 800 tons . . . . .	0.21
(c) Life Saving Services, including Life-boats, Rocket Stations, Fog Sirens, Direction-finding Stations, and any Light Buoys not comprised in (b) above, or other similar installations .	0.10

2. The taxes and charges set forth in the table attached to paragraph 1 of the present Annex shall apply in respect of a return voyage through the Straits (that is to say, a voyage from the Ægean Sea to the Black Sea and return back to the Ægean Sea or else a voyage through the Straits from the Black Sea to the Ægean Sea followed by a return voyage into the Black Sea) ; if, however, a merchant vessel re-enters the Straits with the object of returning into the Ægean Sea or to the Black Sea, as the case may be, more than six months after the date of entry into the Straits for the outward voyage, such vessel may be called upon to pay these taxes and charges a second time, provided no distinction is made based on the flag of the vessel.

<sup>1</sup> 100 piastres at present equals 2.5 francs gold (approx.).

3. Si, à la traversée d'aller, un navire de commerce déclare ne pas devoir revenir, il n'aura à acquitter, quant aux taxes et charges visées aux alinéas *b)* et *c)* du paragraphe premier de la présente annexe, que la moitié du tarif.

4. Les taxes et charges définies au tableau annexé au paragraphe premier de la présente annexe et qui ne seront pas plus élevées qu'il n'est indispensable pour couvrir les frais occasionnés par les services en question et pour conserver un fonds de réserve ou un fonds de roulement raisonnable ne seront augmentées ou complétées que par application des dispositions de l'article 29 de la présente convention. Elles seront acquittées en francs-or ou en monnaie turque d'après le cours des changes pratiqué à la date du paiement.

5. Les navires de commerce pourront être tenus d'acquitter des taxes et des charges pour les services facultatifs tels que le pilotage et le remorquage lorsqu'un tel service aura été dûment rendu par les autorités turques à la demande de l'agent ou du capitaine du navire en question. Le Gouvernement turc publiera de temps à autre, le tarif des taxes et charges qui seront perçues au titre de ces services facultatifs.

6. Ces tarifs ne seront pas augmentés dans les cas où lesdits services seront rendus obligatoires par application de l'article 5.

#### ANNEXE II <sup>1</sup>

##### A. DÉPLACEMENT-TYPE.

1. Le déplacement-type d'un bâtiment de surface est le déplacement du bâtiment achevé, avec son équipage complet, ses machines et chaudières, prêt à prendre la mer, ayant tout son armement et toutes ses munitions, ses installations, équipements, vivres, eau douce pour l'équipage, approvisionnements divers, outillages et rechanges de toute nature qu'il doit emporter en temps de guerre, mais sans combustible et sans eau de réserve pour l'alimentation des machines et chaudières.

2. Le déplacement-type d'un sous-marin est le déplacement en surface du bâtiment achevé (non compris l'eau des compartiments non étanches), avec son équipage complet, son appareil moteur, prêt à prendre la mer, ayant tout son armement et toutes ses munitions, ses installations, équipements, vivres pour l'équipage, outillages divers et rechanges de toute nature qu'il doit emporter en temps de guerre, mais sans combustible, huile lubrifiante, eau douce ou eau de ballast de toute sorte.

3. Le mot « tonne », sauf dans l'expression « tonnes métriques », désigne une tonne de 1.016 kilogrammes (2.240 lb.).

##### B. CLASSES.

1. Les *bâtiments de ligne* sont des bâtiments de guerre de surface appartenant à l'une des deux sous-classes suivantes :

*a)* Bâtiments de guerre de surface, autres que les bâtiments porte-aéronefs, les bâtiments auxiliaires ou les bâtiments de ligne de la sous-classe *b)*, dont le déplacement-type est supérieur à 10.000 tonnes (10.160 tonnes métriques) ou qui portent un canon d'un calibre supérieur à 203 millimètres (8 pouces) ;

*b)* Bâtiments de guerre de surface, autres que les bâtiments porte-aéronefs, dont le déplacement-type n'est pas supérieur à 8.000 tonnes (8.128 tonnes métriques) et qui portent un canon d'un calibre supérieur à 203 millimètres (8 pouces).

