

THE TURKISH STRAITS TREATIES AND CONVENTIONS

ZEYNEP YÜCEL

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IJOPEC Publication Limited
60 Westmeade Close Cheshunt,
Waltham Cross Hertfordshire
EN7 6JR London

www.ijopec.co.uk
info@ijopoc.co.uk
(+44) 73 875 2361 (UK)
(+90) 488 217 4007 (Turkey)

**The Turkish Straits
Treaties And Conventions**
First Edition, May 2023
IJOPEC Publication No: 2023/03

ISBN: 978-1-913809-39-3

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A catalogue record for this book is available from Nielsen Book Data, British Library and Google Books.

The publishing responsibilities of the chapters in this book belong to the authors.

Printed in London.

Cover Design & Composer:
IJOPEC Art Design

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PREFACE

The Montreux Straits Convention is one of the most important agreements of the Republic of Turkey in terms of sovereignty and independence. This convention ended the status of Turkey as a region demilitarized from the past, and established its management and control over the Istanbul and Çanakkale Straits.

From 1936 to the present day, many changes have occurred in terms of politics, trade and technology, while the tonnage of ships passing through the straits has increased significantly, and dangerous cargoes, such as petroleum transportation, have also increased their shares in terms of transported goods. In addition, the number of ships passing through the straits has reached enormous numbers, while the population of Istanbul, which is close to 20 million, and the urban planning and transportation systems, such as city ferries, have added to the complexity of the situation. Furthermore, accidents and environmental disasters have also left their marks on the region.

The "balance system" and "transit regime" established by the Convention not only affect global and regional dynamics in the international system, but are also influenced by them. From a geopolitical and geostrategic perspective, the Turkish Straits maintain their significance.

This book aims to enlighten the reader by presenting the current legal regime of the Turkish Straits from a historical perspective. I hope it will be useful for interested readers.

I would like to express my gratitude to my friend, Assoc. Prof. Dr. Hale Kırer SILVALECUNA, who encouraged me to publish this work and provided me with valuable feedback and suggestions. I would like to express my heartfelt gratitude to my beloved family, who have always supported me throughout my education. I dedicate this book to my mother Gülay YÜCEL, who guided me with her contribution and support during the preparation stages of the book.

*Zeynep Yücel
Bandırma, 2023*

INTRODUCTION

Throughout history, when the Straits were mentioned in inter-state relations, it was referring to the Turkish Straits. This is because the Turkish Straits play a significant role in terms of both geopolitical and geostrategic importance. After 1809, the regime that the Turkish Straits would be subject to was determined not only by the state that owned the Straits (the Ottoman Empire) but also by the joint will of all relevant states through bilateral agreements and later, with multilateral agreements, starting from 1841.

The strait is a crucial international waterway that has played a significant role in global trade, as well as in the political and military history of the region. The importance of the Turkish Straits is not only related to its geographic location but also to its strategic significance. The straits have been a key passage for trade and commerce for centuries, connecting the East to the West. The straits also hold great importance in the political and military history of the region. For example, during World War I, the straits were a battleground between the Ottoman Empire and the Allied Powers, with control of the straits being a key strategic objective for both sides.

The Turkish Straits have been subject to various international agreements and treaties throughout history. The most notable of these agreements is the Montreux Convention of 1936, which governs the use of the straits by ships of all countries, including military vessels. The convention provides Türkiye with the authority to regulate the passage of ships through the straits, while ensuring the freedom of passage of commercial vessels in peacetime.

A strait is a waterway that connects two sea areas between geographical landmasses. "*Straits*" are subject to different legal regulations in the legal field, depending on whether they are "*international*" or "*national*."

In this sense, the Turkish Straits have the status of an international strait in international law due to their role in connecting two open seas. The Turkish Straits referred to are the Bosphorus (Istanbul) Strait, the Marmora Sea, and the Dardanelles Strait.

The Turkish Straits consist of two narrow channels: the Bosphorus and the Dardanelles. The Bosphorus runs for approximately 32 kilometres, connecting the Black Sea to the Sea of Marmora. The Dardanelles is a wider and longer strait, running for approximately 61 kilometres, connecting the Sea of Marmora to the Aegean Sea. The Turkish Straits are

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among the busiest waterways in the world, with thousands of ships passing through every year.

The Sea of Marmora is a sea that connects to the open sea through two straits. In 1958, Türkiye officially declared that, due to both geographical and historical reasons, the Sea of Marmora should be considered an internal sea, under the regime of internal waters, as it is under the control of a single state and connected to the open sea through multiple straits. (Lütem, 1959) This claim was made based on the principle of historical right and in accordance with undisputed international practices (Toluner, 1996, p. 156).

During the United Nations Conference on the Law of the Open Seas in 1958, discussions were held regarding the provision which states that (Lütem, 1959):

"When a bay has more than one State bordering its coasts, it shall be divided amongst them, otherwise it shall belong to the State whose coasts enclose it. An historic bay or one which by reason of its economic and other interests is dependent on a particular State may be treated as if its waters were internal waters. Where the coasts of a State are situated opposite the entrance to a bay, the bay shall belong to the State; but if a substantial portion of the waters of such a bay are situated within the territory of another State, a line shall be drawn joining the outermost points of the entrance. Except where otherwise provided in this Convention, the waters on the landward side of such a line shall be considered as internal waters."

As this provision does not mention the situation where a sea is connected to the open sea through one or more straits, Türkiye objected to this provision regarding the status of the Marmora Sea (Toluner, 1996, p. 156). The legal status of the Marmora Sea is considered as internal waters. In international law, territorial waters and inland waters are recognized as a state's maritime territory and are subject to its sovereignty.

During this conference, there were discussions about adding an explanatory sentence regarding the "*special qualities of some waters*" that were brought up by Romania, Ukraine, and the Soviet Union, in relation to the last sentence of the second paragraph, which states that "*the waters within the baseline are considered internal waters*" (Toluner, 1996, pp. 156-157). Historically, some countries have sought to allocate special navigation regimes in certain seas based on historical reasons or international agreements. However, Türkiye rejected this proposal, supported by the United States, Japan, and the England, as it would lead to the Black Sea being considered an inland sea, and thus the rule was

applied to the Marmora Sea instead of the Black Sea (Lütem, 1959, p. 189). The idea of granting the Black Sea a closed sea status, that is, applying the "*closed seas doctrine*" to the Black Sea, means that this sea is closed to the ships of non-littoral states. This view constitutes the most fundamental argument of Russia's policy (Toluner, 1996, p. 157).

With the signing of the Treaty of Lausanne by the Republic of Türkiye on the same day as the signing of the Treaty of Lausanne Straits Agreement, the purpose of making Turkish Straits "*international*" was concretely revealed. This agreement created a restrictive Strait regime that limits Türkiye's sovereignty by giving the international commission the power to demilitarize the Straits and make some regulations related to the Straits.

However, starting from the 1930s, events that developed, and Türkiye's good evaluation of these events at the right time led Türkiye to declare that the conditions under which the Lausanne Treaty was signed had been fundamentally altered, invoking the principle of *rebus sic stantibus* in international law and informing the contracting parties of the need to convene an international conference for the establishment of a new treaty.

As a result of the discussions held around three different opinions at the London Conference, the provisions of demilitarisation and the Straits Commission, which limited sovereignty and were considered contrary, were abolished, and the commission's powers were transferred to Türkiye. The Montreux Convention includes provisions that recognize the Turkish Straits as international waters and that the principle of "*innocent passage*," (harmless) which is the fundamental principle of free passage according to international law, and regulations that ensure Türkiye's security.

During World War II, the importance of the Turkish Straits became apparent once again, and after the war, the relevant great powers began to request that the Montreux Treaty be amended or terminated, and while diplomatic means were used for the former, a conference was held, and the latter was not terminated through the right to denunciation.

The treaty was made for a period of 20 years and although its term expired in 1956, it is still in force today because the right to denunciation was not exercised.

The Montreux Convention, signed on July 20, 1936, maintains the principle of freedom of passage for commercial vessels through the Straits, while regulating the passage regime with regard to Türkiye's security.

INTRODUCTION

The Montreux Convention, which is of great strategic, political, and economic importance for a region closely related to Türkiye, is one of the few multilateral agreements that has survived since its signing. The Montreux Convention, which Türkiye has applied with complete neutrality and meticulousness for more than 87 years, creates a reasonable and feasible balance of interests for Türkiye, the littoral states of the Black Sea, and third countries.

The Montreux Convention, revised the rules governing the passage of vessels of war through the Turkish Straits while maintaining the principle of free passage for commercial vessels. The Convention covers an area of great strategic, political, and economic importance to Türkiye and is a rare example of a long-standing multilateral agreement. Türkiye has implemented the Convention with impartiality for over decades, creating a reasonable and workable balance of interests among all states, whether littoral or non-littoral , to the Black Sea.

The Montreux Convention does not contain specific provisions regarding the safety of life, property, environment, and navigation during passage through the Turkish Straits. However, navigational safety is an integral part of the principle of free passage proposed by the Convention. This means that Türkiye has the right to regulate navigational safety during passage under international law and common practices. In other words, Türkiye believes that the principle of "*freedom of passage*" through the Turkish Straits, which are under Türkiye's jurisdiction, cannot be interpreted as "*free and unregulated*" passage (Republic of Türkiye Ministry of Foreign Affairs, 2023).

However, in the face of many developing events, certain provisions of the agreement, especially those depicting vessels of war , as well as new issues arising in international relations such as environmental protection and traffic safety, which are not regulated in the agreement, have been subject to broad interpretation, resulting in some regulations (domestic legislation) being introduced, some of which have been the subject of debate.

The developments that have emerged have not made a radical change in the conditions that existed when the Montreux Convention was signed. These developments are attributed to the technical aspects of the Convention or are considered to be within the scope of Türkiye's domestic regulations, which are not regulated in the Convention but are acknowledged by all states.

Therefore, the discussions on changing the Montreux Convention, which is one of the views advocated today as being unable to meet current needs

and requiring change through diplomatic channels or, if necessary, through a conference, are a risky venture due to the nature and context of the developments not being aligned with Türkiye's interests.

The agreement continues to be implemented through interpretations that are in line with today's conditions, as long as these interpretations do not contradict international law and the essence of the agreement. Türkiye has made various regulations in 1981, 1983, 1994, and 1998 by using this method. With these regulations, Türkiye has redefined the fees charged for services provided to ships passing through the Straits, and has also enacted regulations that regulate the traffic in the Straits for the safety of the environment, people, and property.

These regulations have established traffic separation schemes, regulated the traffic, and identified the entry and exit of ships to the Straits by requiring them to submit their voyage plans before reaching the Straits. However, objections have been raised at times due to the costs incurred by ships from the Russian Federation having to wait for these procedures to be completed in the Straits, resulting in delays and additional expenses.

From a legal perspective, when Türkiye's rights and responsibilities are examined, the Montreux Convention Regarding the Regime of the Straits did not explicitly grant Türkiye the authority to regulate traffic in the Straits. However, when the convention is interpreted in the framework of international law principles, the authority falls exclusively within the jurisdiction of Türkiye. Therefore, ensuring transportation safety is Türkiye's obligation, and in order to fulfil this obligation to the best of its ability, the Republic of Turkey has the power to create administrative regulations. The regulations created by Türkiye through its powers do not violate the fundamental principle of the Montreux Convention, which is freedom of passage.

The study adopts a qualitative approach based on historical analyses. In this context, the Turkish Straits will be analysed within a legal framework, taking into account the international system and context, as well as historical events in three different historical periods. The analysis will be based on International Treaties and Conventions, as well as regulatory rules accepted within the scope of national jurisdiction.

In the first section of this study, the regime that the Turkish Straits were subject to historically is examined, and in this context, bilateral and multilateral agreements are discussed.

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In the second section, the regime established through multilateral agreements on the Turkish Straits during the Republic of Türkiye is explained by examining the provisions of the agreements.

In the third section, the regime that the Turkish Straits were subject to is examined in the light of developments that occurred after World War II. After the war, official efforts to change the regime are examined, and finally, events related to the Straits from 1947 to the present are discussed, along with arguments proposing changes to the convention and arguments advocating for the convention to continue.

CHAPTER I

THE LEGAL STATUS OF
THE TURKISH STRAITS DURING
THE OTTOMAN EMPIRE PERIOD

I

THE LEGAL STATUS OF THE TURKISH STRAITS DURING THE OTTOMAN EMPIRE PERIOD

For the Ottoman Empire, which conquered both banks of the Dardanelles in 1356, both banks of the Bosphorus in 1453, and the entire coastline of the Black Sea in 1475, the Sea of Azov, the Black Sea, and the Sea of Marmora thus became "*internal*" seas. The Straits were kept closed to other states and were considered Turkish Straits. The regime that the Turkish Straits were subject to during the Ottoman Empire period, although qualitatively the same, carried a difference in terms of form. The establishment and implementation of the regime can be examined under two different periods. The first period, covering the years 1475-1841, was characterized by the absolute closed status of the Straits. The second period, 1841-1914, was characterized by the closed status of the Straits based on agreements (Bilsel, 1947, p. 73).

During the period between 1475 and 1841, the regime of the Straits was determined and implemented unilaterally by the Ottoman Empire within the framework of absolute sovereignty.

From 1841 until the First World War, the regime was determined and implemented through bilateral and multilateral arrangements (treaties).

1. Regime Determined by Unilateral Actions

In 1453, with the conquest of Istanbul, the Ottoman Empire completed its territorial connection by linking Anatolia with the Balkans. With this victory, the Ottomans increased their power in the Mediterranean and the Sea of Marmora and incorporated the Straits and the Marmora Sea into their territory. As a result, the Ottoman government became able to control the passage fully and solely through the Straits, gaining an important position on the world trade route. This situation increased the economic, political, and military power of the Ottoman Empire and turned it into an important gateway between Europe and Asia.

Ottomans, while conquering the Eastern Mediterranean, also set the trade conditions in this region. The control of the roads connecting Europe to the Eastern Mediterranean and India had passed to the Ottoman Empire.

In practice, the Ottoman Empire was tolerant towards European merchants. Especially, the fact that Venice and Genoa did not help Byzantium during the siege was well received by the Ottoman Empire. Both states did not want to lose their trade networks in the Ottoman country. After the conquest, the Ottoman Empire treated these two states differently from other European states (Davies, 2006, p. 491).

In the years following the conquest, the Ottomans did not attempt to change the status of the Straits (Erkin, 1968, p. 20; Tukin, 1999, pp. 30-31). Despite this fact, the Ottomans considered the vast expanse from the Black Sea to Dardanelles as their own sphere of influence, to which no foreign power should have free access.

According to Inalcik, (1998, p. 444) the definitive state policy of closing the Black Sea to foreign merchant ships was implemented towards the end of the 16th century due to the raids of the Cossacks on Ottoman ports. The closure of the Black Sea to international trade was not an abrupt decision but rather a gradual process that involved imposing restrictions only when necessary. Bans on the export of specific goods by certain nations were temporary and could be extended if needed.

This was a reflection of their growing economic and political power, as well as their desire to establish control over the region. Despite their efforts, however, the Ottomans were unable to prevent the Straits from becoming an international problem. As European powers began to expand their own maritime interests, they saw the Straits as a vital route to the East and demanded greater access to the region. This led to a series of diplomatic disputes and military conflicts, which eventually resulted in the establishment of an international regime to govern the Straits.

Shortly after the conquest of Istanbul in 1453, by the year 1484, the Black Sea and all its coasts had come under the sovereignty of the Ottoman Empire. As a result, the Black Sea became an "*inland sea*" status. Therefore, some rules or limitations to be applied to the Black Sea and the Straits were determined by the Ottoman Empire based on its full and absolute sovereignty rights in the relevant areas and the use of unilateral discretion. The Sea of Marmora, the Black Sea, and the Turkish Straits, which are the only waterway connecting the Black Sea with other seas, completely fell under the exclusive control of the Ottomans from this period on. During this period, a regime was imposed on the Straits and the Black Sea, which required foreign vessels, especially vessels of war, to be closed. This regime is also known as the "*ancient rule of the Ottoman Empire*" (Toluner, 1996, p. 159).

The Ottoman Empire granted some capitulations to France, England, and the Netherlands by using its discretion. Thus, the commercial vessels of these three states gained a privileged position to pass freely through the Straits (İnan, 1995, p. 7). However, granting such a privilege to foreign commercial vessels did not change the fact that the regime to which the Straits were subject was determined by the Ottoman Empire's absolute sovereignty and discretion.

Starting from 1453, the period of "*unrestricted sovereignty*" over the Straits allowed the Ottoman Empire to determine the permission or prohibition of foreign states using the Straits according to its own interests, as it had control over the Straits. In other words, during that period, the Ottoman Empire had the right and authority to treat a foreign state differently from others, based on its current needs (Erkin, 1968, p. 19).

According to the ancient principle of the Ottoman Empire, ships passing through the straits were required to carry the Turkish flag (İnan, 1995, p. 7). Until 1774, all goods coming from and going to the Black Sea were loaded onto Turkish merchant ships. Only Turkish-flagged commercial ships were allowed to carry goods to or from the Black Sea. As for vessels of war, the rule prohibited the passage of foreign war vessels through the Turkish Straits. This rule remained in effect until the 1923 Lausanne Treaty, and was partially revised and put into effect in the 1936 Montreux Convention (Erkin, 1968, p. 20).

Starting from the 16th century, some European states signed maritime treaties with the Ottoman Empire, granting their commercial ships privileges of navigation in Ottoman seas. Venice, France, and Genoa were among the states benefiting from these privileges. It should be noted that free navigation in Ottoman seas was only permitted to the French and Venetians, so ships of other foreign states wishing to trade there had to sail under one of those two state's flags (Tukin, 1999, pp. 32-33).

The "*capitulations*," a set of treaties signed between the Ottoman Empire and Western states in the 16th century, granted commercial vessels of foreign nations the privilege of navigating Ottoman waters and engaging in trade within Ottoman territories. These capitulations were given to France by Sultan Suleiman and contained concessions in the commercial, economic, and political fields. However, later other Western countries obtained the same privileges from the Ottomans. As the Ottoman Empire weakened, these countries used these concessions as a step toward making other demands and pursuing their interests on Ottoman territories (Erkin, 1968, p. 20).

As foreign influence and interests in Ottoman territories increased, the Ottomans lost control of their economy and were unable to keep up with the technological advancements of their European counterparts. It provides us a historical context for understanding the impact of foreign treaties and concessions on the rise and fall of empires, as well as the complex relationship between the Ottoman Empire and Western powers during the early modern period.

The discovery of new trade routes to America and India has reduced trade activity in the Black Sea. Competition in international politics also began to change. In the early 17th century, Venice was a relatively wealthy country in terms of manufactured goods production. However, it had lost its leadership in trade. Venice was no longer considered a trading power even on the level of England (Roberts, 2010, p. 362). By the mid-1500s, the Ottoman Empire had established dominance over the rich trade routes connecting the Mediterranean and Aegean seas to Eastern and Central Europe. This caused Venice and Genoa to suffer heavy losses, resulting in the loss of wealth and power from their trade routes and colonies in these areas (Quataert, 2005, p. 55).

With the weakening of Venice, France emerged as the dominant power. However, with the discovery of new trade routes, England and the Netherlands also began to gain strength and compete with France for power.

England and the Netherlands had raised their trade to a high level since the mid-17th century. From the 1680s, the French took a political stance in favour of the Ottoman Empire, thus French merchants gained encouragement and protection for their activities in the Ottoman Empire. Although European states had established companies to coordinate the activities of their own merchants, they could not resist the French and Venetian merchants for a long time. Moreover, after 1683, European states used effective intervention opportunities to protect their own nationals in the Ottoman Empire and tried to obtain the privileges enjoyed by the Venetians and French (Mantran, 1995, pp. 140-141).

In the early 17th century, as political tensions increased in France, favourable conditions emerged for a shift in the balance of power in international affairs. During this period, England reached an agreement (1601) with the Ottoman Empire to obtain privileges for English trade. As a result, English trading ships were able to conduct commerce in the Black Sea. Following in the footsteps of England, the Netherlands also began to pursue initiatives with the Ottoman Empire, and Dutch trading ships obtained similar privileges (1612) to those of the English merchant ships

(Tukin, 1999, pp. 33-34). By the end of the 17th century, trade relations had become a source of conflict among European states (Roberts, 2010, p. 399).

The ancient principle was gradually eroded by the capitulations, which granted exceptional privileges to Western states. These privileges served as a model for future concessions to other Western commercial ships. Nevertheless, the Straits remained closed to all foreign military vessels, regardless of any exemptions provided by the capitulations.

The period during which the Turkish Straits were closed by the state was between 1453 and 1774. During this period, both straits were absolutely closed to the vessels of war of all states. Throughout the period when the Black Sea was an internal sea of the Ottoman Empire, this principle was referred to as the ancient rule or "*absolute closure*" (Fırat, 1950, pp. 14-15) principle. In 1696, when the Russians first captured Azov and descended into the Black Sea, the Ottoman Empire accepted this situation.

In 1774, with the Treaty of Küçük Kaynarca (Erim, 1953, p. 121), which was accepted by the Ottoman Empire as Russia's recognition as a state with access to the Black Sea, the Black Sea lost its status as an "*inland sea*" (Toluner, 1996, p. 158). The 11th articles of this treaty allowed Russian merchant ships to freely pass through the Straits. For the first time, the Ottoman Empire was compelled to accept the principle of free passage of foreign merchant ships through the Straits (İnan, 1995, p. 8).

According to some views, with this agreement, the Ottoman Empire granted the right for Russian merchant ships to pass through the straits, parallel to the capitulations it had previously granted to some European states (Çelik, 1987, p. 123). The Treaty of Kucuk Kaynarca gave the Russian Tsar commercial rights in the Ottoman Empire that were previously held only by the French. The entire northern Black Sea region fell under Russian dominance. All of these developments marked the beginning of the Eastern Question (Davies, 2006, pp. 690-691). However, according to other views, this thesis is rejected, as according to Toluner, the expression of the Black Sea is not clearly mentioned in 1535 and the passage through the straits is indirectly addressed. (Toluner, 1996, p. 158 footnote 169) According to Hurewitz, England obtained the privilege of crossing the Black Sea from the Ottoman Empire by expressing the right granted to Russia with the Treaty of Küçük Kaynarca in 1799 (Hurewitz, 1962, p. 607).

This agreement is considered the most significant development of the century in terms of its consequences. In 1793, Russia annexed Crimea

under Catherine the Great. After the war with the Ottomans, Russia advanced its borders up to the Dniester River. The possibility of Russia approaching the banks of the Prut River and settling at the head of the Danube River increased Austria's security concerns (Roberts, 2010, p. 377).

2. Regime of the Straits Determined by Bilateral Agreements

According to 1774 Treaty the Black Sea was opened to the commercial ships of all countries, while a different policy was implemented for vessels of war. Russia's policy towards the Black Sea was to close it to foreign vessels of war, while seeking access to the Mediterranean for itself. England opposed Russia's policy of accessing the Mediterranean. At this point, the Ottoman Empire was able to pursue a policy that would protect its own security principles amidst conflicting interests. Therefore, the ancient rule gained an international character and was applied until 1914. According to the secret clause of the 1798 Istanbul Agreement with Russia, Russia obtained the right to pass its vessels of war through the straits by helping the Ottoman Empire (Hurewitz, 1962, p. 611). In the 1805 alliance agreement, this right was confirmed with the first secret article, and the seventh secret article imposed the obligation on the Ottoman Empire not to open the Black Sea to vessels of war of countries that do not have a coastline on it (Erim, 1953, p. 227).

These provisions were not able to be implemented due to the international situation, and upon the Ottoman Empire's approach to France, the straits were closed to Russian vessels of war. As a result, in 1806, Russia declared war on the Ottoman Empire, citing the violation of the agreements. The Ottoman Empire obtained external aid against Russia by signing an alliance agreement with England (Erim, 1953, p. 234; Erkin, 1968, p. 24).

The period between 1774 and 1829 bears a distinct feature with the establishment of a different system for the straits. The Treaty of 1774 was the first stage of the Russians' descent into warm waters. The Turkish Straits were also very important for Russians in terms of trade, as one-third of Russian exports were carried out by Russian ships passing through the Straits at that time (Gottlieb, 1957, p. 21). With the Treaty of Kucuk Kaynarca, the Russians settled in the Black Sea, and thus, the Black Sea ceased to be an "*inland sea*" for the Ottoman Empire. With this treaty, the right of passage for Russian merchant vessels in the Black Sea and the Sea of Marmora became a conflict of interest in the balance of power between European states. Only Russian merchant vessels were granted this right under the treaty, and it was not extended to the ships of other countries.