2. Les *bâtiments porte-aéronefs* sont des bâtiments de guerre de surface qui, quel que soit leur déplacement, sont conçus ou aménagés principalement pour transporter et mettre en action des aéronefs en mer. Si un bâtiment de guerre n'a pas été conçu ou aménagé principalement pour transporter et mettre en action des aéronefs en mer, l'installation sur ce bâtiment d'un pont d'atterrissage ou d'envol n'aura pas pour effet de le faire entrer dans la classe des bâtiments porte-aéronefs.

<sup>1</sup> Les textes de la présente annexe ont été empruntés au Traité naval de Londres du 25 mars 1936.

3. If, on the outward voyage, a merchant vessel declares an intention of not returning, it shall only be obliged as regards the taxes and charges provided for in paragraphs (b) and (c) of the first paragraph of the present Annex, to pay half the tariff indicated.

4. The taxes and charges set forth in the table attached to the first paragraph of the present Annex, which are not to be greater than is necessary to cover the cost of maintaining the services concerned and of allowing for the creation of a reasonable reserve fund or working balance, shall not be increased or added to except in accordance with the provisions of Article 29 of the present Convention. They shall be payable in gold francs or in Turkish currency at the rate of exchange prevailing on the date of payment.

5. Merchant vessels may be required to pay taxes and charges for optional services, such as pilotage and towage, when any such service shall have been duly rendered by the Turkish authorities at the request of the agent or master of any such vessel. The Turkish Government will publish from time to time the tariff of the taxes and charges to be levied for such optional services.

6. These tariffs shall not be increased in cases in the event of the said services being made obligatory by reason of the application of Article 5.

#### ANNEX II.<sup>1</sup>

##### A. STANDARD DISPLACEMENT.

(1) The standard displacement of a surface vessel is the displacement of the vessel, complete, fully manned, engined, and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions and fresh water for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel or reserve feed water on board.

(2) The standard displacement of a submarine is the surface displacement of the vessel complete (exclusive of the water in non-watertight structure), fully manned, engined and equipped ready for sea, including all armament and ammunition, equipment, outfit, provisions for crew, miscellaneous stores and implements of every description that are intended to be carried in war, but without fuel, lubricating oil, fresh water or ballast water of any kind on board.

(3) The word " ton " except in the expression " metric tons " denotes the ton of 2,240 lb (1,016 kilos).

##### B. CATEGORIES.

(1) *Capital Ships* are surface vessels of war belonging to one of the two following sub-categories:

(a) Surface vessels of war, other than aircraft-carriers, auxiliary vessels, or capital ships of sub-category (b), the standard displacement of which exceeds 10,000 tons (10,160 metric tons) or which carry a gun with a calibre exceeding 8 in. (203 mm.);

(b) Surface vessels of war, other than aircraft-carriers, the standard displacement of which does not exceed 8,000 tons (8,128 metric tons) and which carry a gun with a calibre exceeding 8 in. (203 mm.).

(2) *Aircraft-Carriers* are surface vessels of war, whatever their displacement, designed or adapted primarily for the purpose of carrying and operating aircraft at sea. The fitting of a landing-on or flying-off deck on any vessel of war, provided such vessel has not been designed or adapted primarily for the purpose of carrying and operating aircraft at sea, shall not cause any vessel so fitted to be classified in the category of aircraft-carriers.

<sup>1</sup> The wording of the present Annex is taken from the London Naval Treaty of March 25th, 1936.

La classe des bâtiments porte-aéronefs se subdivise en deux sous-classes, à savoir :

- a) Bâtiments pourvus d'un pont tel que les aéronefs puissent y prendre leur vol ou s'y poser ;
- b) Bâtiments non pourvus du pont décrit au paragraphe a) ci-dessus.

3. Les *bâtiments légers de surface* sont des bâtiments de guerre de surface, autres que les bâtiments porte-aéronefs, les petits navires de combat ou les bâtiments auxiliaires, dont le déplacement-type est supérieur à 100 tonnes (102 tonnes métriques), sans dépasser 10.000 tonnes (10.160 tonnes métriques), et qui ne portent pas de canon d'un calibre supérieur à 203 millimètres (8 pouces).