This regime, which lasted until 1798, kept the straits closed to vessels of war of all countries.

2.1. Istanbul Treaty (1798)

Napoleon's Egyptian campaign brought the Ottoman Empire closer to Russia. The 1798 Istanbul Treaty was an agreement signed between the Ottoman Empire and the Russian Empire on 5 January 1798. The treaty aimed to strengthen the diplomatic relations between the two empires and addressed various issues, including the Black Sea, the Caucasus, and the navigation rights of the two powers in each other's territories. According to the treaty Russian vessels of war had the right to pass through the straits only for the purpose of implementing this treaty. Within the framework of this provision, the Russian navy that came to Istanbul completed its operation by sailing with the Turkish navy to the Mediterranean, and then returned its vessels of war to the Russian port.

The treaty's primary purpose was to establish mutual diplomatic recognition between the two states. The treaty also provided specific provisions on the Black Sea and the navigation rights of the two powers in each other's territories.

The treaty addressed the issue of the Black Sea and provided for the establishment of a naval commission to monitor shipping in the region. The treaty recognized the Ottoman Empire's sovereignty over the Crimean Khanate and allowed the Russian Empire to maintain its trade rights in the Ottoman Empire (Quataert, 2005, p. 77).

The treaty's significance lies in its contribution to establishing a more stable diplomatic relationship between the two empires and paving the way for future agreements. Istanbul the treaty addressed several key issues, including the Black Sea and territorial disputes, and paved the way for future agreements between the two empires (Hathaway, 2003).

Under the terms of the treaty, the Ottoman Empire granted Russia the right to freely navigate the Black Sea and the Dardanelles Strait, as well as access to Ottoman ports and harbours. In return, Russia pledged to provide military support to the Ottoman Empire in the event of an attack by a third party (Findley, 1977). It is also considered as the most important or perhaps the "*single step*" taken by Russia to the Near East until 1955 (Davison, 2004, p. 63).

This agreement was renewed in 1805. In both the 1798 and 1805 Ottoman-Russian treaties, the Ottoman Empire did not grant permanent

and continuous access to the straits for Russian vessels of war , but only opened the straits when the obligations of the treaty were being fulfilled.

2.2. Treaty of Kale-i Sultaniye (Canakkale)(1809)

The Treaty of Kale-i Sultaniye, also known as the Treaty of Sultaniye, was signed between the Ottoman Empire and England on June 5, 1809. The treaty was significant as it marked the end of Russia's advantage in passing through the Turkish Straits during war as an ally of the Ottoman Empire. The treaty established that vessels of war of foreign powers were not permitted to pass through the Turkish Straits, which included the Dardanelles and the Bosphorus.

The Treaty of Kale-i Sultaniye had its roots in the 1798 Istanbul Treaty, which had allowed Russian vessels of war to pass through the Straits as allies of the Ottoman Empire during war. The first state to challenge the principle of the closure of the Straits to foreign ships was England (Firat, 1950, p. 15). In 1807, a British warship passed through the Dardanelles and arrived in Istanbul. It is the first time that a foreign fleet has been forcibly crossed through this region, where a challenge has been realized. Captain Pasha interpreted this situation as "*they cannot attack the Bosphorus*" (Aybay, 1998, p. 11). As a result, an agreement was signed between the Ottoman Empire and England in 1809.

In 1809, England committed to complying with the absolute closure principle through a treaty. The unilateral closure practice was gradually replaced by the contractual closure principle and the established system.

The Treaty of Sultaniye confirmed the articles of the Istanbul Treaty, but with one crucial difference: it banned the passage of foreign vessels of war through the Straits. The Treaty of Sultaniye established the ancient principle that the Straits should be closed to foreign vessels of war as an international commitment. In return for this commitment, England recognized this principle.

The Treaty of Sultaniye had far-reaching implications for the Ottoman Empire, as it strengthened its sovereignty over the Straits. It also marked the beginning of a new era in Ottoman foreign policy, as the Empire sought to assert its independence from foreign powers. The Treaty of Sultaniye was significant in the context of the Ottoman Empire's relationship with England, as it was one of the few treaties between the two countries that recognized Ottoman sovereignty.

The treaty was a "*turning point*" in the Ottoman Empire's relationship with the West. Treaty established the principle of Ottoman sovereignty over the Straits, which was a critical factor in the Empire's ability to maintain its independence in the face of Western imperialism. Treaty of Sultaniye marked the beginning of the Ottoman Empire's "*gradual emergence as a sovereign nation-state*", as it strengthened the Empire's ability to assert its independence from foreign powers. With this treaty, the ancient principle that the Straits should be closed to foreign vessels of war ceased to be an internal rule of the Ottoman Empire. Passage of vessels of war through the Straits was banned and this was promised to England as a commitment. Thus, the ancient principle took on the nature of an international commitment. In return, England recognized this principle (Belik, 1962, p. 9). England, by recognizing the principle of keeping the straits closed during peacetime, has surpassed other countries. However, as a result of this commitment by England, a situation has emerged that limits the sovereignty rights of the Ottoman Empire in the straits. From then on, the issue of whether or not to allow foreign vessels of war to pass through the straits became a matter that the Ottoman Empire alone could decide. This situation also allowed for the intervention of foreign states in the measures and decisions regarding the straits (İrtem, 1936, p. 27).

As a result, the advantages Russia had gained through the 1798 Istanbul Treaty it had signed with the Ottoman Empire during Napoleon's expedition to Egypt and the 1805 Alliance Treaty (Erim, 1953, p. 221) which confirmed the articles of the former treaty, which allowed Russian vessels of war to pass through the Straits as allies of the Ottoman Empire during war, came to an end. The continuity of the ancient principle was ensured (Belik, 1962, p. 9).

2.3. Treaty of Adrianople (Edirne (1829))

Following the Ottoman Empire's rejection of the London Treaty in 1827, which was signed between Russia, England, and France and aimed to establish an autonomous Greece, Russia declared war on the Ottoman Empire in 1828. This war was brought to an end in 1829 with the Treaty of Adrianople (Erim, 1953, p. 279).

The treaty marked the end of the Russo-Turkish War of 1828-1829 and granted Russia significant territorial gains, including the Black Sea region of Dobruja, the Danube delta, and parts of Armenia.

One of the most important provisions of the treaty was Article VII, which established the principle of free navigation in the Straits of the Dardanelles and the Bosphorus. This provision stipulated that:

"the Sublime Porte¹ engages to admit and keep open, in time of peace, the navigation of the Dardanelles and the Bosphorus, equally, for the ships of war and merchant vessels of all nations, on payment of the same duties and under the same regulations as the subjects of the most favoured nation."

Under the seventh article of the treaty, the Ottoman Empire agreed to allow the free passage of commercial ships belonging to all states with which it was at peace through the Straits, thus putting an end to the principle of the closure of the Straits to commercial ships and turning the free passage of commercial ships into an international obligation.

The principle of free navigation had been a subject of dispute between the Ottoman Empire and the major European powers for centuries, with the Ottomans seeking to maintain their sovereignty over the Straits and the Europeans seeking access to the lucrative Black Sea trade. The Treaty of Adrianople was significant in that it established the principle of free navigation as an international obligation and helped to create a more stable international order in Europe.

It should be noted, however, that the principle of free navigation was not entirely new to the Ottoman Empire. The Ottomans had granted certain European powers limited access to the Straits in the form of capitulations, or bilateral treaties, as early as the 16th century. These treaties, however, were often subject to renegotiation and did not establish a consistent and universal principle of free navigation (Bitis, 2006).

In addition to establishing the principle of free navigation, the Treaty of Adrianople addressed a number of other issues, including prisoner exchanges, the return of occupied territories, and the payment of war reparations. The treaty was ratified by both parties and remained in force until the outbreak of the Crimean War in 1853.

According to one view, the Ottoman Empire had already assumed an international obligation to open the Straits to commercial ships before 1829 by granting certain privileges to France in 1535, England in 1579, and the Netherlands in 1612 (Çelik, 1987, p. 143).

In sum it can be stated that during the period between 1829 and 1841, the provisions of previous agreements were changed. With the Edirne Treaty signed in 1829, the right of passage through the straits (previously only granted to Russian merchant ships) and navigation in the Black Sea were granted as a right to all countries' merchant ships, in accordance with the

¹ The term "Sublime Porte" was a reference to the Ottoman Empire's government.

seventh article of the treaty. Thus, the principle of the straits being open to all countries' merchant ships, which is still valid today, was introduced with the Edirne Treaty. The regime established by the Edirne Treaty is based on the openness of the straits to merchant ships and the closure of the straits to vessels of war .

2.4. Treaty of Hunkar Iskelesi (1833)

The Treaty of Hunkar Iskelesi (Erim, 1953, p. 297) was signed between the Ottoman Empire and Russia for a period of eight years, in order to resolve the Egyptian problem that arose with the rebellion of Mehmet Ali Pasha. The Ottoman Empire needed external support to resolve the issue, which had been left alone in Europe since 1829, and found the support it was looking for in Russia.

According to the alliance with Russia, the Russian navy arrived in Istanbul. After the suppression of the rebellion, an agreement was made requiring the Russian forces to leave Ottoman territories. Although the Ground Forces began their withdrawal, the Russian navy in Istanbul did not withdraw. As a result, the Hunkar Iskelesi Agreement was signed. The treaty established a mutual defence alliance between the two powers, which obligated each side to provide military assistance to the other in the event of an attack. With this treaty, a defence alliance was established between the two states (article 1). In the event of an attack on one of the parties, the other party was obliged to provide assistance with land and sea forces in accordance with the defence alliance (article 3).

In the first article, the states pledged to assist each other in matters of their own security. The treaty also had a secret second article. According to the secret provision of the treaty, Russia waived the assistance of the Ottoman Empire, but in return, the Ottoman Empire was required to keep the straits closed for the benefit of Russia and other states (Fırat, 1950, pp. 16-17). According to the Treaty, the Ottoman Empire has become a weak partner of Russia and has had to consult with Russia on issues related to their mutual peace and security.

According to the secret articles of the treaty, if Russia requested assistance from the Ottoman Empire, the Ottoman Empire accepted the obligation to close the Dardanelles to all other foreign state vessels of war . Thus, for the first time, the Ottoman Empire came under the military protection of Russia. Although this treaty did not bring any changes to the regime that the Straits were subject to, it paved the way for the regime to be subject to multilateral treaties in light of future developments (İnan, 1995, p. 12).

According to the treaty, in the case of a military conflict, Russia was granted the right to seek refuge for its vessels of war in the Ottoman-controlled waters of the Dardanelles and Bosphorus straits. In return, the Ottomans were obligated to close the straits to all other foreign vessels of war , effectively giving Russia exclusive access in times of crisis.

The Treaty constituted the Ottoman Empire's first defence pact with Russia, and was an important milestone in the evolution of Ottoman foreign policy. This treaty created a framework for cooperation between the two powers, with the Ottomans looking to Russia as a source of military protection in the face of growing European encroachment.

With this treaty, the Ottoman Empire recognized Russia's "*privileged status*" over the Straits; Ottoman Sultan Mahmud II became a vassal of the Russian Tsar, and the power balance in Europe shifted in favour of Russia. During the first phase of the crisis, Russia benefited greatly from the cautious policies of European states, but in the second phase of the crisis, European powers, led by England and Austria, and with the participation of France, Russia, and Prussia, provided joint assistance to the Ottoman Empire to resolve the Egyptian problem. In this way, they neutralized Russia's exclusive position and restored the Concert of Europe (İnalçık, 2006, p. 115).

The treaty was seen as a significant loss of Ottoman sovereignty, as it effectively granted Russia exclusive access to the strategically important Dardanelles and Bosphorus straits. However, the Ottomans felt that they had no choice but to enter into the agreement in order to secure Russian military support against external threats.

While the Hunkar Iskelesi Treaty did not directly alter the existing regime governing the straits, it set a precedent for future changes to the international legal framework surrounding the waterways. It set the stage for future debates over the status of the Dardanelles and Bosphorus, which would eventually lead to major changes in international law governing these important waterways.

Just as in 1774, when foreign commercial vessels were granted privileged passage through the straits, in 1833, Russia also obtained an advantageous position in the passage of vessels of war through the straits compared to other states (Firat, 1950, p. 17).

The Treaty of Hunkar Iskelesi of 1833 put an end to the principle of the closure of the straits to vessels of war. Conflicting interests between

England and Russia created a new era in the straits: a regime established through treaties.

3. Regime of the Straits Determined by multilateral agreements

3.1. London Convention (1841)

Following the Treaty signed between Russia and the Ottoman Empire, the influence gained by Russia over the Ottoman Empire led European countries to intervene in the Egyptian issue.

In the early years of the 18th century, England felt the need to take measures against Russian expansionism, which threatened its interests in India, by first joining forces with France and Austria. Russia was continuing its expansion towards India through the Caucasus and Central Asia. The conditions created in favour of Russia by the Ottoman-Russian treaties, especially those dated 1798, 1805, and 1833 Hunkar Iskelesi, started to worry England. According to this state, the damage that would arise from Russia's access to the Mediterranean was much greater than the benefits that England could obtain from accessing the Black Sea. Faced with the magnitude of the threat, England felt the need to take political steps. The Hunkar Iskelesi, which only opened the straits to Russian vessels of war and kept all other states' vessels of war closed, had disrupted the balance of power in favour of Russia. To restore the balance of power, it was deemed necessary to apply the old regime in the straits. Therefore, when the uprisings broke out in Egypt in 1839, England and Austria helped the Ottoman Empire to implement policies that guaranteed the territorial integrity of the Ottoman Empire. The idea that this issue should be discussed at a European conference was proposed by England. Although Russia objected to this idea, it participated in the London Conference held in 1841 (Fırat, 1950, pp. 17-18).

On July 15, 1840, an agreement (Erim, 1953, p. 303) was signed among the Ottoman Empire, Russia, Prussia, England, France, and Austria in London to find a solution to this issue. The fourth article of the agreement reiterated the rule that the Straits would be closed to all foreign state vessels of war during peacetime.

Later, on July 13, 1841, the London Straits Convention (Erim, 1953, p. 309) was signed among the same states. According to the first article of the Convention, the Ottoman Empire undertook not to allow the passage of any foreign state warship through the Straits during peacetime. The other states also agreed to comply with this rule. Thus, the "*ancient rule*" was

recognized "*collectively*" by these states and became an international obligation (Belik, 1962, p. 9).

With this agreement, the period in which the regime of the Straits would be determined by the unilateral will of the Ottoman Empire in peacetime came to an end. The regime acquired international status and became subject to the common decision of the contracting states for the regime that would be valid in peacetime. In this context, if a change is desired, the amendment can be made when unanimity is reached among the parties (İnan, 1995, p. 15; Toluner, 1996, p. 160) The convention in effect until 1853 also shows that the Ottoman state preferred the "*collective guarantee of the European Powers*" over Russian protection on Istanbul and the Straits (Tuncer, 2009, p. 53).

The Treaty of London brought significant changes to the regime of the straits. The principle of closure of the straits was henceforth strengthened by the joint guarantee of European states (Erkin, 1968, p. 28). With the 1841 Convention, the closure of the Straits to vessels of war became a principle of "*European public law*." The provisions of this convention were drafted as mutual commitments. The contracting states pledged to comply with this principle not only as an obligation against the Ottoman Empire but also as an obligation against each other. If one of the parties violates its obligations, it would not relieve the other states of this obligation as it was regulated as a "*collective obligation*" (Belik, 1962, pp. 10-11).

According to the convention, the regime of the Straits during peacetime would no longer be subject to the unilateral will of the Ottoman Empire, but would instead acquire international legal status, and any changes to the regime during peacetime would require the agreement of all signatory powers.

As stated in the convention: (Tukin, 1999, pp. 277-278)

"The Sublime Porte engages to admit and to observe, as fundamental rules, in time of peace, the following regulations, to which the High Contracting Parties, on their part, agree: The passage is free and open to the vessels of commerce and of war of all nations observing these Regulations... The Sublime Porte engages not to construct any fortifications, or to occupy any position, commanding the Straits of the Dardanelles or the Bosphorus, and generally, not to take any measures which may, in any way, interfere with the free passage of vessels of commerce or of war belonging to friendly or enemy Powers."

This convention also established the principle of "*public order*" on the Straits, which meant that the passage of vessels of war through the Straits

could be restricted in cases where such passage might be considered a threat to the peace and security of the region. As stated in the convention: "*The Sublime Porte engages to maintain, by its own means, the public order of the Straits, and to employ, for this purpose, the local authorities as well as the vessels of war of the Powers who are parties to the present Convention.*" This regime was established for the purpose of peace and has characteristics that comply with the principle of voluntary prohibition. It is the document that carries the characteristics of the first status arranged for the neutral transportation of the straits (Erkin, 1968, pp. 28-29).

Thus, the sovereign right of the Ottoman state over the Turkish Straits was limited. the principle of closure of the straits has been made an international rule (Tukin, 1999, p. 283). The London Straits Convention was an important step towards the internationalisation of the Turkish Straits, and it set the legal framework for the subsequent treaties and conventions that regulated the passage through the Straits in the following years. Its significance was highlighted by its inclusion in the collection of treaties known as the "*European Concert*" which aimed to maintain the balance of power in Europe and prevent conflicts among the major powers.

In 1841 European States superseded Russia's privileged position and prohibited the entrance of foreign vessels of war into the Dardanelles and the Bosphorus. The five Great Powers committed to respecting this decision of the sultan and adhering to the declared principle. This agreement was of significant importance because the Great Powers collectively accepted the principle as legally binding and part of Europe's public law. The accord is considered the initial phase towards the Ottoman Empire's integration into the Concert of Europe (İnalçık, 2006, p. 116). The unilateral right of Russia to protect the Ottoman Empire has been eliminated, and the inviolability of its sovereignty has been placed under the joint guarantee of Europe (Tuncer, 2008, p. 129).

The principle of collective response was established in 1815, stating that no individual power could unilaterally alter the territorial arrangement or challenge the status and rights of European governors. All significant issues required a collective response, with "*European problems must receive European answers*" (Elrod, 1976, p. 164). The obligation to consider joint interests and share responsibility for the system as a whole was also emphasized. The outcomes of conferences and congresses were considered the "*law of Europe*," creating new standards for measuring foreign policy claims and actions of individual states. The law of Europe, was frequently used to restrict new claims and foreign policy ventures by individual states and became one of the many means of ensuring conformity among both small states and the powers (Holsti, 1992, pp. 41-42).

3.2. Paris Convention (1856)

With the Paris Straits Convention (Erim, 1953, p. 355) dated March 30, 1856, the Ottoman Empire, Austria, Prussia, Russia, Sardinia, England, and France confirmed the principle of the passage of vessels of war through the Straits during peacetime.

At the same time, the Paris Treaty (Erim, 1953, p. 341) signed on the same date demilitarized the Black Sea for all states, including the littoral states, meaning that the Black Sea was permanently closed to all vessels of war . (Article 11) The Ottoman Empire and Russia were prohibited from building and establishing shipyards in this sea (Article 13), but they retained the right to keep light vessels of war in the Black Sea for services. (Article 14) (Erkin, 1968, pp. 30-31).

The Paris Convention of 1856 aimed to end the Crimean War, which had started in 1853 between Russia and an alliance of France, England, the Ottoman Empire, and Sardinia. One of the main issues of the war was the control of the Black Sea and the straits of the Bosphorus and Dardanelles, which connected the Black Sea to the Mediterranean.

Under the Paris Straits Convention of 1856, the Ottoman Empire was recognized as the sovereign power over the straits of the Bosphorus and Dardanelles. The treaty also established that the straits would be open to the commercial and military vessels of all nations during times of peace.

During times of war, the Ottoman Empire had the right to close the straits to foreign vessels, except those of friendly nations. However, the treaty also allowed the major powers to station vessels of war in the Black Sea in order to monitor the implementation of the treaty and to protect their own interests. The Convention was a significant treaty that helped to maintain the balance of power in Europe and prevent future conflicts over the control of the straits. The treaty remained in force until the outbreak of World War I, when the Ottoman Empire closed the straits to the Russian Navy (Belik, 1962, p. 12)

The Convention was a treaty that recognized the sovereignty of the Ottoman Empire over the straits of the Bosphorus and Dardanelles, and established rules for the navigation of vessels through the straits. The treaty aimed to maintain the balance of power in Europe and prevent future conflicts over the control of the straits.

Most European states were aware that the complete collapse of the Ottoman Empire would pose a significant danger to peace. This issue, known as the Eastern Question, included the loss of Ottoman territory and

how to resolve the consequences, including the regime of the straits and the passage through them. Therefore, protecting the integrity of the Ottoman Empire became a common interest among European states. In this context, the destructive consequences of wars were invalidated in diplomatic negotiations (Quataert, 2005, p. 98). In 1856, the Ottoman Empire was accepted into the European state system, also known as European concert. Article 7: "*Their majesties engage, each on his part, to respect the independence and the territorial integrity of the Ottoman Empire*" (İnalçık, 2006, p. 116). This understanding helped the Ottoman Empire survive until the World War I.

3.3. London Treaty (1871)

The London Treaty aimed to end the Franco-Prussian War, which had started in 1870 between France and Prussia. One of the main issues of the war was the control of the straits of the Bosphorus and Dardanelles, which connected the Black Sea to the Mediterranean.

London Treaty signed on 13 March 1871 (Erim, 1953, p. 369) in London by representatives of the Ottoman Empire, England, France, Italy, and Germany, following the conclusion of the Russo-Turkish War of 1877-78. The treaty reaffirmed the principles of the Paris Peace Treaty of 1856, and also included provisions regarding the neutrality of the Black Sea, the rights of religious minorities in the Ottoman Empire, and the mutual extradition of criminals between the contracting parties. The treaty helped to maintain peace in the region for several decades, but ultimately failed to prevent the outbreak of World War I.

Under the London Agreement of 1871, the Ottoman Empire was recognized as the sovereign power over the straits of the Bosphorus and Dardanelles. The treaty also established that the straits would be open to the commercial and military vessels of all nations during times of peace.

The treaty confirmed the closure of the Straits to vessels of war, but also granted the Ottoman Empire the right to allow the passage of allied vessels of war during peacetime when deemed necessary. (Articles 2 and 3) As for the third article of the treaty, it was agreed to grant free passage for the vessels of war of the great powers through the Straits, to ensure the integrity and independence of the Ottoman Empire, as long as it was authorized by the state (Belik, 1962, p. 12).

During times of war, the Ottoman Empire had the right to close the straits to foreign vessels, except those of friendly nations. However, the treaty also allowed the major powers to station vessels of war in the Black Sea in order

to monitor the implementation of the treaty and to protect their own interests.

The London Agreement of 1871 was a significant treaty that helped to maintain the balance of power in Europe and prevent future conflicts over the control of the straits. The treaty remained in force until the outbreak of World War I, when the Ottoman Empire closed the straits to the Russian Navy. However, this guarantee was based on an unstable diplomatic equilibrium that was only sustainable as long as Russia did not pursue its ambitions against Ottomans (Bederman, 1988, p. 6). The second article of the treaty introduces an exception to the first article. It grants Ottoman rulers the authority to allow the passage of light vessels of war serving in embassies (İnan, 1995, pp. 17-18).

The Black Sea was open to the merchant ships of all countries, but a different policy was applied for vessels of war. Russia's policy regarding the Black Sea was to close it to foreign vessels of war, but it wanted access to the Mediterranean for itself. England opposed Russia's policy of going to the Mediterranean. At this point, the Ottoman Empire found an opportunity to pursue a policy that would protect its security principles amidst conflicting interests. Therefore, the ancient rule became of international nature and was applied until 1914. The London Agreement designed the constructing document determining the status of the Straits until the First World War. This regime, which allowed openness for merchant vessels and closure for vessels of war during times of peace, remained in force. No regulation was made for times of war (Erkin, 1968, pp. 32-33).

This document reinforced the state sovereignty of the Ottoman state in terms of the right to have a navy in the Black Sea and to open the straits. However, it also opened the door for Russia to have a navy in the Black Sea (Aybay, 1998, p. 17). The conference emphasized that international law prohibits the unilateral denunciation of a treaty without the consent of other signatories. However, taking into account changing conditions, it lifted the neutralisation of the Black Sea (Bilsel, 1947, p. 736).

During the 18th and 19th centuries, the straits and the various treaties and agreements made regarding them became a point of contention among nations, particularly those that opposed Russian expansion into the Mediterranean via the Dardanelles and Bosphorus, which were under Ottoman Empire control. The disintegration of the Ottoman Empire was a major concern for the balance of power in the region and led to the need to contain Russia's aggression to prevent upsetting this balance.

The rules and regulations of the straits evolved over time as successive treaties weakened the "*ancient rule*" of the Ottoman Empire that foreign vessels of war could not pass through the straits when the Ottoman government was at peace. Treaties such as those of Küçük Kaynarca, Hunkar Iskelesi eroded Ottoman sovereignty over the straits, resulting in greater access for foreign vessels of war and ultimately contributing to the decline of the Ottoman Empire.

The London Agreement of 1871 marked an important milestone with the collective guarantee made by the great powers. This guarantee ensured that any violation of the straits' regime would represent a challenge not only to the Ottoman government but also to the balance of power in Europe. It was the first international instrument that incorporated a collective organisation preserving a legal regime.

The Crimean War was waged to maintain the balance of power in Europe, which was not being actively protected by Austria and Prussia. The Treaty of Paris in 1856 brought an end to the war and reinstated the existing straits regime, which granted control of the Dardanelles and Bosphorus to the Ottoman Empire and demilitarized the Black Sea. The implementation of the legal regime was dependent on the great powers' vigilance to constrain Russian expansionism. In the event of any breach of the Treaty of Paris, England, France, and Austria pledged to support the Ottoman Empire with military and naval forces to protect its sovereignty and territorial integrity. This wartime coalition transformed into a peacetime alliance through the Tripartite Covenant, which replaced the passive balancing of power with a more active alliance among the great powers.

During peacetime, Ottomans had the authority to open the Straits to friendly and allied Powers if it was necessary to adhere to the Treaty's provisions. The conference participants approved the Treaty, but they had differing views on various aspects, including the definition of vessels of war, friendly and allied Powers, and what constituted a safeguard to the Treaty's implementation. The primary question was whether Ottomans needed the other signatories' approval to grant passage permission in compliance with the 1871 convention. The 1871 Treaty did not alter the legal regime of the Straits, but it prevented a crisis and allowed Türkiye to have six more years of peace until 1914 (Bederman, 1988, pp. 16-17).

According to the regulations of 1841, 1856, and 1871, the Ottoman Empire agreed to apply the principle of closure to all vessels of war of all countries, and all other countries committed to comply with this. The 1871 London Treaty, unlike the others, gave the Ottoman Empire the

authority to open the straits to the vessels of war of friendly and allied countries in order to implement the Paris Treaty.

3.4. Berlin Treaty (1878)

In 1876, Russia imposed a peace treaty on the Ottoman Empire that posed a threat to British interests and violated certain aspects of the "*law of Europe*" established in the Congress of Paris in 1856. According to Bismarck, some articles of the Treaty San Stefano had changed the order brought by the 1856 Paris and 1871 London treaties to some extent. The Congress was held not for the Ottoman Empire, but for the preservation of European peace. England also aimed to restore the power balance that had been disrupted in favour of Russia (Tuncer, 2009, p. 169). The Congress of Berlin in 1878, in an effort to maintain balance in the Balkans, forced Russia - despite being a victorious party in the war - to modify the Treaty of San Stefano to align it with the powers' shared views (Holsti, 1992, p. 42). Following the Ottoman-Russian War of 1877-1878, the San Stefano (Ayastafenos) Treaty was signed between the Ottoman Empire and Russia, but it was not put into effect. According to this treaty, neutral commercial ships coming from or going to Russian ports would be able to freely pass through the straits during both peace and wartime. In response to Russia's significant advantage, the major European powers united and signed the Berlin Treaty on July 13, 1878. This treaty did not change the regulations regarding the straits, and referenced the treaties from 1841, 1856, and 1871, while confirming once again the closure of the straits to foreign vessels of war. (Article 63)

The Berlin agreement did not make any changes regarding the passage of the straits, reiterating the principle that the straits are closed to vessels of war of foreign states in peacetime. In other words, the principle that foreign states are closed to vessels of war, determined by the 1841 London Convention, was confirmed; The status quo has been preserved (İnan, 1995, p. 18). The modifications made to the Treaty of San Stefano by the Congress of Berlin in 1876 aligned the treaty's terms with the interests of all the involved powers (Holsti, 1992).

The Treaty of Berlin established a status quo for the Straits that persisted for years, but various political changes occurred during this time due to events such as the opening of the Suez Canal, the occupation of Cyprus, and the emergence of Romania and Bulgaria. Additionally, Germany's influence over Türkiye significantly shifted. The Anglo-Russian Entente, which grew increasingly strong, also contributed to Russia abandoning its century-long pursuit of gaining control of the Straits and Istanbul (Maity, 1954, pp. 139-140).

3.5 Turkish Straits and the Armistice of Mudros (30 October 1918)

During the First World War, when the Ottoman Empire was still neutral, the entry of two German vessels of war into the Marmora Sea through the Dardanelles Strait, after escaping from the British navy, led to a protest by the Allied Powers against the Ottoman Empire.

Under the 1841 London Straits Convention, the Ottoman Empire was obliged to close the Straits to vessels of war in times of peace. However, as a result of attacks by the Ottoman navy against Russia in the Black Sea, the Ottoman Empire entered the war on the side of the Central Powers. This effectively repealed the regulations of 1841, 1856, and 1871. During wartime, the determination of the Straits regime was entirely within the discretion of the Ottoman Empire.

On October 30, 1918, the Armistice of Mudros was signed, which led to the Ottoman Empire's surrender and the end of the war in the Middle East. According to the agreement, the Ottoman Empire was required to open the Straits to the Allied Powers and to demilitarize the region. This allowed the Allied Powers to transport troops and supplies to Russia, which was then undergoing a revolution, and to the occupied territories in the Middle East. The Ottoman Empire's sovereignty over the Straits was thus severely limited by the terms of the armistice (Dyer, 1972, p. 169).

Seven of the first nine articles of the Armistice dealt with the control of the Straits of Istanbul, which were considered strategically important for the Allies. The terms of the Armistice required Türkiye to surrender control of the straits to the Allies and to allow them free access to Turkish ports. Additionally, Türkiye was required to surrender all warships in waters under its occupation and to clear the straits of any naval mines, minefields, and torpedo tubes. The provision mentioned at the end of the text indicates that the Allies were prepared to take action if any situation arose that threatened their security (Ryan, 2014).

The regime, which regulated the Turkish Straits with multilateral treaties and introduced the principle of closure through joint commitments, continued until the First World War. The passage of the vessels of war Goeben and Breslau through the straits at the beginning of the First World War was a significant event. In fact, according to one view, no war vehicle in history has affected the fate of the world as much as the 7-day voyage of these two ships (Sander, 1993, p. 271). These battleships were officially sold to the Ottoman government, and German sailors and Admiral Souchon wore Turkish uniforms, and the Turkish flag was hoisted on the ships (Melek, 1978, p. 23). After the passage of these two ships, the straits

were closed by the Ottoman Empire. Both the passage of the ships and the closure of the straits were interpreted by European states as a violation of the treaty. Regarding this issue, Bilssel said: (Bilssel, 1933, p. 374)

"There is no treachery or opposition in agreements. Since all commitments belong to the peace time, it is essential for the state to gain freedom in times of war. In this case, it is permissible for vessels of war to open the straits. There is no provision that requires the war to be one in which the state has entered. In the new time of war, it is the most natural right of the state to close the straits in terms of its right to self-defence. We do not know of any legal basis that would allow Russia or any other state to demand that Türkiye keep the straits open in order to capture Istanbul. Some admit that our closing the straits during the war did not violate the treaties."

In fact, on the basis of international law, these two vessels of war had to be disarmed and the Ottoman state had to seize them until the war ended. This situation ended with a decision known as a *fait accompli* in international relations. Namely, in return for the battleships "*Reşadiye*" and "*Sultan Osman*", which were previously seized by the British, the Ottoman Empire "*bought*" these two ships without paying any money and included them in the Ottoman navy under the names "*Yavuz*" and "*Midilli*" (Sander, 1993, p. 273).

Towards the end of the war, while England expressed its view in favour of subjecting the Straits to a special status, the United States explicitly stated its demand for a new status to be established in accordance with Wilson's 12th principle, which stipulates that " *...the Dardanelles should be permanently opened as a free passage to the ships and commerce of all nations under international guarantees.*"

Mustafa Kemal Atatürk, on the other hand, expressed his thoughts on this principle as follows: "*As for the issue of the freedom of the Straits: On this route, there is our capital, our heartland. It is necessary to ensure its security, and to make it a part of general security*" (Caşın, 2017, p. 69; Kültür Bakanlığı, 1981, pp. 27-28).

Indeed, with the first article of the Mudros Armistice (Erim, 1953, p. 519) the Ottoman Empire accepted the provision that the Dardanelles and Bosphorus Straits be opened and passage to the Black Sea be ensured, as well as the occupation of military facilities on both sides of the straits by the Allied powers. This provision was drafted in accordance with Wilson's 12th principle (Erkin, 1968, p. 52). Wilson's 12th principle aimed to apply the "*open door*" or "*equal opportunity*" principle in economic and

commercial terms in this land and in the seas after the partition of the Ottoman Empire (Armaoğlu, 2020, p. 283).

To enable passage to the Black Sea by opening the Dardanelles and Bosphorus Straits, all fortifications in the region were taken under control by the Allied Powers, and on November 13, 1918, the Allied Powers anchored in the Bosphorus Strait (Meray & Olcay, 1977, pp. 1-5). The period between 1918 and 1936 can be called the period in which the Straits were subject to the policy of "*internationalisation*", This regime allowed all states' naval forces to pass freely by narrowing the sovereignty rights of the state that owned the Straits in favour of the international community and relied on the creation of an international institution that would act on behalf of the general interest to maintain this status (Erkin, 1968, p. 19).

3.6. Sevres Treaty (1920)

The significant role played by the straits during World War I made them a powerful propaganda tool for post-war decisions. Similarly, the heavy conditions imposed on the Ottoman Empire were based on the goals pursued in the straits.

The awakening of national consciousness and the struggle for liberation against the Allied Powers' occupation movement, who were the victors of World War I, led to the occupation of Istanbul on March 20, 1920, and the preparation of the Treaty of Sevres at the conference held in San Remo.

The provisions between articles 30 and 67 of the Treaty of Sevres (Erim, 1953, p. 525) (The Treaty of Sevres, 1920), signed on August 10, 1920, focus on the arrangements related to the straits. Article 37 stipulates that navigation in the straits will be open to all commercial and vessels of war, as well as commercial and military aircraft, regardless of nationality, in peacetime or wartime. The straits cannot be blockaded, and the right to use force in the straits is only permitted to enforce decisions of the League of Nations. The European coast of the Dardanelles was connected to Greece. The principle of freedom of navigation was secured by a special provision that regulated demilitarisation of the straits (Erkin, 1968, pp. 52-53).

The Sevres system accepted the British view on the Straits and adopted a complete freedom regime. The Sevres Treaty envisaged a regime of full and continuous openness in the Straits. There are two dimensions to the principle of openness. First, it is "*complete*" because it is unconditionally recognized for the trade and vessels of war of every state. Second, it is

"*continuous*" because it applies during both in peace and wartime (Soysal, 1989).

The Sevres regime would be protected by an international commission with very broad powers. The provisions regulating this commission are set out in Articles 43 to 61. The Ottoman Empire and Greece had delegated their powers over the Straits to the commission (Article 38), which was organized to carry out its duties independently of local governments, with its own flag and budget (Article 42). The commission's area of responsibility was determined to be the waters between the entrances to the Dardanelles and Bosphorus Straits, starting three miles from the coast. If necessary, the commission could also exercise its powers on the coast (Article 39). In addition to these powers, the international commission was also authorized to establish a police force when necessary.

If the members of the International Commission were to become members of the League of Nations, they would include representatives of the United States, England, France, Italy, Japan, Bulgaria, Greece, Romania, Russia, and Türkiye. Türkiye, Bulgaria, Greece, and Romania were granted special privileges, with the weight of their votes being two as opposed to the other states (Article 40).

In summary, the relevant regulations regarding the straits in the Sevres Treaty, which was not put into effect, can be listed as follows:

The Turkish straits will be open to all commercial and military ships and aircraft, regardless of nationality, in times of peace and war; no blockade will be applied, and no belligerent action will be taken in the straits except for the implementation of decisions of the League of Nations; and no hostile act will be resorted to (Erim, 1953, p. 594). With the approval of the Istanbul government on August 19, 1920, the regime introduced in the 1841 London Straits Convention was abolished as a result of the Sevres Treaty. The straits were given a new status as, "*international*" under the control and guarantee of the League of Nations (Kocabaş, 1994, s. 137). According to the provisions of the Treaty of Sevres, the demilitarized Straits area was actually turned into a de facto British, French and Italian occupation zone (Oran, Sevres Barış Antlaşması, 2016b, p. 129).

Toynbee and Kirkwood evaluated the Treaty of Sevres as a "*triumph of imperialism*" because it allowed the Allies to divide the wealthy regions of Western Asia as a reward for their efforts in the war (Toynbee & Kirkwood, 1926, p. 75) This policy of imperialism set the stage for a closer relationship between Türkiye and Russia, leading to the signing of the

Treaty of Friendship March 16, 1921. The revival of the Hunkar Iskelesi policy in this treaty caused concern in Western countries.

CHAPTER II

THE LEGAL STATUS OF THE TURKISH STRAITS DURING THE OTTOMAN EMPIRE PERIOD

II

THE REGIME OF THE TURKISH STRAITS IN THE 20TH CENTURY

1. The Treaty of Lausanne and the Straits Convention of Lausanne

When it was realized that the Treaty of Sevres could not come into effect in the face of the demonstrated national resistance and the national liberation struggle, the Allied powers invited Türkiye to participate in the peace conference to be held in Lausanne with a delegation on October 22, 1922.

The legal regime of the straits, which would continue until November 9, 1936, and the Turkish state established in place of the Ottoman Empire with national sovereignty were determined by the "*Convention Regarding the Regime of the Straits*" signed on the same day as the Lausanne Treaty on July 24, 1923 (Soysal, 1989, p. 140). With this convention, the rules established as a result of the common will of many states and applied since 1841 to the straits continued to be subject to international status, in other words, they remained subject to international law (Belik, 1962).

Based on the Lausanne Peace Treaty and the Convention Relating to the Régime of the Straits (League of Nations, 1923) the geopolitical significance of the straits has once again been highlighted. The new Turkish state knows that it needs to adjust its foreign policy according to the status of the straits due to their strategic importance. For instance, as long as Soviet Russia remained weak, the Republic of Türkiye did not need to be concerned (Melek, 1978, p. 162). The Turkish state, based on the principle of self-determination, emerged, and it was necessary to leave the straits, which were an extension of this principle, to Turkish sovereignty, without any reservations. However, due to the international context of the period, this was not possible. During the conference, the Turkish delegation raised objections to the establishment of an international commission and the demilitarisation of the straits region, but ultimately, the straits region was demilitarized, and an international commission was established to control and monitor the passage through the straits.

The passage of foreign ships through the Straits was arranged in accordance with the principles determined by the National Pact (Misak-ı Milli).

However, the fact that the Straits were disarmed created an inconvenient situation for Türkiye's security, and the fact that the straits were left to the League of Nations had risks in terms of national security (Soysal, 1989, pp. 150-151). Turkish homeland is a territorial integrity and an indivisible unit. This understanding is emphasized in the National Pact with the statement that the lands within the ceasefire line are "*an inseparable unity for any reason, be it an action or a verdict*" (Türk Tarih Kurumu, 1920).

After this period, it cannot be said that the straits are closed to vessels of war during peacetime. It cannot be claimed that the international practice that banned the passage of vessels of war through the straits without dispute by referring to the previous regime (Toluner, 1996, pp. 161-162).

1.1. The Straits Issue at the Lausanne Conference

At the Lausanne Conference, Türkiye was on one side, and on the other side were England, Italy, France, Japan, Greece, Romania, Yugoslavia, and, upon Türkiye's request and insistence, Soviet Russia, Georgia, and Ukraine participated in the discussions regarding the straits. While the issue of having an outlet in the Aegean Sea was being discussed, the representative of Bulgaria also participated in the negotiations, and the United States was present at the conference as an observer. The conference began on November 20, 1922, paused on February 4, 1923, resumed on April 23, 1923, and the peace treaty and related documents were signed on July 24, 1923.

The Turkish delegation was led by Foreign Minister Ismet Pasha. The other representatives were Health Minister Riza Nur Bey and former Finance Minister Hasan (Saka) Bey. The representatives sent to the conference were personally chosen by Mustafa Kemal (Atatürk) (Gönlübol, et al., 1996, p. 48).

The arguments of the states participating in the conference regarding the Turkish Straits:

During the Lausanne Conference, three different views regarding the Straits emerged. These views can be summarized as follows: (Sonyel, 2006, pp. 59-61; Erkin, 1968, p. 55)

The view of the Allied States (including the USA and Japan) was that the Straits should be open for both commercial and war vessels, and to ensure this, the two shores of the Straits should be demilitarized, and an international administration should manage and control this issue.

Soviet Russia's view was that the Straits should only be open for commercial vessels and closed to all vessels of war, and Türkiye should fortify the Straits.

Türkiye's view was that, in accordance with the 4th article of the National Pact, free passage should be recognized and implemented through the Straits, with the condition that the security of Istanbul and the Marmora Sea is guaranteed.

During the conference, England insisted that the United States sign the Straits Convention, citing the United States' status as a naval power. Particularly emphasizing the principles of free trade and the "*openness of the straits*," which were of great sensitivity to the United States, England requested that the responsibility for keeping the Turkish straits open as an "*open door*" should be assumed by the United States (Armaoğlu, 2017, p. 101).

The Straits issue took on a different form as a Soviet-British dispute compared to other issues. The British delegate, Lord Curzon, discussed with both İsmet Pasha and the Soviet Foreign Minister Chicherin. İsmet Pasha was initially invited to speak and gave a general speech, avoiding giving a detailed opinion before learning the views of the other representatives (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 49). İsmet Pasha summarized the Turkish view in three points: (Özdalga, 1965, p. 39)

1. Guarantee should be provided against any sea and land pressure that may threaten the security of Istanbul and the Marmora Sea.
2. The Navy passing to the Black Sea should be restricted in the Straits and the Black Sea to prevent any danger (that is, these forces should consist of lightvessels used for the protection of international trade).
3. The principle of free passage for commercial ships should be recognized in times of war and peace. However, Türkiye should reserve the right to take necessary measures in case of war.

During the conference, the discussions were shaped around the competition between England and the Soviet Union. The Turkish delegation also made efforts to establish the most suitable status for Türkiye's interests by taking advantage of the competition between the two states. While many aspects of Türkiye's education overlapped with Russia's draft, they also approached England's views in order to obtain concessions

on some issues and to avoid eliminating the possibility of reaching an agreement that would negatively affect the conditions for peace. Thus, with the condition of limiting the passage of vessels of war crossing the Black Sea, the freedom of passage rule was established, and the control of the regime was handed over to an international International Commission for the security of the straits (Sönmezoğlu, 2015, pp. 199-201).

1.2. Rules for the Passage

Until the First World War, the regime regarding the Straits was open to merchant vessels and closed to vessels of war . However, due to the restriction system brought to the freedom of passage with the Convention, some arrangements were made according to the security principles that Türkiye sought for the Straits and the Black Sea.

The regime adopted in Lausanne was founded on the 12th principle of Wilson's principles, which regulates the principle of freedom of passage, and the opening of the Straits and the guaranteeing of the freedom of navigation brought the acceptance of three more principles. These: (Erkin, 1968, p. 56)

- i. Demilitarisation of the Straits
- ii. Internationalisation of the Straits
- iii. Sanctions and guarantees to be taken in case of violation of the established regime.

The importance given to freedom of passage and navigation was emphasized by the first article of the Convention, by stating that “*The High Contracting Parties agree to recognise and declare the principle of freedom of passage and of navigation by sea and by air in the Strait of the Dardanelles, the Sea of Marmora and the Bosphorus, hereinafter comprised under the general term of the "Straits"*”. The importance of the same rule appears once again when it is mentioned in Article 23 of the Lausanne Peace Treaty, of which the Convention is an integral part.

The second article of the Convention is as follows: “*The passage and navigation of commercial vessels and aircraft, and of war vessels and aircraft in the Straits in time of peace and in time of war shall henceforth be regulated by the provisions of the attached Annex.*” With the convention, vehicles are subject to a distinction between commercial ships and aircraft and vessels of war and aircraft. According to the distinction made, the status to which the aforementioned vehicles will be subject has been clearly determined in

accordance with the provisions in the Annex " *Rules for the Passage of Commercial Vessels and Aircraft, and of War Vessels and Aircraft through the Straits*".

The passage regime, on the other hand, has been regulated in three states: in peacetime, in wartime when Türkiye is not a belligerent, and in wartime when Türkiye is a belligerent.

1.2.1. Merchant Vessels

Merchant vessels are not subject to a definition in the Convention. In the Annex to the second article, the term merchant ships, hospital ships, yachts, fishing vessels and non-military aircraft are included.

1.2.1.1. In time of Peace

Regardless of the flag and cargo, the merchant vessels are provided with full freedom, day and night, for navigation and passage. Freedom of passage can only be limited in relation to international health rules. There are no pictures or fees for passes. However, fees are charged for direct services, tugboat, pilotage and lighthouse services. In order to facilitate the taking of these pictures, ships are obliged to inform the offices to be nominated by the Turkish government of their names, compliance, tonnage, and destination. Pilotage is optional; it is not mandatory (Annex, 1/a).

1.2.1.2. In Time of War, Türkiye being Neutral.

The passage and arrival of merchant vessels of all states shall be carried out in full freedom, day and night, subject to the conditions applicable in peacetime shown in Annex 1/a. Based on its neutrality, Türkiye cannot take any measures to prevent passage and navigation through the Straits. Pilotage is optional (Annex 1/b).

1.2.1.3. In Time of War, Türkiye being a Belligerent

Neutral vessels and non-military aircraft have freedom of navigation in the Straits. However, Türkiye has been given the right to inspect these ships and planes to make sure that these vehicles do not assist the enemy by carrying goods, enemy soldiers or citizens. For this purpose, the planes may be forced to land or land in the regions to be determined by Türkiye, and Türkiye did not limit these rights due to the principle of free passage when it was a belligerent country, in terms of implementing the measures adopted by the powers granted to the belligerents by international law (Annex 1/c-1, paragraph).

Türkiye may take all measures it deems necessary to prohibit the use of the Straits by enemy ships, provided that it does not prohibit the free passage of neutral vessels and gives the necessary instructions and guidelines to neutral vessels (Annex 1/c-2nd paragraph).

1.2.2. Vessels of war

The status that vessels of war will be subject to has been separately governed in two periods, peacetime and wartime. During the war, different regulations were introduced according to Türkiye's situation in the war.

1.2.2.1. In Time of Peace.

The Convention determined the war vehicles as auxiliary ships, troop carriers, aircraft carriers, and military aircraft.

Regardless of its flag, it has been given full freedom of passage day and night, with no duties, taxes or fees (Annex 2/a-1. paragraph). However, the amount that a state without a coast to the Black Sea can pass through the Straits to go to the Black Sea is limited. The maximum force that this state will spend will not be more than the navy of the state, which has the strongest navy among the states bordering the Black Sea, in the Black Sea during the passage. However, each state may send a naval force to the Black Sea at any time, each of which does not exceed 10,000 tons and does not exceed 3 ships in number (Annex 2/a-paragraph 2).

Türkiye will not be responsible for the number of ships passing through the Straits (Annex 2/a-3. paragraph). The determination of the navies in the Black Sea and the determination of the forces to be sent to the Black Sea will be carried out by the International Commission mentioned in Article 10. This Commission will request the Black Sea littoral states to provide it with comprehensive and detailed information on the battleships and aircraft they own (Annex 2/a-4). The International Commission will determine and communicate the strength of the largest navy in the Black Sea to all concerned states. In addition, any developments arising from the entry or exit of a ship belonging to the navy of the specified states to the Black Sea will be submitted to the information of the relevant states (Annex 2/a-5. paragraph).