La classe des bâtiments légers de surface se subdivise en trois sous-classes, à savoir :

- a) Bâtiments portant un canon d'un calibre supérieur à 155 millimètres (6,1 pouces) ;
- b) Bâtiments qui ne portent pas de canon d'un calibre supérieur à 155 millimètres (6,1 pouces), et dont le déplacement-type est supérieur à 3.000 tonnes (3.048 tonnes métriques) ;
- c) Bâtiments qui ne portent pas de canon d'un calibre supérieur à 155 millimètres (6,1 pouces), et dont le déplacement-type n'est pas supérieur à 3.000 tonnes (3.048 tonnes métriques).

4. Les *sous-marins* sont tous les bâtiments conçus pour naviguer au-dessous de la surface de la mer.

5. Les *petits navires de combat* sont des bâtiments de guerre de surface, autres que les bâtiments auxiliaires, dont le déplacement-type est supérieur à 100 tonnes (102 tonnes métriques), sans dépasser 2.000 tonnes (2.032 tonnes métriques), et qui n'ont aucune des caractéristiques suivantes :

- a) Etre armés d'un canon d'un calibre supérieur à 155 millimètres (6,1 pouces) ;
- b) Etre conçus ou équipés pour lancer des torpilles ;
- c) Etre conçus pour atteindre une vitesse supérieure à vingt nœuds.

6. Les *bâtiments auxiliaires* sont des bâtiments de surface faisant partie de la flotte militaire, dont le déplacement-type est supérieur à 100 tonnes (102 tonnes métriques), qui sont normalement utilisés pour le service de la flotte, ou comme transports de troupes, ou pour tout emploi autre que celui de bâtiments combattants, qui ne sont pas spécialement construits pour être des bâtiments combattants, et qui n'ont aucune des caractéristiques suivantes :

- a) Etre armés d'un canon d'un calibre supérieur à 155 millimètres (6,1 pouces) ;
- b) Etre armés de plus de huit canons d'un calibre supérieur à 76 millimètres (3 pouces) ;
- c) Etre conçus ou équipés pour lancer des torpilles ;
- d) Etre conçus pour être protégés par des plaques de blindage ;
- e) Etre conçus pour atteindre une vitesse supérieure à vingt-huit nœuds ;
- f) Etre conçus ou aménagés principalement pour mettre en action des aéronefs en mer ;
- g) Etre équipés de plus de deux appareils à lancer des aéronefs.

#### C. BÂTIMENTS HORS D'ÂGE.

Les bâtiments des classes et sous-classes suivantes seront considérés comme « hors d'âge » lorsque, depuis leur achèvement, se sera écoulé le nombre d'années indiqué ci-dessous :

- a) Pour un bâtiment de ligne . . . . . 26 ans ;
- b) Pour un bâtiment porte-aéronefs . . . . . 20 ans ;
- c) Pour un bâtiment léger de surface des sous-classes a) et b) :
  - i) S'il a été mis sur cale avant le 1<sup>er</sup> janvier 1920 . . . . . 16 ans ;
  - ii) S'il a été mis sur cale après le 31 décembre 1919 . . . . . 20 ans ;
- d) Pour un bâtiment léger de surface de la sous-classe c) . . . . . 16 ans ;
- e) Pour un sous-marin . . . . . 13 ans.

The category of aircraft-carriers is divided into two sub-categories as follows :

- (a) Vessels fitted with a flight deck, from which aircraft can take off, or on which aircraft can land from the air ;
  - (b) Vessels not fitted with a flight deck as described in (a) above.
- (3) *Light Surface Vessels* are surface vessels of war other than aircraft-carriers, minor war vessels or auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 10,000 tons (10,160 metric tons), and which do not carry a gun with a calibre exceeding 8 in. (203 mm.).