Submarines belonging to states that are at peace with Türkiye have to pass over water through the Straits (Annex 3/a). The commander of the foreign naval forces is obliged to notify the number and names of the ships that will pass through the Straits, as a courtesy, to the signs and stations at the

entrance of the Bosphorus and Dardanelles Straits, which Türkiye will notify, without having to stop (Annex 3/b-1 and 2nd paragraph).

Airplanes have the opportunity to fly over the Straits, on a 5 km strip of land on both sides of the narrow passages, and in case of a breakdown, on the Turkish coast or in the sea in the territorial waters, provided that they remain within the specified rules (Annex 3/c-1., 2nd and 3rd paragraphs).

1.2.2.1.1. Limitation of Passage Time of Vessels of war

Vessels of war passing through the Straits in transit cannot stay in the Straits for more than the time required for their passage, including the night anchoring period required by the security of passage, provided that the damage and disorder situations are reserved (Annex 4).

1.2.2.1.2. Stay in the Ports of the Straits and of the Black Sea.

Türkiye may unilaterally determine the number and duration of stay of vessels of war and aircraft that can also benefit from Turkish ports and airports for visiting purposes. Paragraphs 1, 2 and 3 of the Annex do not prejudice Türkiye's right to make regulations it deems necessary (Annex, paragraph 5).

1.2.2.2. In Time of War Türkiye being Neutral

All vessels of war, regardless of their flag, have full freedom of passage day and night, within the restrictions in paragraph a of the second paragraph, without any operation, picture or charge. However, these limitations cannot be applied in a way that violates the belligerent rights of the belligerent states in the Black Sea (Annex 2/b-1-2).

As a neutral state, Türkiye is obliged to protect and implement the principle of freedom of passage through the Straits. It does not have the authority to take measures of any nature by preventing the passage (Annex 2/b-3). Since Türkiye cannot take such a precaution even for its own security, it is seen that the sovereign rights of the state are restricted by this regulation (İnan, 1995, p. 35).

Vessels of war and military aircraft of the belligerent states are prohibited from attempting any action against each other during their passage through the Straits, using their right of control and search, and engaging in any hostile action (Annex 2/b-4).

It was agreed that the provisions of the 1907 Hague Convention (XIII) on Neutral Powers in Naval War shall apply to the provision of food and repair services to military aircraft until an international conference shall be convened to establish rules on the neutrality of vessels of war and aircraft (Annex 2/b-5 and 6).

1.2.2.3. In Time of War, Türkiye being a Belligerent

Neutral vessels of war have freedom of navigation with passage through the Straits within the framework of peacetime conditions (Annex 2/c-1).

Türkiye should not prevent the passage of neutral ships while exercising its belligerent rights recognized by the law of war and applying restrictions against enemy vessels of war. The right and authority to prohibit the passage of enemy vessels of war and aircraft through the Straits has been granted to Türkiye, in accordance with international law, by specifying it separately in the contract. Prohibitions, restrictions, and measures to be taken by Türkiye while exercising this authority cannot hinder neutral vessels of war and aircraft. For this purpose, Türkiye has to give all necessary instructions and guidance to neutral ships and aircraft (Annex 2/c-2).

However, neutral state ships should in no way assist the enemy by transporting war fugitive troops and nationals of the enemy state. Otherwise, it can be claimed by Türkiye that neutrality has deteriorated (İnan, 1995, p. 35).

Military aircraft of neutral states will be able to pass through the Straits at their own risk and risk. In order to understand the characteristics of these aircraft, Türkiye may use its authority to inspect on land or at sea in the regions it will determine (Annex 2/c-3).

This Convention recognizes full freedom of passage in favour of trade and vessels of war in time of war and peace. This limits Turkish sovereignty both in Turkish territorial waters and in the airspace over the Straits (Erkin, 1968, p. 58).

1.3. Demilitarisation of the Straits

In order to facilitate and secure the implementation of the freedom of passage regime, which envisages complete freedom of passage and navigation through the straits, it has been decided to demilitarize the areas clearly defined in the Convention (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 56). All necessary precautions will be taken to

prevent disruption of navigation through the passage through the Straits, on the coasts of the Straits and on the islands located in or close to the waters of the Straits.

In the draft presented by the Allied Powers at the conference, it was envisaged that the Straits region, which refers to the Dardanelles and Bosphorus Straits and the Sea of Marmora, would be demilitarized. The reason for this was shown as the removal or never having any military facilities that could prevent free passage through the Straits, and also in the draft, in case of a change to be made by Türkiye in wartime, the area to be demilitarized would be restored to its former status and peace would be restored. İsmet Pasha opposed this draft by explaining the harms that the aim of demilitarisation could cause for both Türkiye and world peace; Stating that the defence of the Straits is directly connected with the defence of Istanbul, Marmora and Eastern Thrace, he said that the isolation of the Straits will make it impossible to defend the aforementioned regions in the face of a sudden attack. (Meray, 2001, pp. 164-166; Bilsel, 1933, pp. 377-378).

The points stated that these offers made by the allied states will cause harm for Türkiye can be expressed as follows: (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 55)

- *The Sea of Marmora should not be included in the term Straits. because it is not possible for a defensive action that can be taken here to prevent the freedom of passage through the Straits. At the same time, this defence is very valuable and necessary for the defence of Anatolia and Thrace.*
- *Since there is no railway connecting Anatolia and Thrace to the demilitarized zone on the shores of the Straits, there will be no need for guard troops in Istanbul.*
- *Since the demilitarized regions unite the two parts of the country, it is not necessary to accept military action in these regions, but on the contrary, it is necessary to accept the military action.*
- *In order to protect the shores of the Marmora Sea with the navy, the shipyard and marine installations deemed necessary should be located in Istanbul and the Straits.*
- *The areas to be changed without soldiers cover a very large area and this area needs to be narrowed down.*

CHAPTER II

EFFORTS TO CHANGE AND REGULATE THE STRAITS REGIME AFTER WORLD WAR II

- *Samothrace, Imbros and Bozcaada located outside the Straits should be given to Türkiye, and autonomy should be accepted in the island of Lemnos.*
- *In order to defend Gallipoli properly, sufficient military defence vehicles should be available in the Dardanelles.*

In the face of these proposals submitted by the Turkish side, the Allies accepted some demands for changes for the defence of the Sea of Marmora. however, the Turkish side demanded that the Sea of Marmora be removed from the term "*Bosporus*", that no restrictions be placed on defence means except for the demilitarized zones to defend the Marmora, and that Samothrace, Imbros and Bozcaada be considered as part of Canakkale. However, Lord Curzon stated that if these were accepted, his own designs would not make any sense, and finally submit a final draft and asked for its acceptance (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 55).

The 4th article of the convention is about the demilitarisation of the 15-kilometre section of the Bosporus (separately from the east and west). however, the provisions of Article 8 regulating the special regime regarding Istanbul are excluded. Except for Emirali Island, all the islands in the Marmora Sea and in the Aegean Sea, Samothrace, Lemnos, Bozcaada, Imbros and Rabbit Islands were demilitarized (Pazarcı, 2015, pp. 119-120).

The southern region of the Marmora were removed from the demilitarized zones and Bozcaada and Imbros were given to Türkiye (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 56).

In order to determine the borders of the demilitarized zones in the Dardanelles and Bosporus Straits, it was decided that a 4-person commission, consisting of one person each, to be appointed by the governments of France, England, Italy and Türkiye, would be established and convened 15 days after the contract entered into force (article 5).

There will be no military installations, bases, military vehicles in the demilitarized zones and islands. However, the provisions of Article 8 regarding Istanbul are reserved. There will be limited police and gendarmerie there to ensure security. Except for submarine ships, there will be no underwater vehicles in the territorial waters of these regions and islands (Article 6). Türkiye will be able to keep any number of soldiers in Thrace (Fırat, 1950, p. 25).

The Turkish navy will be able to anchor and transport its armed forces in territorial waters from these demilitarized zones. Türkiye can monitor the surface and interior of the sea with planes over the Straits, fly planes through the said armed Turkish land and straits and land them at any land or naval base. In the demilitarized zones and islands and in their territorial waters, Türkiye and Greece shall similarly be entitled to effect such outside these zones and islands of the men recruited therein. In addition, these two states may establish any surveillance and communication systems they deem necessary in the regions and islands given to them (Article 6/4-6/5-6/6-6/7).

Greece will be able to pass its navies through the territorial waters of the demilitarized Greek islands. It is forbidden for Greece to use these waters as a base for an operation against Türkiye and to establish naval and land forces in these waters to serve this purpose (Article 6/8). With the seventh article, the entry of vehicles operating other than submarines into the Sea of Marmora is prohibited. As of the second paragraph, in the littoral zone of the European shore of the Sea of Marmora or in the littoral zone on the Anatolian shore situated to the east of the demilitarized zone of the Bosphorus as far as Darije.

Article 8, which regulates the status that Istanbul will be subject to, caused discussions at the Lausanne conference. In order to ensure the security of Istanbul, it was regulated that a military force of up to 12,000 people could be established in Istanbul and the adjacent part of the city. This was the exception to the neutralized and demilitarized zone (Gallipoli peninsula, Dardanelles, Sea of Marmora, both sides of the Bosphorus), "*75 miles long 3 to 15 miles wide*". In the second paragraph of Article 8, it was stated that a shipyard and a naval base could be kept in Istanbul (Ergil, 1978, p. 107).

Greece and Türkiye have the authority to amend the demilitarisation provisions stipulated in the statute by using their belligerent rights against each other or in case one of these two states is in a state of war. As soon as peace is made, the re-establishment of the regime envisaged in the Convention is expressly provided for in Article 9.

The Allied States insistently demanded the demilitarisation of the Straits, with the thought that Türkiye's ability to close the Straits with a single decision would prevent the regular and continuous functioning of the principle of free passage. The demilitarisation provisions arose from the common will of the allied states regarding the elimination of the possibility of a sovereign state (Republic of Türkiye) making independent decisions rendering the freedom of navigation dysfunctional. To this end, an agreement was reached on a "*exclusive guarantee*" system based on the

League of Nations in order to prevent the negative use of demilitarisation (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 56).

The freedom of passage and navigation has two limitations, in favour of Türkiye and in favour of the Black Sea states: The restrictions in favour of Türkiye are meant for defence purposes. In order to consolidate the defence capability of the Republic of Türkiye, it was aimed to prevent the territory (Istanbul) from being attacked by an enemy fleet. In favour of the Black Sea states, it is aimed to provide a fair balance between the naval forces of the states that do not have a coast on the Black Sea and the navy of the Black Sea states (Erkin, 1968, p. 58).

1.4. International Commission

It was the Romanian delegation that brought up the issue of the International Commission of the Straits and stated that the free passage regime of the Straits should be controlled by a commission. The Allied Powers, on the other hand, proposed that the commission, which would be of an international nature, be assigned to provide technical works and inspect the demilitarized regions and islands in the Dardanelles and Bosphorus Straits and the Sea of Marmora. After the submission of this bill, the Turkish delegation rejected the proposal, stating that subjecting the demilitarized regions to commission control would once again be a restriction on Turkish sovereignty in these regions, and that it would also be incompatible with state sovereignty. The Turkish delegation also stated that technical works such as tugboats and pilotage shown in the drafts of the allied powers are related to Türkiye's national jurisdiction, and that the commission's undertaking these duties is incompatible with Turkish sovereignty. In the face of these views, the allied states gave up the powers and duties they envisaged for the commission (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 57).

With Article 10, it was regulated that the commission would be established in Istanbul and that this commission would be an international commission and would be called the "*International Commission*". The 12th article regulates how the Commission will be formed. It is stipulated that the Turkish representative will be the chairman of the commission and the other members will be formed from the representatives of France, Italy, Japan, Bulgaria, Greece, Romania, Yugoslavia and the Soviet Union²,

² The Soviet Union was uneasy with Türkiye's acceptance of freedom of navigation for vessels of war, approaching the stance of England, and subsequently did not approve the agreement despite signing it. As a result, the Soviet Union did not become a member of the commission because it did not meet the necessary conditions to have a representative in the commission.

which are parties to this convention and signatories (article 12/1). It is separately and expressly regulated that the United States of America will gain the right to have a representative if it accedes to this convention (Article 12/2). It is also stated that if other Black Sea states not mentioned join the convention, the littoral states will be granted the right to have representatives in the Commission (Article 12/3). Having a representative in the International Commission is conditional on ratifying or joining the convention.

The expenses incurred by the Commission in carrying out its duties will be borne by the governments of the Commission members in accordance with the determined rates for the allocation of League of Nations expenses to member states (Article 13). The Commission's jurisdiction is limited to the waters of the Straits (Article 11). The Commission's duties include examining whether the provisions of paragraphs 2, 3, and 4 of Article 2 regarding the passage and stay of vessels of war and military aircraft through the Straits are being implemented as required (Article 14), preparing an annual report containing any information it deems useful on its duties performed under the supervision of the League of Nations and on trade and navigation matters, and submitting this report to the League of Nations each year (Article 15).

The International Commission does not have the authority to exercise jurisdiction. Its duty will be limited to gathering information and collecting information (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 57). It will be in contact with the Turkish government, which conducts the passage in the Straits, in order to fulfil its duties (Article 15) and will also have the authority to make regulations when necessary (Article 16).

It is stipulated in Article 17 that the performance of the task of the Commission under Article 14 shall not limit Türkiye's right to freely pass its navy through the Straits. The Commission will carry out its duties in the general interest of the principle of complete freedom for all states' naval forces, without limiting Türkiye's sovereignty rights to its detriment (Erkin, 1968, p. 19).

Türkiye appointed Rear Admiral Hüseyin Vasıf (Temel) Pasha as the Chairman of the International (Straits) Commission after the Lausanne Convention took effect. The Commission began its meetings on October 25, 1924, after the appointment of its members by England, Italy, France, and Japan ensured a majority. Representatives from Greece, Bulgaria, and Romania later attended the meetings in Istanbul. The failure of the Soviets, which was a significant regional and international power, to ratify the

Convention raised concerns about the future of the Turkish Straits. This was because any actions by the Soviets that were contrary to the Straits regime established at Lausanne could impede the work of the International Commission and threaten the regime (Bozkurt, 2017).

1.5. Sanctions and Guarantees

With the demilitarisation of the Straits, Türkiye was deprived of its right to defence against potential attacks by land or sea on the Straits, the Marmora Sea, and Istanbul, which was deemed a great sacrifice. Türkiye added that, in exchange for this sacrifice, assurances should be given by other states to prevent any negative impact on Türkiye's security resulting from the demilitarisation clause (Republic of Türkiye Ministry of Foreign Affairs, 1973, p. 58).

After the necessary changes were made in the drafts, the guarantees provided to Türkiye under Article 18 of the treaty were included in the final text. The first paragraph of Article 18 clearly states the purpose of the guarantees. In order to prevent any military injustice to Türkiye resulting from the demilitarisation of the Straits and surrounding areas, as well as to ensure the safety of the status of the demilitarized areas and free passage of vessels of war through the Straits, certain measures were adopted.

The situations that will require the implementation of measures have been identified with the second paragraph and can be listed as follows:

- i. *Violation of provisions related to freedom of passage,*
- ii. *Occurrence of any unexpected attack on these provisions,*
- iii. *Acts of war or threats of war that may endanger the security of regions that are isolated from the military by the freedom of navigation through the Straits.*

In the event that these conditions arise, the security-related provisions of the agreement will be enforced. For this purpose, the contracting states or, in any case, the guaranteeing states, namely France, England, Italy, and Japan, will jointly prevent actions using all means to be determined by the League of Nations (Article 18/2).

As soon as the actions that have caused coercive measures have ended, the strict implementation of the Straits regime specified in the agreement will be restarted (Article 18/3).

It has been stated that the provisions of Article 18 are an integral part of the provisions related to the regime of passage and military isolation, but this provision has explicitly regulated that it will not prevent the contracting states from exercising their rights and obligations under the League of Nations mandate (Article 18/4).

Although Article 18 of the treaty established a mechanism of assurance for the Turkish Straits, it was not sufficient. The states party to this treaty, namely France, England, Italy, and Japan, had committed to implementing all measures determined by the League of Nations in the event of any development threatening the security of the straits region (Baltalı, 1959, p. 43). To ensure the security of the demilitarized zone, the states' party to the treaty provided assurance. This assurance stipulated that if the provisions of free passage through the straits were violated, or if there was a threat of war or actual warfare that jeopardized the free passage through the straits or the safety of the demilitarized zones, France, England, Italy, and Japan would jointly prevent these hazards by all means that the League of Nations council would decide upon.

Although the sacrifices made by Türkiye for its security in Article 18 of the Treaty of Lausanne were attempted to be mitigated with the guarantees given, it is evident that the guarantee included in this article is inadequate to address Türkiye's legitimate concerns regarding its security (Erkin, 1968, p. 59). However, a newly established state desires to establish a place and gain respect in the international community. At the Lausanne Conference, Türkiye searched for the most appropriate options for itself between the two conflicting views, and used Soviet Union's support as leverage against England. At times, Türkiye also approached the British proposal, particularly regarding the openness of the straits to vessels of war, despite Soviet Union's opposition (İnan, 1995, p. 40).

1.6. Final Provision

It is stated that all states are open to join this agreement later, and the declaration of participation will be made to the French government, which will inform the other contracting parties. The entry into force of the participation will be possible from the date the notification is made to the French government. The agreement's entry into force is dependent on its approval by their respective navies, and the submission of the acceptance documents to Paris has been accepted.

For the states that are parties to the agreement, the agreement will enter into force in the manner shown in the Treaty of Lausanne. For the states that are not parties, the entry into force of the agreement will occur after

they submit their acceptance documents to the depositary, if their approval process has not been completed when the agreement comes into force. The depositary will inform all other contracting parties of this situation.

The duration of the agreement's validity has not been determined, nor has any time limit been set for this matter. Additionally, there is no provision in the agreement regarding termination

1.7. A Brief Review of the Convention:

At the time of the signing of the Treaty of Lausanne, the world appeared to be moving towards disarmament and preventing the threat of war through national surveillance and intervention. However, the events of the 1930s, including Japan's withdrawal from the League of Nations and Italy's invasion of Abyssinia, showed that the collective security measures envisaged in the Lausanne Convention would not be effective. In addition, disarmament and arms reduction conferences held around the world failed to achieve any results, and almost all states began implementing rearmament policies. All of these developments created a favourable appearance for Türkiye's arguments to change the regime of the straits and bring it in line with the conditions of the time. However, it should be noted that being reasonable is not a sufficient reason for something to be implemented. If Türkiye was able to have its reasonable demands accepted and change a convention that was of great importance to the Turkish state in its favour, it was only because it had calculated the shift in the balance of power in its favour and knew how to skillfully take advantage of this change (Bayur, 1995, p. 178).

The Convention, which regulates transportation throughout the Black Sea Aegean Sea and the Mediterranean and also establishes a legal status for the Black Sea, also confirms the freedom of navigation at sea and in the air. Although the established regime does not have any provisions restricting passage through the straits, it has brought certain limitations in terms of tonnage regarding the passage of vessels of war to the Black Sea. The Straits region, including the Dardanelles and the Bosphorus, was criticized without soldiers and was brought under the control of an international committee. In this context, the sovereign rights of the Republic of Türkiye have been limited by an international agreement over this region. Duties and authorities related to the defence of the Straits region were also entrusted to the League of Nations. With this regulation, the Republic of Türkiye was deprived of the opportunity to take the necessary measures in terms of security and defence interests, and it also contained serious security risks due to the Russian presence in the Black Sea (Ergil, 1978, pp. 107-108).

The Turkish delegation, especially General Ismet Pasha, had to make a decision to prevent the negotiations from being interrupted and to avoid a new war situation, and despite facing criticism from Russia, the talks were completed and a legal regime could be established (Gürün, 1997, p. 153).

According to the Mudros Armistice, the terms of the armistice would remain in effect until the conclusion of the peace conference. From this perspective, perhaps the dissolution of the conference without any results was the most critical issue that caused concern for the Turkish delegation. Throughout the conference, Türkiye's aim was for the conference to reach a conclusion without any interruption or termination. Except for exceptional cases, Türkiye avoided the outbreak of a new war (Şahin, 2019, p. 41).

In terms of the Treaty of Lausanne and the Lausanne Convention, the following general and abstract summaries can be made regarding the passage regime: The regime of the straits had accepted the principle of free passage of non-littoral states ships; during peacetime, foreign commercial ships could pass through the straits freely, both day and night. In wartime, however, if Türkiye remained neutral, peace conditions would be applied, and if Türkiye became a belligerent state, the ships and aircraft of neutral states could pass through the straits without helping the enemy, subject to certain tonnage limitations. A navy of a state with a coastline on the Black Sea that is less powerful than that of another state may not pass through the straits. Submarines have the right to pass through the straits only if they remain on the surface. At most, three ships with a tonnage of 10,000 tons may pass through to the Black Sea. Vessels of war passing through the straits in transit will continue their journey without stopping, and during wartime, if Türkiye is neutral, any warship may pass through freely. If Türkiye is a belligerent state, then neutral states' ships and aircraft may pass through the straits without helping the enemy, subject to certain conditions. A 15-20 km section of both shores of the Straits (Dardanelles and Bosphorus) has also been demilitarised.

The fact that Türkiye accepted this regime being guaranteed was due not only to the great hopes associated with the establishment of the League of Nations and the credibility of this international mechanism at that time, but also to internal reasons. By internal reasons, it is meant that the country was dealing with the problems of being a defeated state after World War I, later embarking on a great struggle, and the economic and social problems that gave birth to these two struggles made it imperative for the newly established Turkish state to achieve peace as soon as possible and as much as possible in line with the principles of the national pact. While it is a natural consequence of the sovereignty right of a state to have military

personnel present in its territory and to ensure the order around the straits, which is an integral part of the country, these cannot be possible for certain areas (the provisions demilitarisation) and the assignment of the task and authority of ensuring order to an international commission not overlapping with sovereignty necessitated the acceptance of these provisions that do not coincide with sovereignty.

As a result of the comparison of the regime of passage and the demilitarisation provisions, it should be said that Türkiye's right and authority stemming from international law, such as closing the Straits for enemy ships during wartime, has been weakened. The belligerent state is authorized to take any measure it deems necessary. But it will not support these measures with military means. Moreover, the Straits were also demilitarized. This system gives more importance to the protection of the neutrality and security of the Straits and weakens the effective defence possibilities of the state. There is no provision in the Convention that states parties (acting alone and/or together) guarantee the joint defence of the Straits (Ergil, 1978, p. 107).

However, Türkiye has accepted this convention, which limits its rights and powers in the Straits to a large extent. The main reason that came to the fore here was the concern that insisting on the closure of the straits would cause the war to start again. Despite all the opposition of Russia, Türkiye considered it more important in terms of its interests to accept the thesis of England, taking into account the political conjuncture that dominated the international system of that period (Gürün, 1991, p. 97). The Soviet Union had security concerns regarding the possibility that non-Black Sea states would send more vessels of war to the Black Sea than the number of vessels of war they had themselves (Berber, 2013, p. 234). Therefore, even though the Soviet Union signed the treaty, it did not become a party to it as it did not complete the ratification process.

The task of maintaining, restoring, and continuing peace, which is the most important task determined by the League of Nations Covenant, cannot be performed effectively and rapidly enough given the structure of the organisation. Therefore, it was not possible to ensure the prevention or rapid cessation of an attack on the Straits by appealing to the League of Nations, in spite of the provisions for isolation from the military. Türkiye had the right to maintain a force of 12,000 people in Istanbul, but it was not possible to prevent an attack on Istanbul or the Straits directly with only this force or to resist an attack. It was necessary to arm the Straits in order to ensure the security of Istanbul, Thrace, and Anatolia in a way that Türkiye could handle them. This right was clearly granted to Türkiye only in the event of its being at war, in accordance with Article IX. In such a

case, it would be impossible to arm the region properly and send forces there within a very short period of time. In such a case, Türkiye would also be in a weak position against the enemy during a war.