The category of light surface vessels is divided into three sub-categories as follows :

- (a) Vessels which carry a gun with a calibre exceeding 6.1 in. (155 mm.) ;
  - (b) Vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which exceeds 3,000 tons (3,048 metric tons) ;
  - (c) Vessels which do not carry a gun with a calibre exceeding 6.1 in. (155 mm.) and the standard displacement of which does not exceed 3,000 tons (3,048 metric tons).
- (4) *Submarines* are all vessels designed to operate below the surface of the sea.
- (5) *Minor War Vessels* are surface vessels of war, other than auxiliary vessels, the standard displacement of which exceeds 100 tons (102 metric tons) and does not exceed 2,000 tons (2,032 metric tons), provided they have none of the following characteristics :
- (a) Mount a gun with a calibre exceeding 6.1 in. (155 mm.) ;
  - (b) Are designed or fitted to launch torpedoes ;
  - (c) Are designed for a speed greater than twenty knots.
- (6) *Auxiliary Vessels* are naval surface vessels the standard displacement of which exceeds 100 tons (102 metric tons), which are normally employed on fleet duties or as troop transports, or in some other way than as fighting ships, and which are not specifically built as fighting ships, provided they have none of the following characteristics :
- (a) Mount a gun with a calibre exceeding 6.1 in. (155 mm.) ;
  - (b) Mount more than eight guns with a calibre exceeding 3 in. (76 mm.) ;
  - (c) Are designed or fitted to launch torpedoes ;
  - (d) Are designed for protection by armour plate ;
  - (e) Are designed for a speed greater than twenty-eight knots ;
  - (f) Are designed or adapted primarily for operating aircraft at sea ;
  - (g) Mount more than two aircraft-launching apparatus.

#### C. OVER-AGE.

Vessels of the following categories and sub-categories shall be deemed to be "over-age" when the undermentioned number of years have elapsed since completion :

- (a) Capital ships . . . . . 26 years ;
- (b) Aircraft-carriers . . . . . 20 years ;
- (c) Light surface vessels, sub-categories (a) and (b) :
  - (i) If laid down before 1st January, 1920 . . . . . 16 years ;
  - (ii) If laid down after 31st December, 1919 . . . . . 20 years ;
- (d) Light surface vessels, sub-category (c) . . . . . 16 years ;
- (e) Submarines . . . . . 13 years ;

## ANNEXE III

Il est convenu que, parmi les trois navires-écoles hors d'âge ci-dessous désignés de la marine japonaise, deux unités seront admises à visiter les ports des Détroits ensemble.

Le tonnage global de ces deux navires sera, dans ce cas, considéré comme équivalent à 15.000 tonnes.

	Date de la mise en chantier	Date de l'entrée en service	Déplacement-type (tonnes)	Armement
<i>Asama</i> . . . . .	20-X-1896	18-III-1899	9.240	IV × 200 mm. XII × 150 mm.
<i>Yakumo</i> . . . . .	1-IX-1898	20-VI-1900	9.010	IV × 200 mm. XII × 150 mm.
<i>Iwate</i> . . . . .	11-XI-1898	18-III-1901	9.180	IV × 200 mm. XIV × 150 mm.

## ANNEXE IV

1. Les classes et sous-classes de bâtiments à comprendre dans le calcul du tonnage total des flottes des Puissances riveraines de la mer Noire, visé à l'article 18 de la présente convention, sont les suivantes :

Bâtiments de ligne :

Sous-classe *a)*  
Sous-classe *b)*.

Bâtiments porte-aéronefs :

Sous-classe *a)*  
Sous-classe *b)*.

Bâtiments légers de surface :

Sous-classe *a)*  
Sous-classe *b)*  
Sous-classe *c)*.

Sous-marins :

Suivant les définitions de l'annexe II à la présente convention.

Le déplacement dont il doit être tenu compte dans le calcul du tonnage total est le déplacement-type, tel qu'il est défini à l'annexe III. Ne seront pris en considération que les bâtiments qui ne sont pas « hors d'âge », tels qu'ils sont définis à ladite annexe.