While certain important waterways are regulated by international treaties, these treaties generally do not comprehensively address the law of war (Hugo Caminos & Cogliati-Bantz, 2014, s. 16). This situation highlights the significance of the practices that states adopt in dealing with the problems they face when navigating international waterways during times of war, due to the imprecision of treaty provisions regarding passage through these waterways (Baxter, 1954, p. 190).

The 1923 Lausanne Convention had several strengths that made it an important achievement in international relations at the time, and its legacy continues to be accepted today.

Firstly, the Convention succeeded in addressing a long-standing and contentious issue in international relations: the regulation of the Turkish Straits (the Bosphorus and Dardanelles). The Convention established a framework for the free passage of ships through the Straits, subject to certain restrictions and conditions, and helped to reduce tensions among the signatories.

Secondly, the Lausanne Convention represents a successful example of regime formation and cooperation among states. By establishing a set of rules, norms, and decision-making procedures, the Convention created a new framework for communication, coordination, and dispute resolution among the signatories. This helped to promote peaceful navigation through the Straits and reduce the risk of conflict.

Thirdly, the Convention reflects the power of negotiation and diplomacy in international relations. The signatories to the Convention, including Türkiye, England, France, Italy, Greece, Romania, Yugoslavia, and Japan, were able to come to an agreement through negotiations, despite their different interests and perspectives. This demonstrates the potential for states to work together to address common challenges and achieve mutual gains.

Finally, the Lausanne Convention has had a lasting impact on international law and relations. Its principles and norms have been incorporated into subsequent agreements and conventions, such as the 1936 Montreux Convention, which updated and expanded the provisions of the Lausanne Convention. Today, the Turkish Straits remain a critical transit route for global commerce and security, and the principles established by the

Lausanne Convention continue to inform international discussions and negotiations regarding the region.

In summary, the 1923 Lausanne Convention had several strengths, including its ability to address a long-standing and contentious issue, its success in promoting regime formation and cooperation among states, its demonstration of the power of negotiation and diplomacy, and its lasting impact on international law and relations.

While the 1923 Lausanne Convention was successful in regulating the use of the Turkish Straits and promoting cooperation among its signatories, it also had some weaknesses that affected its effectiveness in the long term.

One of the main weaknesses of the Convention was that it did not fully address the security concerns of all parties involved. For example, Türkiye remained wary of potential threats to its sovereignty and security, particularly from the Soviet Union, and sought to maintain a degree of control over the Straits. This led to tensions with some of the other signatories, such as Greece and Romania, which saw the Convention as overly favourable to Türkiye.

Another weakness of the Convention was that it did not anticipate or address changing geopolitical realities in the region. In the decades following its signing, the balance of power in the Black Sea region shifted, with the emergence of the Soviet Union as a major power and the decline of British and French influence. This led to new tensions and challenges in the region, such as the Soviet Union's demands for greater access to the Straits and the Turkish government's attempts to balance its relationships with different powers.

Finally, the Lausanne Convention did not address all of the economic and environmental issues related to navigation through the Turkish Straits. For example, the Convention did not establish clear rules for the transportation of hazardous materials, which became an issue in the latter half of the twentieth century.

In summary, while the Lausanne Convention was successful in promoting cooperation and regulating the use of the Turkish Straits in its time, it had weaknesses in addressing security concerns, adapting to changing geopolitical realities, and addressing all relevant economic and environmental issues. These weaknesses demonstrate the challenges of creating and maintaining effective regimes in complex and changing international environments.

Later developments will provide an opportunity to change this mechanism, which works against Türkiye, by using peaceful methods. For 13 years, the provisions of the Lausanne Straits Treaty during peacetime were implemented and remained in effect. Türkiye has carefully monitored the radical changes occurring in the world, and accordingly, a justified request for a new regime, taking into account the security of the Straits, has been communicated to the relevant states.

During the interwar period, Türkiye pursued a constructive foreign policy, which created a positive image for itself in international relations. This situation was advantageous for Türkiye in terms of the acceptance of its request to revise the Treaty of Lausanne in line with current conditions. The states that wanted Türkiye by their side, particularly against revisionist states such as Germany and Italy, supported offer of Türkiye to review the Straits Convention. As Türkiye's security was being strengthened against revisionist states, an opportunity arose to change provisions that were not in line with national sovereignty in favour of Türkiye. This was only made possible by Mustafa Kemal Atatürk's personal efforts in explaining the issue to relevant countries and conveying the proposed changes himself (Gözen, 2009, p. 66).

Atatürk's foreign policy was characterized by a comprehensive understanding of the political reality, ensuring the security and future of the country and its people through a combination of deterrent measures, diplomatic cooperation with neighboring countries, and active use of force and public diplomacy. The underlying principle of this policy was encapsulated in the famous phrase "*peace at home, peace in the world*" (Canbolat, 2003, p. 64).

The Turkish Straits and its applicable regime, when appropriate conditions arise, will be brought back onto the international relations agenda by Mustafa Kemal Atatürk, and the full sovereignty over the Straits will be peacefully gained through diplomatic initiatives in the medium term.

2. Montreux Convention (1936) and the New Regime of the Turkish Straits

2.1. Reasons for amending the Lausanne Convention and the Path to the Montreux

Türkiye accepted the provisions of the Lausanne Convention that were not in line with its sovereignty and independence, such as the demilitarisation and international commission's control over the passage through the

Bosporus, taking into account the international context of the time, as there was no other realistic alternative. Additionally, due to the goodwill shown towards the League of Nations and the trust placed in this organisation by the international community, it was widely believed that peace and order could be achieved on the international system.

In the international system, there have been differences in actors and their behaviours. The collapse of Austria-Hungary had pushed the United States and Japan, distant from the European continent, to pursue effective foreign policies, leading to changes in the European-centered nature of the world. Russia had been dominated by Bolshevism, Italy by fascism, and Germany by National Socialism. After World War I, states emerged that sought to maintain the status quo as well as those that wanted to change it. Over time, foreign policy tensions began to emerge between conservative and revisionist states. The 1930s can be seen as a transitional period where attempts at forming alliances and balancing policies emerged as foreign policy tools. In this sense, the fundamental characteristics of the classical balance of power system are observed, but it can also be said that the system is in a period of change due to the foreign policies of revisionist states (Sönmezoğlu, 2015, pp. 225-226).

One of the factors that facilitated Türkiye's acceptance of the guarantee given to the League of Nations was the article of the organisation's founding treaty related to disarmament. The 8th article of the Montreux Convention (League of Nations, 1936) states that to achieve and preserve peace, it is necessary to decrease national military forces to the extent that national security is not compromised, and to ensure compliance with international responsibilities through collaborative efforts. The degree of reduction is to be determined by the Council. "*The Council, taking account of the geographical situation and circumstances of each State, shall formulate plans for such reduction for the consideration and action of the several Governments. Such plans shall be subject to reconsideration and revision at least every ten years*" (Article 8/2). After governments have approved these plans, "*the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council*" (Article 8/3). Due to complaints about the fact that states' munitions and implements of war were being produced by private firms at that time, a provision was made that member states "*...undertake to interchange full and frank information as to the scale of their armaments, their military, naval and air programmes and the condition of such of their industries as are adaptable to war-like purposes*" (Article 8/4).

While the League of Nations continued its efforts to reduce arms, it also worked with some states to hold conferences for this purpose. As a result of these efforts, the Washington Treaty of 1922, the Geneva Conference

of 1927, the London Treaty of 1930, and the Geneva Conference held between 1932 and 1934, which is considered the most important disarmament conference, were held. However, due to Germany's armament efforts, which violated the Treaty of Versailles, the Geneva Conference had to be indefinitely suspended (Gönlübol, 1975, s. 121-123).

Efforts towards disarmament through agreements and conferences have not yielded the expected results. This path, which the international community sees as a necessary component for achieving peace, has been a complete failure. This also shows that one of the guarantees aimed at preserving the regime of the Turkish Straits cannot function effectively.

In light of the developments since the 1930s, the League of Nations has not been able to fulfil its duties sufficiently in terms of maintaining and restoring peace, which were identified as its objectives.

After Japan's attack on Manchuria in 1933, the coercive measures decided by the League of Nations assembly were incapable of applying against the aggressor state. Upon a decision taken by the General Assembly of the League of Nations on January 24, 1933, Japan declared that it would withdraw from membership a month later (Gönlübol, 1975, s. 141; Gürün, 1997, p. 300).

Japan is one of the guarantor states of the regime established in accordance with the Lausanne Convention on the Straits. Leaving the League of Nations on March 27, 1933, one of the guarantees envisaged in Lausanne was destroyed. Seeing that the League of Nations was helpless in the face of this event, Türkiye made a request at the London Disarmament Conference for the first time to cancel the Annexes 4, 5, 6, 7 and 8 of the Lausanne Straits Convention, which stipulates the disarmament of the Straits (İnan, 1995, p. 42). In 1933, while the Disarmament Conference was ongoing, Türkiye expressed that the military provisions in the peace treaties signed with the defeated powers of World War I under the Lausanne Treaty should receive equal treatment. Türkiye's actual aim was to raise the issue of the need to rearm the straits. However, Türkiye's request was not accepted, as other states, especially France, objected to it, arguing that Türkiye's demand could encourage Germany to ignore its military provisions. Article 18 of the Lausanne Convention stipulated that the security of the straits would be guaranteed and protected by France, England, Italy, and Japan in cases where necessary (Mcfie, 1972, p. 206). In March 1933, Japan withdrew its membership from the League of Nations and Türkiye joined the sanctions decision of the League against Italy due to the Abyssinian occupation. Italy and Japan became states that

CHAPTER II

EFFORTS TO CHANGE AND REGULATE THE STRAITS REGIME AFTER WORLD WAR II

created uncertainties and risks for Türkiye. Therefore, the “*guarantee mechanism*” of the convention has become dysfunctional. (Gürün, 1997, pp. 466-477)

The issue of the straits was not only discussed at the disarmament conference. Türkiye brought up this issue during the negotiations held on the basis of the Stresa agreements in April 1935 in the League of Nations. Türkiye argued that the Lausanne Convention created an unequal situation against Türkiye, and despite changes in conditions since the agreement was made, this unbalanced situation persisted. Aras, the deputy of Türkiye for Foreign Affairs, explained his thesis based on two principles. Firstly, Türkiye requires security as much as any other state. Secondly, Türkiye, which actively participates in efforts to strengthen peace, cannot accept a situation that creates disparities in its movements (Aras, 2003, p. 100).

Another state that pursued a revisionist foreign policy and saw the failure of the League of Nations was Germany. Starting from 1934, Germany aimed to disarm the restrictive provisions of the Treaty of Versailles by rearming. In 1935, it reintroduced compulsory military service in violation of the Treaty of Versailles. Türkiye once again conveyed its request for the cancellation of the provisions of the Lausanne Straits Agreement regarding disarmament at the League of Nations Council meeting convened to discuss this issue. However, this request for the cancellation of these provisions of the agreement was not accepted by the major states that were parties to the agreement, as they thought that it could give courage to revisionist states and lead to some worrisome developments. In this regard, the Soviet Union supported Türkiye (Gönlübol, et al., 1996, p. 121) (Armaoğlu, 1996, p. 343).

In response to Italy's attack on Abyssinia (Ethiopia), the League of Nations resorted to coercive measures under Article 16 of the Covenant (Gönlübol, 1975, s. 144; Gürün, 1997, p. 402). During the meetings where coercive measures were discussed, Türkiye reiterated its request in the face of this threat emerging in the Mediterranean. In 1936, the occupation of Abyssinia by Italy, the armament of Dodecanese Islands³ during this occupation, and Germany's arming of the Rhineland in violation of the

³ Dodecanese Islands, which consist of 14 larger islands and several smaller ones adjacent to them were a group of islands in the southeastern Aegean Sea that were under Italian control from 1912 until the end of World War II. These islands are follows: Patmos, Lipsos, Leros, Kalimnos, Kos, Astropalia, Nisiros, Tilos, Simi, Karpatos, Halki ve Kasoz, Rodos, Meis. With the Paris Peace Treaty signed in 1947, these islands passed from Italian sovereignty to Greek sovereignty. According to the second paragraph of Article 14 of the treaty, “*these islands will be demilitarized and will remain so*”. (Pazarcı, 2015, pp. 120-121)

Treaty of Versailles (Gürün, 1997, pp. 412-413; Mcfie, 1972, pp. 206-207) led Türkiye to take action again, this time with more concrete reasons.

The international developments in 1935 and 1936 caused political tensions in Europe. Türkiye saw this situation as an opportune moment to change the Lausanne Straits Agreement. This political initiative was put into action with Atatürk's understanding that "*the situation in Europe is suitable for this initiative. We will definitely succeed in this matter*" (Gönlübol, et al., 1996, p. 121).

On April 11, 1936, Türkiye sent a note to the states that had signed the Treaty of Lausanne regarding the Turkish Straits (Republic of Türkiye Ministry of Foreign Affairs, 1973), as well as to the Secretary General of the League of Nations. The note also stated that the provisions of Article 18 had become "*doubtful and unenforceable*" due to the slow decision-making process in the Council, and expressed concern that a decision taken too late would render the intended guarantees ineffective and non-functional (Erkin, 1968, p. 65).

The situation of the guaranteeing states is noteworthy. The situations of Japan and Italy have undergone very significant changes with regard to the League of Nations. Japan withdrew from the League of Nations after the Manchurian Incident, thus rendering its effectiveness zero. Italy, on the other hand, was subjected to coercive measures following the Abyssinian crisis. France and England's ability to pursue a harmonious policy with Italy became impossible. Türkiye began to feel doubt and concern in the face of Italy's military construction projects and aggressive statements on the Dodecanese islands.

The Turkish government has shown full commitment to the sacrifices it has made in the conditions that have emerged in the ten years since 1923. It has conveyed to the international community that it has the right to demand the security conditions provided to other states for itself as well, and has stated that it is ready to negotiate for the establishment of a "new regime" in which trade and transportation will be preserved in a "*liberal*" context (Erkin, 1968, p. 66).

These demands had been supported by the Soviet Union since 1933. The Balkan Entente states, Greece and Yugoslavia supported Türkiye (Gönlübol, et al., 1996, p. 122; Soysal, 1989, p. 493). England, on the other hand, believed that the security of its distant imperial territories could only be ensured by defending the Straits and saw that keeping troops in the region would be costly in case of a war threatened by Italy and Germany. From this perspective, Türkiye's demands for the protection of

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this strategic region could also be supported by England on a plausible basis (Ergil, 1978, p. 108).

It is important to note that the disregard for international agreements was not limited to the Great Powers; for example, Austria had violated the Treaty of St. Germain by reintroducing military conscription, Bulgaria violated the Treaty of Neuilly, Italy remilitarized the Dodecanese, and Germany reoccupied the Rhineland in violation of the Treaties of Versailles and Locarno (Mcfie, 1972, p. 206). Türkiye supported the principle of collective security by providing its assistance to the League of Nations and participating in alliances and treaties. This happened at a time when several unilateral treaty breaches had seriously undermined international law and weakened the League of Nations's system. However, Türkiye's actions proved that not all nations had given in to the allure of *fait accompli* and still held a proper respect for international agreements. Turkish leaders, after diplomatic inquiries, realized that lawful means would be more beneficial for Türkiye, as it could achieve its immediate goal and more without further undermining the League system or international law's sanctity (Güçlü, 2001).

In the note it submitted (Republic of Türkiye Ministry of Foreign Affairs, 1973, pp. 21-24), Türkiye stated that the current regime of the Straits did not fully respond to the requirements of the day, and therefore, a conference should be convened to determine a new regime for the Straits that would address this problem, and Türkiye was ready for negotiations on this matter. The new regime for the Straits mentioned in the note implies the replacement of the Lausanne regime with a new one, and the justification given for this is based on the principle of international law known as "*rebus sic stantibus*". This principle allows for the modification or termination of treaties when there are changes in the conditions that existed at the time the treaty was concluded and which influenced its conclusion (Pazarıcı, 1995, p. 198; Gürün, 1997, p. 469; İnan, 2001).

The note is shaped around three main points:

- i. The period in which Türkiye accepted the regime that allowed for freedom of passage and demilitarisation (1923) is quite different from the present day (1936). Since the signing of the treaty, Europe's political and military situation has changed significantly. Although Türkiye accepted these provisions, security measures provided a guarantee. In addition to Article 10 of the agreement, Italy, England, France, and Japan agreed to participate in the defence of the Straits in accordance with the measures decided by the Council of the League of Nations in

Article 18. Furthermore, the issue of disarmament was being addressed through various conferences, and the atmosphere was dominated by the belief that this issue would be resolved in a positive way. However, by 1936, disarmament had not been achieved and, on the contrary, developments in the Mediterranean and Europe were cited as negative examples.

- ii. It cannot be said that the security of the Straits is now ensured with a satisfactory and realistic guarantee, and since the treaty did not provide for the possibility of a "*special or general threat of war*," Türkiye was deprived of legitimate security and defence measures in such a situation. This deprivation is significant, as it can negate the effects of all the guarantees. If the "*most powerful states*" were subject to such a threat, Türkiye could find itself in the most dangerous situations without any significance.
- iii. Under these conditions, the guarantee provisions in the treaty are no longer effective. This is a significant problem that creates negative effects on Türkiye's existence and security. The ineffectiveness of guarantees is a great danger not only for Türkiye but also for Europe.

Turkish request to revise the Convention through negotiation was an important step towards upholding international law and promoting peaceful revision. By taking this stance, Türkiye demonstrated its commitment to following a consistent peace policy, and also established a moral prestige as the first nation to employ peaceful methods of change. Overall, this action can be seen as a positive contribution to international relations, and a commitment to resolving conflicts through peaceful means (Güçlü, 2001).

In the 1930s, due to budget cuts, England struggled to maintain its military presence, and the Suez Canal became increasingly strategically important for England, surpassing even the Turkish Straits. The Soviet Union had a weak navy in the Black Sea, and England's other potential enemies had more modest fleets. However, the Italian navy had bases in the Dodecanese islands and was the only real threat that could target the straits. According to Article 18 of the Treaty of Lausanne, England, France, and Japan were obligated to defend the Straits against any enemy power. Returning the Straits to Turkish sovereignty would relieve England of the obligation to defend the region in the event of an Italian attack, considering England's need to strengthen its military presence in other strategic areas. These new geopolitical balances facilitated Türkiye's re-militarisation and regaining

control of the Straits by signing the Montreux Convention in 1936 (Gerolymatos A. , 2014, p. 72).

2.2. Montreux Conference

On April 11, 1936, Türkiye notified all the states that were party to the Lausanne Straits Convention about its request to amend the Straits regime along with its reasons. This request was positively received by all the relevant states except Italy. In pursuit of this goal, a conference was convened in the Swiss city of Montreux on June 22, 1936. The Turkish delegation at the conference was headed by Foreign Minister Tevfik Rüştü Aras and included Ambassador Numan Menemencioğlu, the Secretary General of Foreign Affairs, Lieutenant General Asım Gündüz, the Deputy Chief of General Staff, Ambassador Fethi Okyar, the Ambassador to London, Ambassador Suat Davaz, the Ambassador to Paris, and Necmettin Sadık, Türkiye's permanent representative to the League of Nations. In addition to Türkiye, the conference was attended by England, France, Japan, the Soviet Union, Bulgaria, Yugoslavia, Greece, and Romania (Soysal, 1989, p. 495). Italy did not attend the conference. In its response note to Türkiye, Italy had expressed its thoughts and opinions on the nature of the issue and stated that it would declare its decision later. The Italian Foreign Minister later declared that Italy would not cooperate in any matter concerning Europe until the sanctions imposed on it were lifted, and therefore, Italy would not participate in the conference (Gürün, 1997, p. 472).

The conference was planned to begin with a general discussion on the draft proposal consisting of 13 articles prepared by the Turkish delegation. However, due to the working method of the conference, the committees (*technical* committee and *drafting* committee) were able to prepare a new proposal by making changes to the Turkish proposal. The foundation of the Montreux Straits Treaty (Republic of Türkiye Ministry of Foreign Affairs, 1936), signed on July 20, 1936, in the light of the discussions and the final version of this proposal (Erkin, 1968, p. 70).

2.2.1. Turkish Proposal

The first part of the proposal includes the acceptance of the principle that commercial ships will have complete freedom of passage in peacetime, as well as during war when Türkiye is either belligerent or neutral. The second article covers the regulation of mandatory services, The fourth article imposes restrictions on the passage of commercial shipping in times of war when Türkiye is belligerent, stating that passage will only be allowed during daylight hours, and that ships will not provide any assistance to

enemy states. The second section regulates the status of vessels of war and includes two additional restrictions, in addition to the regulations set forth in the Lausanne Treaty, in order to ensure the security of the Turkish Straits and the Sea of Marmora. The first restriction requires that the number of vessels of war passing through the Straits must be reasonable and not pose a threat to Türkiye or its navy. The second one was also imposing a restriction on the presence of foreign vessels of war in the Black Sea to prevent them from posing a threat to the littoral states. (Erkin, 1968, pp. 70-71; Gürün, 1997, pp. 474-475; Mcfie, 1972, p. 211).

It can be summarized the status that vessels of war will be subject to as follows: (Erkin, 1968, p. 72; Tulun, March 2020, pp. 8-10)

- i. Submarines will not pass through the Straits, and other vessels of war will make their crossings during the day. States wishing to send ships to the Black Sea will inform Türkiye one month in advance for the organisation of the crossing in accordance with the specified restrictions.
- ii. Non-Black Sea States may pass a maximum of 14,000 tons of naval forces through the Straits. In the Black Sea, vessels of war with a tonnage of more than 28,000 tons may stay a maximum of 15 days, and aircraft carriers may not use their planes during their crossing through the Straits except in cases of breakdown or other emergencies. Vessels of war in transit through the Straits will not stay longer than the time required for their crossing.
- iii. Black Sea States are allowed an exception to the above rules for vessels of war they wish to send to the Mediterranean. If a warship belonging to one of these states has a tonnage that does not exceed 25,000 tons above the maximum tonnage (14,000), Türkiye must grant permission for its crossing, and the vessels must pass through the Straits alone.
- iv. The envisaged controlled free regime will apply even during times of war, subject to the duties assigned to Türkiye by the League of Nations.
- v. If Türkiye is a belligerent during wartime, the passage of vessels of war and auxiliary ships will be subject to the necessary arrangements deemed necessary in light of the realities of wartime, thus deviating from the complete freedom of passage and navigation principle established in the Treaty of Lausanne.

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- vi. The draft brings a new innovation in regulating the "*threat with imminent danger of war*." In this case, Türkiye will apply the wartime regime but will be obliged to inform the League of Nations and the signatory states.

In the third section, the passage of military and civilian vehicles is regulated. The air transportation between the Mediterranean and the Black Sea is determined to be carried out according to the regulations on air navigation currently in effect in Türkiye (Erkin, 1968, p. 72).

The Turkish draft foresaw the prohibition of the passage of civilian and military aircraft through the straits. This provision differs from the provisions of the Treaty of Lausanne on the Straits (1995, p. 52).

In the fourth section, the implementation procedure of the draft is determined. The effectiveness will begin from the moment of signing. The treaty will be subject to a temporary period. Therefore, any potential damages to sovereignty until the final regulation comes into effect will be resolved in favour of Türkiye. The treaty can be amended every five years, but it will be subject to the definite condition of Türkiye's approval (Erkin, 1968, p. 73)

It is evident that the Turkish proposal does not include any requests for re-arming or remilitarizing the Straits. This strategic choice was made as the removal of the demilitarisation provisions was one of the fundamental objectives of the Turkish delegation during the conference. As the lifting of the demilitarisation provisions for Türkiye was one of the main objectives of the Turkish delegation at the conference, such a tactic was preferred. No provision was included in the initial proposal regarding the removal of the International Commission as it restricted national sovereignty (Erkin, 1968, p. 70).

The regulations related to the International Commission between articles 10-16 and the joint guarantee provisions regulated in article 18 of the Treaty of Lausanne were not included in the proposal. This was because the function of this guarantee would no longer be needed after the Straits were remilitarised (Gönlübol, et al., 1996, p. 123). The passage of vessels of war will be regulated by the proposed method, which will establish automatic control and eliminate the need for the Straits Commission. The "*imminent danger of war*" was the justification for the draft, based on the defence of these territories against enemy attack and its positive impact on peace. This was explained as a deterrent to prevent the threat of attack from jeopardizing peace (Erkin, 1968, p. 72).

2.2.2 Soviet Union's Point of View

During the conference, it was evident that the Soviet Union was uncomfortable with the provisions of the Lausanne Straits Convention, particularly with regards to the passage of foreign vessels of war through the straits and their presence in the Black Sea. Although the Soviets stated that the straits should have a completely closed regime, they said they would support the Turkish proposal that included the principle of limited freedom (Erkin, 1968, p. 73). They have argued that commercial ships should be allowed to pass through the straits in accordance with freedom of navigation (İnan, 1995, p. 52). The Soviet Union advocated for the complete closure of the straits to non-Black Sea states and unrestricted passage for Black Sea states. They opposed restrictions and special permission requirements for the passage of warships of Black Sea states through the straits (Gürün, 1997, p. 475; Mcfie, 1972, p. 212).

They have also advocated for tonnage and quantity restrictions on non-Black Sea Powers' vessels of war that are to be sent to the Black Sea through the straits for courtesy visits, even if it is for that purpose only. In other words, the vessels of war belongs to Black Sea should have complete and absolute freedom of passage through the straits. As a result of foreign vessels of war being subject to restricted freedom, both the security and stability of the Black Sea and the Black Sea states will be strengthened (Erkin, 1968, pp. 73-74).

The Soviets have stated that the straits are under full Turkish sovereignty, and therefore, their requests for armament are entirely legitimate. Litvinov, the Soviet Union's delegate, expressed the need for necessary arrangements to be made for the entry and exit of vessels of war sent to aid a nation under attack by a decision of the League of Nations into the Black Sea (Erkin, 1968, p. 74).

2.2.3. England's Point of View

After the session completed at technical committee, England made some changes related to the Turkish proposal deemed necessary. England also expressed their own views on the revised proposal.

England has argued that it should benefit from the principle of freedom of navigation for such waterways. Therefore, it is not in favour of narrowing the full freedom of passage adopted in Lausanne. England did not object much to the issues that Türkiye was willing to accept in favour of the Black Sea states, thus trying to both support Türkiye against the Soviet Union and bring Türkiye to its side (Gürün, 1997, p. 476).

Although the proposal did not include a request for the armament of the straits, England stated that they would have a positive attitude towards the armament of the straits. One criticism was also raised about the Commission of the Straits. England criticized the absence of any expression in the proposal on this matter and argued that she insisted on the continued duty of this international commission (Erkin, 1968, p. 75).

Emphasizing the need for all ships to have freedom of passage through the straits, England insisted on such a regime, particularly for the security interests and the safety of imperial routes in the Mediterranean, as well as for the safety of the Mosul-Haifa oil pipeline in the event of a possible Soviet attack. They argued that the preservation of this regime should be undertaken by an international body, namely the Commission of the Straits (Erkin, 1968, p. 75).

However, England accepted that foreign vessels of war that may be present in the Black Sea should be subject to certain restrictions in terms of number and tonnage. They also accepted Türkiye's innovative threat of war provision under the Lausanne Straits Convention, subject to certain conditions (İnan, 1995, p. 53; Mcfie, 1972, pp. 213-215).

2.2.4. France's Point of View

France has generally accepted the proposal put forth by Türkiye and has acknowledged the need for new regulations for the Straits to adapt to changing international conditions in order to achieve the goals foreseen in the Treaty of Lausanne. France has advocated for the necessary changes to ensure the security of Black Sea states, primarily Türkiye, and the continuation of free transportation worldwide. France has emphasized the need for the free passage of vessels of war sent for assistance through a decision by the League of Nations, in accordance with the treaties in compliance with League of Nations. France has taken a closer stance to Russia's views, particularly with the belief that it could receive help from Romania and the Soviet Union against Germany. In this respect, France and the Soviet Union have expressed similar views. (Gürün, 1997, p. 476; Erkin, 1968, p. 75; Mcfie, 1972, p. 213; Yel, 2009, pp. 105-106).

2.2.5. Japan's Point of View

Japan considered attending the conference important, especially due to its rivalry with the Soviet Union. Japan was one of the countries that strongly opposed the views expressed by the Soviet Union, along with the England (Yel, 2009, p. 106). Japan, which has to consider its commercial interests in the Mediterranean, has stated that vessels of war of both Black Sea states

and non-Black Sea states should be subject to the same restrictions, contrary to the Soviet Union's desire to create a dualist structure (Black Sea states-non-Black Sea states) (Erkin, 1968, p. 77).

2.2.6. Balkan States' View

Bulgaria, Romania, Yugoslavia, and Greece supported the proposal put forward by Türkiye in the Montreux Conference, stating that the Turkish interests presented in the proposal also reflected their own national interests, and under the banner of "*Balkan solidarity*," they provided full support to Türkiye (Erkin, 1968, p. 78; Yel, 2009, pp. 112-116; Mcfie, 1972, p. 213).

2.2.7. Modified Turkish Proposal

Taking into account various ideas expressed in the Turkish proposal, G. England has reconciled these ideas with the proposal and a modified text has been accepted as a basis for discussions at the conference along with the original proposal. The regulations in the draft can be summarized in general and abstract terms as follows: (Erkin, 1968, pp. 76-77; Mcfie, 1972)

- a. The issue of remilitarisation is not included in the draft. However, if the draft is accepted, the remilitarisation of the straits will naturally arise.
- b. Freedom of passage and navigation is explicitly stated.
- c. Merchant vessels will be subject to the provisions in the Treaty of Lausanne. In the event of war, if Türkiye is a belligerent, commercial vessels will only pass through the straits during the day and following the route designated by Türkiye, provided they do not assist the enemy.
- d. Vessels of war will enter the straits during the day; submarines will not be allowed to enter the straits.
 - i. Notification date has been determined as 15 days ago.
 - ii. Foreign naval forces transiting through the straits, except for foreign ships present in the Straits for the purpose of visit, shall not exceed half the total tonnage of the Turkish naval forces in service. If the tonnage exceeds half the tonnage of the Turkish navy, foreign naval forces may transit provided

that their total tonnage does not exceed 15,000 tons. The situation where the half tonnage of the Turkish navy does not match the total tonnage of foreign naval forces has been taken into account here.

- iii. Transiting vessels of war will not be able to use the aircraft they carry and will leave the Straits in the necessary time.
 - iv. States without access to the Black Sea can only have a force of up to 30,000 tons in the Black Sea. In addition to the determined tonnage, these states can only send up to 15,000 tons of additional force to serve humanitarian purposes.
 - v. These states can stay in the Black Sea for up to one month.
 - vi. Vessels of war will have the freedom of passage and navigation in periods when Türkiye is not at war.
 - vii. In times of war, if Türkiye is a belligerent, Türkiye will make the arrangements for passage.
 - viii. In periods where Türkiye perceives a threat of war, Türkiye will take the necessary measures using its authority as a belligerent state, but will inform the League of Nations and the signatory states of the agreement. In addition, if the League of Nations does not approve of the measures taken by Türkiye with a two-thirds majority, Türkiye will immediately revoke these measures.
- e. The agreement will be valid for 50 years. However, no time limit has been specified for the principle of freedom of passage.

When the draft text was reviewed in line with Russia's demands and objections, a satisfactory point was reached from the perspective of the Russians.

The only issue that worried Soviet Russia was that the passage of vessels of war during wartime was left to the discretion of the Turkish government, but as long as Türkiye remained neutral, the Soviet Russia concerns were taken seriously. Due to the impending war in Europe, the Soviets could understand that relying entirely on good neighbourhood relations with the Turkish government for the security of the Black Sea was concerning. The final draft included the "*Black Sea yardstick*," which limited non-Black Sea states' forces to a fixed tonnage of 30,000 tons and restricted their stay in

the Black Sea to a specific period of time. If the Soviet fleet were to be further expanded, there was also a provision that allowed for the upper limit of the specified tonnage to be increased to 45,000 tons for one time. Considering that the Soviet Union's Black Sea fleet had a size of 60,000 tons, it was clear that this restriction created a situation in favour of the Soviet Union. The Soviets agreed to the criterion and agreed to sign the convention that changed the Lausanne regime on July 20, 1936 (İşçi, 2020, p. 746).

2.2.8. Montreux Convention 1936

The Montreux Conference ended on July 22, 1936, and the Convention Regarding The Regime of the Straits (Montreux Convention) was signed on July 20, 1936, by nine states that were parties to the Treaty of Lausanne, except Italy. Italy joined the treaty on May 2, 1938, based on Article 27 of the treaty. At the time Japan signed the treaty, it was not a member of the League of Nations. Articles 19 and 25 of the treaty mention the powers of the League of Nations, and Japan added a reservation to the treaty to avoid any responsibility under these articles.

However, after the end of World War II, Japan ceased to be a party to the Montreux Straits Convention with the peace treaty signed in San Francisco, and also renounced all rights, interests, and obligations arising from Article 16 of the Treaty of Lausanne (Article 8/b of the treaty signed on September 8, 1951) (Gürün, 1997, p. 483).

Before 1951, all Japanese-flagged ships benefited from the regime applicable to non-littoral states in the passage through the Straits to the Black Sea; this is still valid today. Japan has waived its rights under Articles 24 and 29 of the Convention. These rights include obtaining a report containing information on foreign warships passing through the Straits that will be regulated by Türkiye in Article 24, and waiving the right to propose changes to the Convention regulated in Article 29 or the right to participate in the conference to be held.

The Montreux Convention is a legal agreement that grants Türkiye sovereignty over the Turkish Straits. The Convention is composed of several parts, including five sections that are named after their respective topics, such as "*Merchant Vessels*," "*Vessels of War*," "*Aircrafts*," "*General Provisions*," and "*Final Provisions*." Each section covers specific articles, with the first section covering Articles 2-7, the second section covering Articles 8-22, the third section covering Article 23, the fourth section covering Articles 24-25, and the fifth section covering Articles 26-29. Additionally, there are four Annexes that deal with various topics. Annex I

includes regulations related to taxes and charges, Annex II deals with standard displacements, categories over-age ships, Annex III name list of three Japanese training ships, Annex IV covers the categories and sub-categories of vessels to be included in the calculation of the total tonnage of the Black Sea Powers. Based on the Protocol, Türkiye has the right to re-establish military control over the Straits.

The definition of the Straits is made in the introduction of the Montreux Straits Convention: it refers to the "*Dardanelles Strait, the Marmora Sea, and the Bosphorus Strait,*" and uses the term "*Straits*" for this region. It is stated that the purpose of the Convention is passage and navigation. Furthermore, it is clearly stated that the aim is to create a regulation that will protect Türkiye's security and the security of riparian states in the Black Sea, following the principle brought by Article 23 of the Treaty of Lausanne signed on July 24, 1923.

It should be noted that this Convention was decided to replace the Convention of July 24, 1923, signed in Lausanne. It should be emphasized that the provisions of the Lausanne Straits Convention that are not subject to any contrary provision or not subject to any regulation in the Montreux Convention are still in force.

In the first article, the principle of freedom of navigation and passage was reaffirmed for the signatory states. However, this principle of freedom was only granted to vessels by sea. The freedom of passage by air is not included in the freedom of passage regulated in this agreement. While there was complete freedom of passage by air in Lausanne, there is no such provision in Montreux.

In the first section of the convention, the passage of merchant vessels regulated within the framework of 4 situations, which are the passage during peace, war, during Türkiye's belligerent state, and finally, when Türkiye considers herself "*to be threatened with imminent danger of war*".

The passage of vessels of war is discussed in the second section. Here, the passage regime is examined separately in each of the 4 situations mentioned above. The passage of vessels of war during peacetime and in time of war when Türkiye is non-belligerent is also regulated separately for littoral and non-littoral states in the Black Sea.

The third section regulates the status to be applied to aircrafts.

The fourth section, regulates that the duties and powers of the “*International Commission*” mentioned in Article 10 of the Lausanne Straits Convention are given to Türkiye.

The fifth section, under the heading “*Final Provisions*,” addresses the approval and entry into force of the Convention, accession to the Convention, termination of the Convention, procedures for making a new Convention, and the procedures required to amend the Convention.

In addition to the Convention, there are also several annexes and protocols. Annex I regulates the determination and collection of fees and charges to be taken by the Turkish government. Annex II lists the measurements that will be used to calculate the tonnage of ships, determine their classes, and identify ships that have reached the over-age. Annex III lists the names of the vessels of Japan's three training ships that two units may be allowed to visit the ports in the Straits together. Annex IV determines the categories and subcategories of vessels to be included in the total tonnage of the Black Sea Powers.

Furthermore, there is also a protocol annexed to the Convention. This protocol includes provisions related to the remilitarisation of the Straits.

According to Article 26 of the Convention, the new regime established as explicitly stated in the protocol, entered into force on November 9, 1936, after the submission of six ratification documents.

It is possible to summarize the convention around five main principles (Belik, 1962, p. 17):

- a. By removing the provisions that required demilitarisation, sovereignty rights were granted to Türkiye. The guarantee of the newly established regime has been entrusted to Türkiye's responsibility.
- b. Free passage and navigation were granted to commercial ships, while commercial airplanes were excluded from this freedom.
- c. Freedom was granted to vessels of war subject to certain limitations.
- d. The International Commission was abolished, and its powers and duties were transferred to the Republic of Türkiye.

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- e. The principles and procedures for amending the Convention have been determined.

2.3. Regime of Passage

The straits are divided into "*national straits*" or "*straits used for international navigation*" depending on the nature of the legal rules they are subject to. National straits occur when both shores belong to the same state and the distance between the coasts is less than twice the width of that state's territorial sea. In such cases, these straits are considered to be under the full sovereignty of the littoral state. If the distance between the shores is wider than twice the width of the territorial sea, and there are open sea sections in between, the national strait status of such waterways can be claimed based on historical rights, and these straits can be subject to the regime of internal waters or territorial seas (İnan, 1995, pp. 1-3).

The first paragraph of Article 1 of the Convention clearly states that passage and navigation through the Straits will be carried out within the principle of freedom. It should be noted that the French text, which is the original language of the Convention, uses the expression "*liberté de passage et navigation*," not "*transit*" (Oral, 2016).

The concept of "*transit*" and "*transit passage regime*" have different meanings, as well as their application to the Turkish Straits. Because the right of passage through the Turkish Straits is explicitly regulated by the Montreux Convention, it is not subject to the "*transit passage regime*". The United Nations-led Law of the Sea Conferences have addressed the legal status of straits used in international transportation and the regulations surrounding transit through them. At the First Law of the Sea Conference in 1958, the topic of straits used for international transportation was approached through the concept of innocent passage, resulting in the regulation that passage through such straits cannot be halted. During the conference, Türkiye voiced its opinion that the Montreux Straits Convention, which remains effective, should not be impacted by the proposed Law of the Sea Convention (Lütem, 1959, p. 30). The United States and the Soviet Union intensified their diplomatic efforts towards the acceptance of the transit passage regime, and eventually, in 1982, the United Nations Convention on the Law of the Sea (UNCLOS) was adopted, which established the transit passage regime for straits used in international transportation. This regime not only includes innocent passage but also makes passage much easier (Güneş, 2007, p. 224).

The transit passage regime is defined in Part III, Section 2 (Articles 37-44) of the UNCLOS (UN, 1982) from 1982. The passage also notes that

Article 35/c of the same convention specifies that the legal regime of straits regulated by long-standing agreements is not affected by the provisions of Part III.

“Nothing in this Part affects:....

c. 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” (UNCLOS, 1982, 35/c.)

Therefore, the provisions of Part III, including the transit passage regime, do not affect the legal regime of the Turkish Straits. (Toluner, 1996, p. 147; Baykal, 1998, p. 245; İnan, 1995, p. 50; Toluner, 2004, p. 401; Pazarcı, 1998, p. 373; Demir, 2018, p. 337). According to Bing Bing Jia: (Jia, 1998, pp. 144-145)

“Some argue that Article 35(c) precludes any treaty in the future from evading Part III by the condition of ‘long-standing international in force.’ The wording of the provision is not, however, conclusive in favour of this argument. There is no reason why Article 35(c) cannot cover treaties made before 16 November 1994 when the CLOS (United Nations Convention on the Law of the Sea) entered into force. It does not, however, concern treaties between non-parties to the CLOS or between a party and a non-party”

During the Montreux Conference, Türkiye requested that a provision be included in the treaty to reserve its sovereignty-based powers regarding the nature of passage while negotiations were ongoing. However, this request was not included in the Convention, provided that the provisions of the Convention were respected, and Türkiye's sovereignty over its territory and territorial waters continues while administrative and judicial powers regarding ships passing through the Straits are still in effect (Pazarcı, 1998, p. 382), and as long as there is no disagreement or opposition to the principle of innocent passage. Therefore, it cannot be argued that some of the powers based on Türkiye's sovereignty for the security of Türkiye are abolished for the continuity of the principle of free passage and its benefits. This is a matter within the scope of protecting legitimate interests. This matter is protected by both national and international law (Odman, 1993b; Toluner, 1996, pp. 165-166; İnan, 2004, pp. 166-168).

The passage regime has become subject to Türkiye's control, albeit partially limited by some restrictions on Türkiye's sovereignty rights. (e.g., fees and charges, or provide pilotage or towing services) (Erkin, 1968, pp. 117-118). The areas in which Türkiye's sovereignty rights are restricted relate to passage and navigation, which are clearly regulated in the convention. In some areas that are not explicitly addressed in the convention (such as

judicial jurisdiction, traffic regulation, and prevention of pollution), Türkiye has full sovereignty authority (Toluner, 1996, p. 166). The intention behind freedom of passage was to operate within the confines of international law, encompassing the principles of "*innocent passage*," without compromising Türkiye's sovereignty (Aybay & Oral, 1998).

The first article of the convention states that all states agreed to recognize and to affirm the principle of freedom of passage and navigation by sea and by air. With this reference, some consequences arise. Firstly, the "immunity of the principle of freedom of passage" can be claimed. Secondly, it is determined in Article 28 that the convention is valid for a period of 20 years. However, this limited period does not cover the principle of freedom of passage and navigation, which means that this principle is unlimited and perpetual (Erkin, 1968, p. 101).

The unlimited nature applies to the "*duration*" of the principle. The principle of freedom has been given the status of an "*objective principle*" by the convention; therefore, this principle is immutable. Freedom of passage is not absolute and must comply with the principle of innocent passage (Belik, 1962, p. 17).

Innocent passage is regulated in Part III, Section 2 of the 1982 United Nations Convention on the Law of the Sea. According to article 19/1, passage will be innocent "...so long as it is not prejudicial to the peace, good order or security of the littoral State.." The definition mentions objectively determinable harms and foresees a limited scope of innocent passage.

The regime established in the Montreux Convention is the innocent passage regime. The transit passage regime and the innocent passage regime is different principles. The transit passage regime in the 1982 UNCLOS limits the authorities of littoral states and restricts their regulative powers in the context of international rules, standards, and practices. Compared to the free passage regime, the transit passage regime is a "*more liberal*". Although the term "*innocent*" is not mentioned in the Montreux Convention when referring to the passage regime, the law applicable at the time of the convention referred to the innocent passage regime. (Toluner, 2004, p. 401) Türkiye has an obligation to ensure that all merchant vessels are granted unrestricted freedom of innocent passage and navigation. (Joyner & Mitchell, 2002)

The passage regime that applies to the Turkish Straits is sui generis (unique) (Aybay, 1998, p. 55; Tarhanlı, 1998; İnan, 2004, p. 166; Toluner, 2004, p. 313; Demir, 2018, p. 337; Ece, 2011, p. 54; Oral,

2016). It can be considered a regime similar to innocent passage. (Aybay, 1998, p. 65).

Pazarıcı (1998, p. 373) is describing the transit regime as "*ad hoc*", The "*right of passage*" aims to ensure free and uninterrupted maritime transportation, while "*innocent passage*" aims to protect the interests and values of the littoral state (Toluner, 1996, p. 111). The right of innocent passage refers to a ship's passage through foreign territorial waters for purposes such as entering or exiting an internal sea, entering the territorial waters of another country, and accessing the open sea (Aybay, 1998, p. 45). The 19th article of the UNCLOS establishes the standard that the passage must not prejudice the peace, good order, or security of the littoral state. Situations that cause harm are listed in article 19/2 as follows:

- “(a) any threat or use of force against the sovereignty, territorial integrity or political independence of the littoral state, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;*
- (b) any exercise or practice with weapons of any kind;*
- (c) any act aimed at collecting information to the prejudice of the defence or security of the littoral state;*
- (d) any act of propaganda aimed at affecting the defence or security of the littoral state;*
- (e) the launching, landing or taking on board of any aircraft;*
- (f) the launching, landing or taking on board of any military device;*
- (g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the littoral state;*
- (h) any act of wilful and serious pollution contrary to this Convention;*
- (i) any fishing activities;*
- (j) the carrying out of research or survey activities;*
- (k) any act aimed at interfering with any systems of communication or any other facilities or installations of the littoral state;*
- (l) any other activity not having a direct bearing on passage.”*

"*Freedom of passage*" does not mean the right to pass without limits or rules. In sum, while the vessels pass through the straits, they should not have any intention of aggression or causing harm, and their passage should not

violate the sovereignty or security of the littoral state. The passage should be considered as a peaceful and routine transit without any hostile intentions. In sum, all vessels passing through the straits must avoid behaviors that may cause harm (Toluner, 1996, pp. 111-116).

Free passage is also limited for Türkiye in terms of the security of littoral states in the Black Sea. In addition, military aircraft only have the "*right of navigation*" through Türkiye's sovereign territory. Additionally, it can be said that aircrafts only have the right of free passage over the territories under Türkiye's sovereignty, which also brings a limitation. All these restrictions not only undermine the principle of freedom of navigation but are also integral to it (Erkin, 1968, p. 101). Moreover, the passage regime adopted in the Montreux Convention highlights the "*sui generis*" nature of the Turkish Straits (Aybay & Oral, 1998).

2.3.1 Merchant Vessels

The Montreux Convention provided a detailed description of "*warships*" and declared that any vessel not meeting the criteria for a "*warship*" would be classified as a "merchant vessel." The London Naval Agreement of March 1936 served as the foundation for this description (Bilsel, 1947, p. 738).

2.3.1.1. In time of Peace

Regardless of their flag and cargo, they have the freedom of passage and navigation through the Straits day and night. They cannot be subject to any formalities during their passage (Article 2). However, an exception to this is regulated in the 3rd article. Accordingly, merchant vessels passing through the Straits will stop at a sanitary station near the entrance of the Straits to undergo health checks prescribed by Turkish laws in compliance with international sanitary regulations.

All ships that have a clean bill of health or a declaration of health testifying that they do not have the problems specified in the second paragraph of Article 3 will be allowed to pass through the Straits without being forced to stop again, provided that they are examined in detail that can be conducted day and night.

Article 3/2 outlines the protocol for vessels carrying contagious diseases such as plague, cholera, yellow fever, exanthematic typhus, or smallpox. If a vessel has any of these diseases on board or has had them in the previous seven days, or if the vessel has left an infected port in less than five times twenty-four hours, it must stop at the designated sanitary stations. At these

stations, the Turkish authorities may direct the vessel to embark sanitary guards. These guards will not be subject to any tax or charge and must be disembarked at a sanitary station when the vessel leaves the Straits. This protocol is in place to prevent the spread of contagious diseases through the Straits.

Ships passing through transit will not be subject to any fees other than taxes and charges identified in Annex I of the Convention (Article 2/1). If Türkiye decides to reduce fees, this will apply to all commercial ships without any distinction based on the flag (Annex I, 1). The expression "*without any distinction*" indicates that these tariffs will also apply to Turkish-flagged commercial ships passing through the Straits (İnan, 1995, p. 62).

The taxes and charges collected are for two passages, meaning for entry and exit from the Black Sea or the Aegean Sea through the Straits. However, if a commercial ship has spent more than 6 months since its entry into the Straits, it will have to pay the prescribed taxes and charges again for its return passage through the Straits (Annex I, 2).

If a commercial ship will make a one-way passage through the Straits, meaning it will not return, it will pay half of the prescribed fees for Lighthouses, Light and Channel Buoys, and Live Saving Services (Annex I, 3). Any increase or modification of the tariffs can only be determined by applying the provisions of Article 29 of the Convention (Annex I, 4). These tariffs have undergone some changes in the years following 1982. This will be addressed later.