2. La communication prévue à l'article 18, alinéa *b)*, doit comprendre en outre le tonnage total des bâtiments des classes et sous-classes mentionnées au paragraphe premier de la présente annexe.



## ANNEX III.

It is agreed that, of the three over-age training ships, as indicated below, belonging to the Japanese Fleet, two units may be allowed to visit ports in the Straits at the same time.

The aggregate tonnage of these two vessels shall in this case be considered as being equivalent to 15,000 tons.

	Date when laid down	Date of entry into service	Standard displacement (tons)	Armaments
<i>Asama</i> . . . . .	20-X-1896	18-III-1899	9,240	IV × 200 mm. XII × 150 mm.
<i>Yakumo</i> . . . . .	1-IX-1898	20-VI-1900	9,010	IV × 200 mm. XII × 150 mm.
<i>Iwate</i> . . . . .	11-XI-1898	18-III-1901	9,180	IV × 200 mm. XIV × 150 mm.

## ANNEX IV.

1. The categories and sub-categories of vessels to be included in the calculation of the total tonnage of the Black Sea Powers provided for in Article 18 of the present Convention are the following :

Capital Ships :

Sub-category (a) ;  
Sub-category (b).

Aircraft-Carriers :

Sub-category (a) ;  
Sub-category (b).

Light Surface Vessels :

Sub-category (a) ;  
Sub-category (b) ;  
Sub-category (c).

Submarines :

As defined in Annex II to the present Convention.

The displacement which is to be taken into consideration in the calculation of the total tonnage is the standard displacement as defined in Annex II. Only those vessels shall be taken into consideration which are not over-age according to the definition contained in the said Annex.

2. The notification provided for in Article 18, paragraph (b), shall also include the total tonnage of vessels belonging to the categories and sub-categories mentioned in paragraph 1 of the present Annex.

PROTOCOLE

Au moment de signer la convention portant la date de ce jour, les plénipotentiaires soussignés, engageant leurs gouvernements respectifs, déclarent accepter les dispositions ci-après :

1. La Turquie pourra remilitariser immédiatement la zone des Détroits telle qu'elle est définie dans le préambule de ladite convention.
2. A partir du 15 août 1936, le Gouvernement turc appliquera provisoirement le régime spécifié dans ladite convention.
3. Le présent protocole prendra effet à dater de ce jour.

Fait à Montreux, le vingt juillet mil neuf cent trente-six.

N. P. NICOLAEV.  
 Pierre NEICOV.  
 J. PAUL-BONCOUR.  
 H. PONSOT.  
 STANLEY.  
 S. M. BRUCE.  
 N. POLITIS.  
 Raoul BIBICA ROSETTI.  
 N. SATO (*ad referendum*).  
 Massa-aki HOTTA (*ad referendum*).  
 N. TITULESCO.  
 Cons. CONTZESCO.  
 V. V. PELLA.  
 Dr R. ARAS.  
 Suad DAVAZ.  
 N. MENEMENCIOGLU.  
 Asim GÜNDÜZ.  
 N. SADAK.  
 Maxime LITVINOFF.  
 Dr I. V. SOUBBOTITCH.

Pour copie certifiée conforme :  
 Ankara, le 2 décembre 1936.

*Le Chef du Protocole,*  
 Şevket Keçecy.

1936

*League of Nations — Treaty Series.*

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## PROTOCOL.

At the moment of signing the Convention bearing this day's date, the undersigned Plenipotentiaries declare for their respective Governments that they accept the following provisions:

- (1) Turkey may immediately remilitarise the zone of the Straits as defined in the Preamble to the said Convention.
- (2) As from the 15th August, 1936, the Turkish Government shall provisionally apply the régime specified in the said Convention.
- (3) The present Protocol shall enter into force as from this day's date.

Done at Montreux, the 20th July, 1936.

N. P. NICOLAEV.  
 Pierre NEÏCOV.  
 J. PAUL-BONCOUR.  
 H. PONSOT.  
 STANLEY.  
 S. M. BRUCE.  
 N. POLITIS.  
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 N. SADAK.  
 Maxime LITVINOFF.  
 Dr. I. V. SOUBBOTITCH.



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