To make it easier to collect taxes or charges, commercial ships traveling through the Straits must provide certain information to officials at designated stations, as specified in Article 2/2. This information includes the ship's name, nationality, tonnage, destination, and last port of call. However, the choice to use a pilot or towage service is optional (Article 2/3).

2.3.1.2. In Time of War Türkiye is not Belligerent

During times of war, if Türkiye is not a belligerent, commercial vessels will continue to be subject to the regime of peacetime. In terms of transit and navigation freedom, there will be no restrictions or interruptions for commercial vessels during wartime. Pilotage and towage services will remain optional (Article 4). The reason for using the term "*non-belligerent*" instead of "*neutrality*" in the Convention is to prevent different

interpretations due to the broad scope of the neutrality term (Erkin, 1968, p. 102).

2.3.1.3. In Time of War Türkiye is Belligerent

During wartime, if Türkiye is a belligerent, merchant vessels of a nationality not at war with Türkiye shall be allowed to pass through the Straits based on the principle of free passage. However, this freedom is subject to conditions. These ships are not allowed to assist the enemy state in any way (Article 5/1). Ships can only pass through by day and on the route determined and indicated by the Turkish government (Article 5/2).

With respect to this regulation, it can be said that Türkiye has the authority to inspect and search vessels passing through the Straits due to Türkiye's status as a belligerent state. This right and authority not only serves to ensure Türkiye's security, but also aims to ensure the safety of non-belligerent state vessels. While the inspection authority is clearly defined in the Lausanne Straits Convention, it is not explicitly stipulated in the Montreux Convention. However, since this right is recognized by international law and the law of war, it is within Türkiye's authority as a sovereign state, even if it is not explicitly regulated in the Convention.

2.3.1.4 Türkiye consider herself to be threatened with imminent danger of war

One of the many differences between the Montreux Convention and the Lausanne Straits Convention is the use of the term "*imminent danger of war*". In fact, this term was clearly stated in a note sent by Türkiye to the states that are parties to the Lausanne Convention on April 11, 1936. At the Montreux Conference, Türkiye's request was accepted and a special regime applicable to both commercial ships and vessels of war was established.

In such a situation, commercial vessels will pass through the Straits in accordance with the principle of free passage. Therefore, the second article is in effect. However, the passage must be made during daylight hours and on the route determined by Türkiye (Article 6/1). Thus, the principle of free passage is subject to two restrictions. Türkiye may require pilotage for commercial vessels, but cannot demand any fee for this service (Article 6/2).

The power to determine whether Türkiye is in such a situation is solely vested in the Turkish government (Article 21/1). However, this is subject to a method in Section II of the Convention, specifically Article 21/3.

Thus, if Türkiye believes that such a situation exists, the Turkish government must inform the League of Nations and the other states parties to the Convention of the measures taken. If the measures taken are deemed unjustified by a two-thirds majority of the League of Nations Council and a majority of the states parties to the Convention share the same view, the measures taken by the Turkish government must be immediately lifted (Article 21/4). After the measures are lifted, the regime applied during peacetime will continue unchanged.

2.3.2. Vessels of War

The Montreux Straits Convention has specified the definitions of war vessels in detail in Annex 2 of the convention in order to regulate their passage through the Straits. War vessels have been defined based on their characteristics and tonnage criteria in Annex 2 (Article 8).

War vessels have been classified into 6 groups based on their types as Capital Ships, Aircraft-Carrier, Light Surface Vessels, Submarine, Minor War Vessels, and Auxiliary Vessels (Annex II/B). The definitions determined in the 1936 London Treaty have been transferred verbatim to the convention. However, war vessels were divided into 7 groups in the London Treaty, and the seventh group of vessels is not considered as a war vessel in the Montreux Straits Convention. In the first article of the London Treaty, warships were defined as seven classes, and minor surface ships below 100 tons were described as the seventh class. However, there is no mention of seventh-class ships in this convention. Although the reason for these ships not being included in the convention is unknown, this "*neglect*" poses an important issue for Türkiye in disputes that may arise during times of war or crisis (Seydi & Morewood, 2005; Bilsel, 2022, pp. 49-50; Sönmezoğlu, 2015, pp. 470-472).

The criteria for determining the characteristics and tonnage of war vessels have been discussed in detail in Annex 2. The contracting states cannot impose different definitions on war vessels defined in detail in Annex 2. According to Article 8, States have accepted this as an obligation (Toluner, 1996, p. 170).

2.3.2.1. In Time of Peace

The passage of war vessels through the Straits has been regulated by subjecting them to certain classifications, taking into account the security of Türkiye and the states with coasts to the Black Sea. The limitations that apply to the passage of war vessels through the Straits can be listed as follows:

- i. Procedures related to passage
- ii. Classification of vessels
- iii. Tonnage of vessels
- iv. Number of vessels

2.3.2.1.1. Regulations Regarding the Straits

2.3.2.1.1.1. Procedure for Passage through the Straits

In order to pass through the Straits, vessels of war must provide advance notification to the Turkish government through diplomatic means. The normal notification period for states with coasts to the Black Sea is 8 days, while for states without coasts to the Black Sea, it is 15 days. The notification must include information such as the destination of the vessel, its name, type, number, the date of passage during the outward passage, and the dates of passage if there is a return journey. If there is a change in the dates, the Turkish government must be informed through a new notification with a minimum advance notice of 3 days (Article 13/1).

When passing through the Straits in the outbound direction, it is necessary to complete the passage within the designated time frame without delay. The maximum time allowed for passage is 5 days. If the passage is not completed within this time frame, a second advance notification is required (Article 13/2).

During the passage, without stopping, the commander of the vessel must report the composition of their force to one of the stations located at the entrances to the Dardanelles or Bosphorus Straits in an "*open*" manner (Article 13/3).

The Turkish government will inform the representatives of the contracting states in Ankara about the composition, tonnage, entry and, if applicable, return dates of warships that will pass through the straits, which have been notified to it in accordance with the provisions of this agreement (Article 24/4). As long as the passage is made in accordance with the convention, this notification is of a formal/notification nature and cannot be considered as a form of permission (Belik, 1962, p. 21).

Auxiliary vessels built for carrying fuel for warships are not subject to the prior notification provided for in Article 13 (Article 9/1). However, in order to benefit from this exception, it is required that "*for floating targets,*

having no more than two guns of a maximum calibre of 105 millimetres; for aerial targets, having no more than two guns of a maximum calibre of 75 millimetres" (Article 9/2).

Light surface vessels, minor war vessels, and auxiliary ships, regardless of their flag and their relationship to the littoral states of the Black Sea, can freely pass through the straits without any fee. This freedom applies on condition that they comply with the pre-notification requirement in Article 13 and other conditions stipulated in the following articles and that they enter the straits during the day (Article 10).

Light surface vessels are defined as "*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)*" (Annex II/B 3).

Minor war vessels are defined as "*surface vessels of war other than auxiliary vessels, the displacement of which exceeds 100 tons (102 metric tons) but does not exceed 2,000 tons (2,032 metric tons), which do not have a gun with a calibre exceeding 155 mm, which are not designed or equipped for torpedo launching, and which are incapable of exceeding a speed of 20 knot.*" (Annex II/B 5).

Auxiliary vessels are naval surface vessels *with a standard displacement exceeding 100 tons (101 metric tons) that are primarily used for fleet duties or as troop transports, or in some other non-combat role. They are not specifically built for combat and do not have a displacement greater than 100 tons. These vessels are not designed for combat and do not have guns with a diameter greater than 155 millimeters, more than eight guns with a diameter greater than 76 millimeters, or equipment for launching torpedoes or armored protection. They cannot travel faster than 28 knots, are not specially designed or equipped to launch aircraft at sea, and have no more than two devices for launching planes* (Annex II/B 6).

Vessels of war transiting through the straits are not allowed to use the aircraft they carry for transportation purposes (Article 15), and they cannot stay in the straits longer than necessary for their transit, except in case of damage or maritime casualty (Article 16).

2.3.2.1.1.2. Limits by Ship Categories

During peacetime, only light surface vessels, minor war vessels, and auxiliary vessels have the right to free passage through the straits. Therefore,

capital ships, aircraft carriers, and submarines, in principle, cannot benefit from the freedom of passage through the straits.

Capital ships are divided into two subcategories (Annex II/B 1):

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

Aircraft carriers are divided into two subcategories:

- a. those with a deck on which aircraft can flying-off or landing on,
- b. surface vessels of war, without the aforementioned deck, which are specifically designed or equipped to carry and operate aircraft at sea, regardless of their displacement. If a vessels of war has not been specifically designed or equipped for this purpose, and a landing-on or take-off deck is subsequently installed, the vessel does not fall under the category of an aircraft carrier (Annex II/B 2).

Submarines are defined as all vessels designed to operate below the surface of the sea and are excluded from the principle of freedom of passage through the straits for the three classes of vessels mentioned above (Annex II/B 4).

However, there are exceptions to this principle, which will be mentioned later, such as courtesy visits and exceptions accepted in favour of the Black Sea Powers.

2.3.2.1.1.3. Restrictions on Tonnage

The total tonnage of all non-Black sea States' naval forces that can transit through the straits cannot exceed 15,000 tons (Article 14/1). These restrictions do not apply to auxiliary vessels mentioned in Article 9, provided they pass separately. Moreover, these restrictions do not apply to ships making courtesy visits or exceptions accepted in favour of the states that have a coast on the Black Sea (Article 14/3).

2.3.2.1.1.4. Restrictions on Number of Vessels

At any given time, a foreign state's vessels of war passing through the straits cannot exceed nine in number (Article 14/2).

Damaged vessels of war during transit will not be counted towards the tonnage or number limit and will be subject to special security provisions imposed by Türkiye during their repairs (Article 14/4).

There are certain exceptions granted to states that have a coast on the Black Sea, which are regulated in Articles 11 and 12 of the Convention. The application of the restrictions mentioned above to these states would result in their naval forces being confined to the Black Sea and unable to reach the Mediterranean. To prevent this, the Convention has accepted certain exceptions in favour of these states through relevant articles (Belik, 1962, p. 13).

According to Article 11, states with a coast on the Black Sea shall be permitted to send capital ships with a tonnage exceeding that specified in Article 14/1 through the Straits, one by one, with a maximum of 2 torpedoes, provided that they notify Türkiye in advance of the laying down or purchase of such submarines constructed or purchased outside the Black Sea, for the purpose of re-joining their base. Furthermore, if these ships need to be repaired in dockyards outside the Black Sea, they may be permitted to pass through the Straits upon Türkiye's explicit notification, according to Article 12/1. However, according to Article 12/3, all submarines must pass through the Straits one by one during daylight hours on the surface, regardless of their purpose.

During the conference, the issue of whether states without a coastline on the Black Sea could pass their aircraft carriers through the Turkish Straits was discussed, and it was decided that such ships cannot pass through the Turkish Straits. However, the same issue was not addressed from the perspective of states with a coastline on the Black Sea. The question of whether Black Sea states could pass their aircraft carriers through the straits was not discussed at the conference, and the Black Sea states themselves did not bring up this issue (İnan, 1995, p. 70).

Within the framework of Annex II, the passage of aircraft carriers through the Turkish Straits was not regulated, and since the passage of these types of ships has not been regulated for both states with and without a coastline on the Black Sea, their passage is prohibited. There are no restrictions on the category and tonnage of warships belonging to the Turkish Navy. The Turkish Navy has the right to free passage and navigation through the

Turkish Straits for all warships without any limitations on their type or tonnage (İnan, 1995, pp. 66-67).

2.3.2.1.2. The Situation in the Black Sea

The restrictions and prohibitions discussed under this heading apply to states that do not have a coastline on the Black Sea. Under the regime established by the Lausanne, both commercial vessels and vessels of war were allowed to navigate freely in the Black Sea and were expected to comply with the same provisions of the treaty as much as possible. However, the Montreux Convention introduced certain limitations and prohibited capital ships, aircraft carriers, and submarines from entering the Black Sea, effectively closing off the Black Sea to such vessels of states without a coastline on the Black Sea. Article 18 of the Convention also imposed an additional limitation by categorizing the ships that non-Black Sea littoral states are allowed to pass through the straits based on their tonnage.

The total tonnage of warships that can be present in the Black Sea for these states during peacetime is limited to 30,000 tons (Article 18/1-a).

The restrictions mentioned so far were determined with consideration to the security of the Black Sea states. In order for the guarantee provided by the Montreux Convention to be more effective, it not only protects each individual Black Sea state against the fleet of a single state without a coastline in this sea, but also serves as a protective shield against the superiority of naval forces of all non-Black Sea states according to the identified ship classes (Erkin, 1968, p. 108).

Secondly, the total tonnage of vessels of war that non-Black Sea littoral states can simultaneously have in this sea cannot exceed 45,000 tons. This situation, which constitutes an exception to the regulation of 18/1-a mentioned above, is subject to a condition: in case at any time the state with a coastline on the Black Sea possessing the strongest navy exceeds the total tonnage of the most powerful navy in the Black Sea at the time when the Montreux Convention was signed by at least 10,000 tons, the total tonnage of ships that can be present in the Black Sea for states without a coastline on the Black Sea can be increased. This provision is set out in Article 18, paragraph b, which allows the upper limit of 30,000 tons to be increased up to 45,000 tons, depending on the extent of the increase in tonnage of the littoral state's navy.

The 4th Annex of the Convention clearly indicates which classes of ships are included in the total tonnage calculation. The total tonnage calculation

will include capital ships (a and b subclasses), aircraft carriers (a and b subclasses), light surface ships (a, b, and c subclasses); submarines and according to the definitions given in Annex 2 and also using the water displacement criterion defined in Annex 3. The ships to be included in the total tonnage calculation are the ones that have not exceeded their life of service (Annex 4, 1st paragraph).

As regulated by the 4th additional protocol, each littoral state is obliged to inform the Turkish government of the total tonnage of its navy present in the Black Sea on January 1st and July 1st of each year. The Turkish government will then transmit this information to the other party states and the Secretary-General of the League of Nations (Article 18/1-6). This notification must also include the total tonnage of the class and subclass of vessels specified in the first paragraph of the 4th additional protocol (Additional Protocol 4, second paragraph).

As per Article 18 of the Convention, it is clear that the total tonnage of the navy of the states bordering the Black Sea must be reported to the "*Secretary-General of the League of Nations*," and as such, the Republic of Türkiye does not report tonnage to the United Nations. However, the annual reports required under Article 24 are sent to the United Nations (Alpyavuz, 2009).

The criterion of 30,000 and 45,000 tons is a "*total limitation*" in the convention for non-Black Sea littoral states to transit war vessels through the straits. In addition, a "*singular limitation*" has also been determined (Erkin, 1968, p. 108), which is the tonnage that any state can have in the Black Sea. The determination is made by taking two-thirds of the wholesale tonnage as a measure. Therefore, one of the non-littoral states of the Black Sea can have a naval force in the Black Sea as long as it does not exceed two-thirds of the tonnage specified in paragraphs "a" or "b" (Article 18/ 1-c).

An exception to these restrictions has been introduced with paragraph d. One or more states without a coast on the Black Sea may send naval forces to the Black Sea for humanitarian purposes. In this case, the total tonnage of the forces to be sent shall not exceed 8,000 tons. These forces will be able to enter the Black Sea subject to the permission of Türkiye without having to make prior notification.

Here, certain conditions have been taken into account. If the tonnage specified in paragraphs "a" and "b" of Article 18 has not been reached and the total tonnage will not be exceeded with the forces to be sent, the Turkish government is obliged to grant the necessary permission as soon

as possible after receiving such a request. If the specified tonnage has been reached or the total tonnage will be exceeded with the forces to be sent, the Turkish government is obliged to immediately inform the littoral states of the request received.

If these states do not object within 24 hours of receiving the information, the Turkish government will notify the relevant states of its decision within 48 hours at the latest (Article 18/1-d). The entry of non-littoral states into the Black Sea will be carried out in a manner that allows for the total tonnage specified after such a situation arises. The third limitation made in this title is related to time. Warships of non-littoral states cannot stay in the Black Sea for more than 21 days, regardless of their purposes (Article 18/2.)

2.3.2.2. Türkiye is Not a Belligerent in Time of War

The legal regime to which vessels of war will be subject in case of a war in which Türkiye is not a belligerent is regulated in Article 19 of the conventions. In such a case, the vessels of war of non-belligerent states will benefit from the freedom of navigation and transit applicable during peacetime (Article 19/1).

However, due to the different regulations between the naval forces of states with and without coasts on the Black Sea during peacetime, the application of this article could violate the fundamental principle of equality of states in wartime (the principle of fairness) (Erkin, 1968, p. 109). Therefore, the passage of vessels of wars of belligerent states through the Straits is subject to special regulation.

It is prohibited for warships belonging to belligerent states to pass through the Straits (Article 19/2). There are three exceptions to this ban, which can be listed as follows:

- i. *Assistance to a state under attack in accordance with a mutual assistance agreement binding Türkiye that has been made and registered by the League of Nations (Article 19/2);*

The exceptional situation arising from mutual assistance agreements is not an obligation under Türkiye's Montreux Convention, but rather stems from the commitments undertaken under mutual assistance agreements. This exception relates to situations where aid is to be provided to a state that has been attacked in accordance with the mutual assistance agreement signed in accordance with the Treaty of Lausanne and binding Türkiye (Erkin, 1968, p. 110). This aid arises when the League of Nations Council

fails to reach unanimity. Warships of the states party to the mutual assistance agreement could pass through the Straits for this purpose. However, for such a passage to be made based on the aid agreements, it was subject to certain conditions in the Montreux Straits Convention. These conditions included the registration of the aid agreement with the Secretariat of the League of Nations and its publication by that organisation. In other words, secret agreements were excluded. According to Toluner, the applicability of this exception has ceased to exist (Toluner, 1996, p. 176).

- ii. *Situations falling within the scope of the application of Article 25 of the Convention;*

When examining the situation related to Article 25 of the convention, it is clearly stated that "...the rights and obligations of Türkiye, 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." In accordance with the decision of the Council of the League of Nations on "enforcement measures", warships of the states participating in this decision can pass through the Straits without being subject to the diplomatic notification requirement and the restrictions on type and tonnage, in order to implement this decision (Article 19/3).

The League of Nations General Assembly decided to dissolve the organisation with its last meeting on April 19, 1946, and the organisation legally terminated its existence on April 19, 1946 (Gönlübol, 1975, s. 181). Therefore, according to some opinions, since the League of Nations no longer exists today, joint operation under such a decision is not possible, therefore, there is no possibility of implementing this provision (Eroğlu, 1984, p. 255; Toluner, 1996, p. 176; Belik, 1962, p. 25). Also there are opinions claiming that the United Nations has replaced the League of Nations in terms of the goals and responsibilities envisaged in the League of Nations covenant, both through succession and due to the United Nations' own mission and objectives (İnan, 1995, pp. 72-74; Çelik, 1987, p. 143). According to İnan (1995, 72), the United Nations has taken the place of the League of Nations in terms of both its mission and duties as envisioned in the League of Nations Covenant, both through the "succession" and due to its own mission and goals.

The decisions taken by the United Nations Security Council are binding on all member states (Article 25 of the UN Charter). All states that are party to the Montreux Straits Convention are members of the United Nations, whose one of the main tasks is to maintain or restore international peace. In order to fulfil this duty, the United Nations Security Council can

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take necessary enforcement measures through its resolutions (Articles 39-51 of the UN Charter). In this context, the warships of warring states have the right to pass through the straits in order to implement the enforcement measures decided by the Security Council. According to this view, the relevant provision of the convention can be applied today within the framework of United Nations resolutions (İnan, 1995, pp. 72-73; Çelik, 1987, p. 143). According to Toluner, the implementation of the coercive measures taken by the United Nations Security Council constitutes an exception to the principle of closing the straits to belligerent state warships according to the Montreux Convention (Toluner, 1996, p. 176).

If there was no such provision in the convention or if there was a provision that conflicted with the obligations arising from the United Nations Charter, in this case, according to Article 103 of the UN Charter which states that the obligations of the UN prevail, the Security Council's enforcement measures determined by the UN would be interpreted as allowing belligerent states to pass their warships through the straits for the purpose of implementing them (İnan, 1995, p. 73; Çelik, 1987, pp. 148-149).

- iii. *The return of warships belonging to belligerent states that are in a situation related to a coast or not on the Black Sea and have left the port to the ports they are bound to (Article 19/4).*

In this case, these ships have the permission to return to their respective ports. However, during their passage through the Straits, these ships are strictly prohibited from benefiting from the rights granted to belligerent states by the laws of war. Therefore, they cannot engage in any hostile actions against each other, attempt to inspect or seize other state vessels, or exercise their right to inspection during their passage through the Straits (Article 19/5). This provision reinforces Türkiye's status of neutrality under the general principles of neutrality law. (İnan, 1995, p. 72).

The detailed passage regime for warships set out in the Convention, which is divided into four periods, mainly contains provisions in favour of Türkiye. Türkiye has the right to regulate passage not only during wartime but also during periods of imminent war threat, including the exclusive authority of sovereignty. Given the discussions related to the right to legitimate self-defence, these regulations provide Türkiye with broad movement possibilities during periods of tension prior to war. Furthermore, in time of war, Türkiye has been granted the authority to close the straits to warships of belligerent states if it is not a belligerent itself. This measure has been included in the Convention through difficult negotiations to ensure Türkiye's neutrality in a war and is therefore viewed

as a critical achievement for Türkiye's interests and security. However, it should be noted that in the laws of war, neutral states are required to grant belligerent states the right to pass their warships through such straits or waterways. Therefore, its value and importance can be more clearly seen (Toluner, 2004, pp. 412-413). The Montreux Convention's distinctive and unique aspect compared to other international regimes is also clearly seen here.

2.3.2.3. In time of War, Türkiye as a Belligerent

If Türkiye is belligerent, the provisions regulating the passage and navigation of the treaty in peacetime are not applicable. The passage of warships is entirely at the discretion of the Turkish government, according to Article 20.

This suspension of international regulation is of a general nature. It includes not only the rules governing passage but also the restricted tonnage that regulates passage to the Black Sea. As a result of this full authority granted to Türkiye, it constantly removes all obligations undertaken by Türkiye for its warships, temporarily bringing back full sovereignty rights in the Straits (until the end of the war) (Erkin, 1968, p. 111).

Türkiye, therefore, gains the freedom to close the Straits to not only enemy states but also foreign states' warships or to grant them the freedom to pass as they wish.

2.3.2.4. Türkiye Consider Herself to be Threatened with Imminent Danger of War

In such a situation, according to Article 21 of the treaty, Türkiye will be bound by the provisions of Article 20, which regulates the status that will apply during wartime. This means that in case of perceiving a threat of war, Türkiye can close the Straits to the warships of certain states to ensure its security based on its own political evaluation.

However, warships that have already passed through the Straits can freely pass through them to return to their respective ports before the closure is enforced. But the ships of the states that caused the application of this provision due to their attitude cannot use this right (Article 21/2). If Türkiye exercises this right, it is obliged to send a notification to the states party to the treaty and to the Secretary-General of the League of Nations (Article 21-3).

With the perception of a threat of war, Türkiye may take certain measures as it deems necessary with its own discretion. However, the continuation of these measures is conditioned upon the acceptance of their legitimacy. If the Council of the League of Nations decides with a two-thirds majority and if the majority of the contracting parties do not find the measures justified, Türkiye is obliged to immediately lift these measures and the measures regulated in Article 6 of the agreement. If no contrary decision or statement is made, Türkiye continues to implement these measures as long as it deems necessary. The suitability of the decisions taken under Article 21 is supervised by the Council of the League of Nations along with the parties.

Article 21's provision of dual supervision does not lead to the elimination of the right set out in the first paragraph, even though one of the parties responsible for the supervision (the League of Nations) does not exist. The supervisory function can be carried out by the states concerned.

The League of Nations terminated its existence with a decision taken in 1946 and transferred its assets, property rights, archives, and non-political functions to the United Nations. The General Assembly of the United Nations accepted to perform the duties assigned to the League of Nations Secretary and the technical and non-political functions granted to the League of Nations in its decision dated February 12, 1946. However, a separate procedure was provided for assuming the political functions granted to the League of Nations. It was clearly envisaged that the United Nations could assume these functions only if requested by the contracting states and after an examination by the United Nations General Assembly or the relevant organ and a decision taken accordingly (Toluner, 1996, pp. 177-178). In accordance with these statements, Article 21 of the convention has granted a political function to the League of Nations. It is not legally possible for the United Nations Security Council to perform the duty specified in Article 21 without following the procedure shown here in accordance with the decision taken by the United Nations General Assembly in 1946. However, İnönü expresses a different opinion. The convention has established a dual supervisory system with Article 21, and the elimination of one of the supervisory bodies does not terminate the right. Since the supervisory authority granted to the contracting states continues, this should be accepted as evidence of the existence and continuity of a right. United Nations practices and decisions of the International Court of Justice, the United Nations organisation has also been made the successor to the political duties of the League of Nations (İnan, 1995, pp. 75-77).

However, according to some opinions, United Nations practices and International Court of Justice decisions have made the United Nations the successor to the League of Nations in terms of political duties (İnan, 1995, pp. 76-77). According to the advisory opinion of the International Court of Justice⁴, certain powers that are not explicitly stated in the United Nations Charter can be exercised by United Nations organs by virtue of Article 10 of the Charter, and thus it is argued that some of the political powers granted to the League of Nations by the Montreux Straits Convention can also be exercised by the United Nations, which is now its successor.

Therefore, Article 21 of the Convention gives the Republic of Türkiye the right to take certain measures it deems necessary using its discretion. Additionally, the United Nations Secretary-General and the states party to the Convention must be notified of these measures. If a different decision is not made by a two-thirds majority of the Security Council or if a majority of the states party to the Convention do not express a different view, the measures taken by the Turkish government can continue to be applied (Çelik, 1987, pp. 148-149; İnan, 1995, p. 77).

According to some scholars, since the League of Nations has ceased to exist, the possibility of implementing Article 21 has also ceased to exist. For example, Toluner argues that the discretion granted to Türkiye is not limited in nature. In addition, the matter can be subject to discussion by the states that are party to the treaty. However, based on the United Nations' 1946 decision, the League of Nations can only perform technical and non-political tasks granted to the General Secretary and the League of Nations. In order to the UN to perform political tasks, there is a need for a special procedure, such as receiving a request from the states party to the treaties and for the relevant United Nations body to approve and accept the request. Therefore, the performance of the task given to the League of Nations under Article 21 can only be carried out by the United Nations if the states party to the treaty make a request in this regard, and the request is subject to acceptance by the United Nations Security Council (Toluner, 1996, pp. 177-178 footnote 211).

İnan argues that even if the transfer of authority of the League of Nations to the UN is not accepted, the second part that suggests that the signatory states can revoke Türkiye's decision with a majority vote still applies, and the disappearance of one supervisory body cannot cause the end of the supervision rights of the other. On the contrary, Toluner (1996, p. 178)

⁴ The authority to supervise the mandate state belonging to the League of Nations Council can be exercised by the United Nations General Assembly. (Reports of Judgements, Advisory Opinions and Orders. International Status of South-West Africa, 1950)

argues that the legal dissolution of the supervisory body does not necessarily eliminate the obligation to be supervised. However, according to the General Assembly Resolution dated February 12, 1946, the Security Council cannot perform this function unless the necessary procedures are carried out. According to Ünlü (2002, p. 104) and Arıkoğlu (2017, p. 195 footnote28), Article 21 foresees a “two-stage single system”. Neither the League of Nations nor the contracting states alone can revoke Türkiye's decision. For the decision to be revoked, a decision by the League of Nations Council with a two-thirds majority and a decision by the contracting states with a majority vote are required together. According to Özersay (1999, p. 76 footnote169), there is no automatic succession between the League of Nations and the United Nations. Therefore, the registration and publication of mutual aid agreements by the United Nations is deemed necessary for this purpose of duty.

Under this section, it is necessary to mention one more regulation related to health conditions. In accordance with Article 22 of the convention, within less than 7 days and in compliance with international health regulations, warships that have or are currently experiencing a contagious disease, and warships that have left a port where such a disease exists in less than 120 hours, must pass through the Straits under quarantine and take protective measures to prevent the spread of the disease to the Straits on their own.

2.3.3. Visits of Foreign Warships to the Straits and Nuclear-Powered Warships

In peacetime, a warship of a state, whether littoral or non-littoral to the Black Sea, visiting a port in the Straits as a courtesy call shall not be subject to the tonnage limitations of the Convention. Additionally, ships in the Straits for the purpose of such visits shall not be included in the total tonnage of foreign warships passing through the Straits, and will not be taken into account in the maximum tonnage which non-littoral states may maintain in the Black Sea. *"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 17).

The Montreux Convention regulates visits of foreign vessels of war to the Straits, allowing the Turkish government to invite these vessels. Courtesy visits are subject to certain conditions and limited in duration. Foreign state's naval force wishing to visit must inform the Turkish government of

their request through diplomatic channels. The permission for courtesy visits is subject to the approval of the Turkish government.

In order to regulate the arrival and movements of foreign states' warships to the Turkish territorial waters and ports through the Straits during peacetime, a regulation was issued on November 24, 1983. This regulation was modified by another regulation on December 3, 1983, which changed some of its articles (Articles 15 and 22). The regulations issued by the Turkish government on various dates did not fundamentally affect the status established by the Montreux Convention, but rather regulated the procedural application based on the rights recognized by this convention's Article 17 and other international agreements and international law granted by Türkiye's sovereignty. While the relevant regulations set out the detailed rules that would apply to courtesy visits, they also emphasized that the provisions of the international agreements that Türkiye is a party to should be observed. If any regulation is in conflict with the Montreux Convention or if no specific regulation is made for a certain situation, it can be inferred that the provisions of the Montreux Convention and international law, together with the provisions of the international agreements that Türkiye is a party to, will be applicable. The regulations will be valid for the situation that the Convention regulates. (İnan, 1995, pp. 95-96)

2.3.3.1. Nuclear Warships

The definition of a ship carrying nuclear power or nuclear material or nuclear weapons is defined as a nuclear ship by the article 3/8 of the 1983 Regulation on the Arrival of Foreign Armed Forces' Ships to Turkish Territorial Waters and Ports and Their Movements and Activities in These Waters. Visits are possible within the framework of rules applicable to other warships. However, some special conditions have also been introduced. On December 3, 1987, some changes were made to the regulation. On December 9, 2022, some changes were made to this regulation. The following points can be mentioned briefly without delving into details. The visit request must be made to the Turkish Ministry of Foreign Affairs by the relevant state government at least 30 days prior to the visit date, and the Ministry of Foreign Affairs will respond to this request. In the event of the request being accepted, a written agreement determining the conditions of the visit will be made between the relevant state and the Turkish government. Prior to the visit, Turkish authorities make precautionary or hazardous situation plans based on various possibilities. The aim here can be expressed as preventing the ship from causing damage to the environment or gaining time advantage in case of damage in order to remedy them. (İnan, 1995, p. 98)

2.3.3.2. Aircrafts

Both the principle of maritime and air navigation were adopted in the Treaty of Lausanne, military aircraft were exempted from the restrictions imposed on the passage of warships in the Black Sea, in addition to the freedom of flight enjoyed by commercial aircraft. The Montreux Convention on the Turkish Straits only accepts freedom of passage for sea vehicles and has a separate provision in Article 23 to regulate the airspace of the state overflown by aircraft by harmonizing its air safety with international law (Erkin, 1968, p. 113).

The only article related to the passage of aircraft is Article 23, which is included in the third section of the Convention. According to this article, "*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 Republic of Türkiye is responsible for regulating the transportation of civil aircraft.

"...notwithstanding any remilitarisation of the Straits", Türkiye takes responsibility to provide "... to furnish the necessary facilities for the safe passage of civil aircraft authorised under the air regulations in force in Türkiye 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" (Article 23/2).

The service of ensuring flight safety (FIR) during aircraft passage has been entrusted to Türkiye. The rules applicable to Europe-Asia transportation are the rules in force in Türkiye (İnan, 1995, p. 79). The Montreux Convention regulates the transportation between the Mediterranean and the Black Sea. Aircraft on board of warships transiting the Straits cannot be used, as clearly regulated by Article 15 of the Convention. The permission for military aircraft to pass over the Straits is left to the Republic of Türkiye, as the MBS did not regulate this issue.

This regulation set by the Montreux Convention does not affect Türkiye's ability to grant passage rights to other countries through treaty-making (Toluner, 1996, p. 179). The remilitarisation of the Straits region by Türkiye, along with the Montreux Convention, results in the principle of freedom of flight not being applicable to the airspace over these regions. This regulation is related to security requirements (Erkin, 1968, p. 113).

The authority to allow military aircraft to fly over the straits belongs entirely to Türkiye.

According to the regulations in force regarding foreign civilian and military aircraft flying over Türkiye, the authority to apply for changes in pre-arranged services for civilian aircraft related to states that are members of the International Civil Aviation Organisation (ICAO) and have signed bilateral air transportation agreements with Türkiye, or have not signed such agreements, is the Civil Aviation Directorate under the Ministry of Transport. For aircraft from states that are not members of ICAO, the application authority is the Ministry of Foreign Affairs, and the authority to grant permission for unscheduled flights is the Civil Aviation Directorate of the Ministry of Transport for ICAO members and Ankara Esenboga Airport Directorate outside working hours, and the Ministry of Foreign Affairs for non-ICAO members. For regulated military flights, the Air Force Command is the authority, and for unscheduled military flights, the relevant state's authority is the Air Force Command if it is a member of ICAO, and the Ministry of Foreign Affairs if it is not a member (Soysal, 1989, p. 498 footnote 6).

2.4. Removal of Incompatible Articles with Turkish Sovereignty

2.4.1. Abolition of the International Commission

Under the provisions of the Lausanne Convention, the powers of the International Commission were transferred to the Turkish government (Article 24/1). Thus, the Commission was abolished and the Turkish government was assigned the task of collecting statistics and providing other necessary information regarding warships belonging to countries from the Black Sea or not that pass through the Straits (Article 24/2). The Turkish government was also tasked with ensuring compliance with the provisions of the Montreux Convention regarding the passage of warships through the Straits (Article 24/3), as well as notifying the Ankara representatives of the contracting states of the entry and possible return dates of the combined tonnage of foreign naval forces as soon as they are aware of their passage through the Straits (Article 24/4).

The duty to oversee the provisions of the Treaty makes Türkiye responsible in case of incorrect or erroneous implementation of these provisions (İnan, 1995, p. 55).

In the light of the fourth paragraph of Article 24, it can be seen that the Turkish government has the authority to allow or deny the passage of warships through the Straits based on the information provided to them,

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as per the provision "*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.*" It is not possible for the Turkish government to conduct a separate detailed investigation or research other than the information provided. Therefore, it is clear that the responsibility of the Turkish government cannot be claimed if problems arise during the passage due to the information provided.

The types of warships are determined and registered by the flag state of the ship when it is launched or commissioned, and Türkiye does not have the authority to investigate whether the registration of the ship is appropriate (İnan, 1995, p. 56).

Türkiye, "... 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 24/5). This report, which will be submitted to the League of Nations Secretariat, is now delivered to the United Nations Secretariat.

2.4.2. Remilitarisation of the Straits

Türkiye has made intense efforts to remove provisions from the Treaty of Lausanne that limit its sovereignty and closely affect its security (Belik, 1962, p. 17). The International Commission, which limited Türkiye's sovereignty, was abolished with Article 4 of the Montreux Convention, which regulates the general provisions of the Convention, and its powers were transferred to Türkiye. Thus, Türkiye has achieved another goal.

During the Montreux Conference on the Straits, success was achieved in canceling the provision of the Treaty of Lausanne that imposed demilitarisation on the Straits. No provision was included in the Montreux Convention regarding demilitarisation. With the protocol added to the Montreux Convention, the provision of "*demilitarisation*" in the Lausanne Convention was abolished, and full sovereignty rights were returned to Türkiye. Thus, the newly established regime was guaranteed by Türkiye. This regime came into effect without waiting for the approval of the treaty with the additional protocol.

The mentioned Protocol was organized in Montreux on July 20, 1936, and became effective as of that date. However, according to Article 2 of the

Protocol, the Turkish government was required to implement this regime starting from August 15, 1936. Based on this provision, the Turkish Armed Forces re-entered the Straits region on August 16, 1936, effectively ending the demilitarisation status of the Straits region. Thus, the guarantees provided by the League of Nations for the security of the Straits were also eliminated (İnan, 1995, p. 54).

The first article of the Protocol clearly stipulates which areas will be re-militarized and regulates that these areas are the Straits region. In the preamble of the Protocol, the participating states explicitly declared that they accepted these provisions.

2.4.2.1. The Status of the Islands in the Straits

Articles 4 and 6 of the Lausanne Convention Relating to the Régime of the Straits regulate the status of the "*Islands in the Straits*". Article 12 of the Treaty of Lausanne constitutes the first regulation made on this subject. "... regarding the sovereignty of Greece over the islands of the Eastern Mediterranean, other than the islands of Imbros, Tenedos and Rabbit Islands, particularly the islands of Lemnos, Samothrace, Mytilene, Chios, Samos and Nikaria, is confirmed, subject to the provisions of the present Treaty respecting the islands placed under the sovereignty of Italy ..." "...the islands situated at less than three miles from the Asiatic coast remain under Turkish sovereignty."

The fourth article of the Lausanne Straits Convention lists the islands of "... Samothrace, Lemnos, Imbros, Tenedos and Rabbit Islands" as regions and islands that will be demilitarized in the Aegean Sea, and the sixth article of the same convention specifies the criteria for demilitarisation. Within the framework of this regulation, the following points can be mentioned related to Samothrace and Lemnos:

- i. In the demilitarised zones and islands, no fortifications, no permanent artillery organisation, no submarine engines of war other than submarine vessels, no military aerial organisation, and no naval base. Under no circumstances can military bases be established on these islands or the islands be fortified by placing soldiers on them. Communication and observation facilities can be established in these areas. (Article 6/1 and Article 6/7)
- ii. The security on the islands will be provided by "*police and gendarmerie forces necessary for the maintenance of order*" that are limited in terms of weaponry. (Article 6/2)

- iii. *“In the territorial waters of the demilitarised zones and islands, there shall exist no submarine engines of war other than submarine vessels”.* (Article 6-3)
- iv. Türkiye and Greece will be able to pass their fleets through these waters for training purposes. (Article 6-6)
- v. The Greek navy can pass through Greek waters, but this will not be of a hostile nature towards Türkiye or involve massing forces.

Regarding the preamble of the Montreux Convention, discussions related to the Samothrace and Lemnos have arisen, and it has been claimed that provisions for the demilitarisation of the islands have been lifted. Those who put forward this claim base their argument on the second paragraph of the preamble of the Montreux Convention.

According to Greece, the provisions of the Montreux Straits Convention regarding re-militarisation apply not only to the straits but also to Samothrace and Lemnos. Greece claims that the provisions of the 1936 Montreux Straits Convention completely abolished Article 4 of the 1923 Lausanne Straits Convention, which identified areas to be demilitarised, and also terminated Article 12 of the Lausanne Peace Treaty insofar as it related to demilitarisation obligations. (Toluner, 2004, p. 74).

Greece claims that the parties to the Montreux Convention decided to replace the Lausanne Convention with this Convention, and therefore, they will be able to introduce a new regime on these islands. Greece and some Greek writers (Drakidis, Economides) claim that (see: Toluner, 1987, pp. 21-26, 28-30; Toluner, 2004, pp. 71-112; Pazarcı, 2015, pp. 122-128) by using the term “*replace*” the Montreux Convention terminated the demilitarisation provisions outlined in the Lausanne. (Pazarcı, 2015, pp. 124-125).

However, when the purpose of the Convention is evaluated along with its content, it can be seen that such a claim is unfounded. The purpose of the Convention is clearly stated in the first paragraph of the same section as to regulate the passage, in accordance with the principle established in Article 23 of the Treaty signed on 24 July 1923 in a manner that will protect Türkiye's security. In this context, the purpose of the Convention is based on two main pillars. The first purpose of the Convention is to regulate the transit regime, and the second purpose is to ensure Türkiye's security. The demand for the re-militarisation of these islands is not compatible with the aims set forth in the Montreux Convention, nor is it compatible with

ensuring Türkiye's security (Pazarcı, 1992, p. 38; Toluner, 1987, pp. 16-17).

Economides who supports that the Montreux Convention does not contain provisions that ended the demilitarisation status, as set out in the Treaty of Lausanne, and therefore the third paragraph of the fourth article of the Treaty of Lausanne has ended. According to Economides, the absence of such a provision in the Montreux Convention is an indication that the status has come to an end (Toluner, 1987, pp. 21-22). However, as Pazarcı emphasized (1992) this argument is legally baseless, as international law rules do not allow such a claim to be made. According to the 1969 Vienna Convention on the Law of Treaties, if there are two treaties with the same subject matter, and if the parties to the second treaty have not made a statement regarding the termination of the first treaty, then both treaties are valid and in force. If the provisions of the first treaty do not conflict with those of the second treaty, then those provisions remain in force. The Vienna Convention on the Law of Treaties does not require that the provisions that are to be continued must be specified in a second treaty or that a similar arrangement must be made (Pazarcı, 1992, p. 43; Toluner, 1987, pp. 23-26).

The opinions expressed have no legal basis. At the Lausanne Conference, the demilitarisation of the islands and the demilitarisation of the Turkish Straits were treated as separate issues. These two demilitarisation statuses have distinct purposes and functions. The demilitarisation of the islands at the Lausanne Conference aims to ensure Türkiye's security. Furthermore, Türkiye accepted the transfer of the Aegean islands to Greece on the condition of demilitarisation. The reason for the demilitarisation of the Turkish Straits was to ensure safe passage through the straits (Toluner, 2004, p. 109).

Upon reviewing the Montreux Conference proposals and proceedings, it's noted that demilitarisation status termination applies solely to the Turkish Straits area (Dardanelles/Canakkale and Bosphorus/Istanbul Straits, and Marmora Sea), while Samothrace, Lemnos islands' demilitarisation status continues. The Additional Protocol of the Montreux Convention specified that the demilitarisation status termination only covers the Turkish Straits region, which explains the demilitarisation status continuation of the aforementioned islands, as they were not mentioned in the protocol (İnan, 1995, pp. 54-55; Pazarcı, 1992, pp. 39-59).

In other words, the purpose of the Montreux Conference on the Straits was not to discuss the re-militarisation of Greek islands in the Aegean Sea, but rather to ensure the transportation safety of the straits and to guarantee

Türkiye's national sovereignty rights in the straits region. During the conference, the legal status of islands such as Lemnos and Samothrace was not discussed, nor were they a subject of debate during the drafting of the first article of the protocol regarding the militarisation of the straits. The provisions of the Treaty of Lausanne regarding the demilitarisation of the islands are still in effect and were not repealed during the Montreux Conference (Pazarcı, 1992). Therefore, Greece's assumptions can be considered as an effort to "*pretend that something non-existent exists*", and such an evaluation is supported by strong legal justifications (Toluner, 2004, p. 104).

2.5. Final Provisions

2.5.1. Approval of the Convention

According to Article 26, the Convention will be ratified as soon as possible, and the ratification documents will be submitted to the French government archives in Paris (Article 26/6).

The provision regarding the entry into force of the Convention is regulated in the fourth paragraph of Article 26. Accordingly, Türkiye, along with six other countries, will submit their ratification documents to the aforementioned location. The day the protocol was drawn up is stated as the day the Convention will enter into force. The French government will also send copies of the ratification documents to the states that are parties to the Convention.

The regime established by the Montreux Straits Convention entered into force on November 9, 1936. Additionally, Türkiye began implementing the transit regime on August 15, 1936, in accordance with the second article of the additional protocol to the treaty.

Japan notified the French government of its ratification through its diplomatic representative, in accordance with the "*ad referendum*" provision in the third paragraph of Article 26, and sent the ratification document shortly thereafter. Japan's method of ratifying the Convention was different from that of the other states. At the time of the signing of the Convention, Japan was not a member of the League of Nations. In order to avoid any obligation that could be imposed on it under Articles 19 and 25 of the Convention, Japan had included a reservation. However, on April 9, 1937, Japan sent its ratification document (Soysal, 1989, p. 496).

Participation in the Convention is possible for the contracting states of the Lausanne Convention. It has been ruled that participation can be made

from the entry into force of the Convention. Article 27 concerned Italy. Italy joined the Convention on May 22, 1938. After the Second World War, Japan renounced its rights arising from and that could arise from the Montreux Convention in the eighth article of the peace treaty concluded with Japan on September 8, 1951. In this case, the regime that non-Black Sea states, which are not parties to the Convention, are subject to is applied for the passage of Japanese vessels through the straits. The rights that Japan has renounced are to receive prior notification and reports to be given to the contracting parties of the Convention, as stated in Article 24 of the Convention, to request amendments to the Convention as mentioned in Article 29, to initiate the termination of the Convention, and to participate in the conference to be held, as specified in Annex 3 of the Convention. However, since these ships no longer exist today, this right has ceased to exist. (Soysal, 1989, p. 496; Gürün, 1997, p. 483).

2.5.2. Termination of the Convention

Article 28 of the Convention stipulates that the Convention will be valid for 20 years. The second paragraph of Article 28 establishes that the principle of freedom of passage and navigation mentioned in Article 1 is not subject to this period and that this freedom is "*infinite*". The States parties to the Convention have clearly stated that they will accept the principle of free passage, which is recognized by international customary law, and will maintain the regime of freedom regulated by the Treaty of Lausanne (Toluner, 1996, p. 179).

The Montreux Convention provides for the continuity of freedom of passage even in the absence of another treaty or the establishment of a new treaty. Türkiye, having accepted this principle, cannot adopt practices that contradict this principle by citing the absence of treaties or certain gaps. The modification or removal of this principle can be achieved by unanimous agreement among the States parties to the Montreux Convention, or by invoking Article 39 of the Vienna Convention on the Law of Treaties (Toluner, 2004, pp. 399-400).

According to Article 28 of the Montreux Convention, "*If, two years prior to the expiry of the said period of twenty years, no ... party shall have given notice of denunciation... the present Convention shall continue in force until two years after such notice shall have been given*". In the event of such prior notice, the French government will inform the other States parties.

The twenty-year period is conditional. This condition disappears if a denunciation notice is not given in the eighteenth year of the convention. However, the Convention will continue to be in force. Any prior notice

given after this date will result in the Convention being terminated two years later. This period ended in 1956. No denunciation notice has been given to date (2023). Therefore, the Convention is still in force. Any State party may terminate the Montreux Convention for all parties two years after the notice of denunciation, by giving notice of termination.

According to Article 28/4 of the Convention, in the event of termination of the convention by notice of denunciation, the contracting parties have agreed to participate in a conference to determine the new terms of the agreement.

2.5.3. Amendment of the Convention

Article 28 provides for the possibility of amending the entire Convention, while Article 29 allows for partial amendment of the Convention. State parties may request the amendment of one or more provisions of the Convention every five years from the entry into force of the Convention.

However, the provisions to be amended have been subject to differentiation. First, the presence of certain elements is necessary for change. If the change request is related to Article 14, which determines the tonnage and number of vessels of war (belonging to all littoral and non-littoral state parties) that will pass through the Straits without interruption during peacetime, or Article 18, which determines the tonnage, number and duration of vessels of war that non-littoral states may have in the Black Sea during peacetime, the request must have the support of another state party to the Convention. Article 29/2 requires this support.

For the amendment of other articles, the request for change must be supported by two state parties to the Convention. For this purpose, each state must notify the other state parties of its request and the nature of the proposed amendment, along with its justifications, three months before the end of the 5-year review process.

Two procedures have been defined for amending the Convention. The first is a diplomatic procedure initiated through negotiations between governments. If no agreement is reached through diplomatic negotiations, a conference may be convened, which is the second procedure.

As a rule, unanimity is required for the reorganisation of the Convention's provisions. However, for the review process of Articles 14 and 18, the affirmative vote of three-fourths of the state parties is required. This ratio has a special significance because it requires the affirmative vote of three-fourths of Türkiye and the littoral states of the Black Sea. If this special

condition is not met, the affirmative vote of three-fourths of the other countries will not be sufficient to change the relevant provisions of the Convention. Article 29/5 grants Türkiye veto power in the amendment of Articles 14 and 18, which regulate the status of warships in the Turkish Straits and the Black Sea. In the amendment process, a privilege has also been granted to littoral states of the Black Sea. However, the negative vote of one of these states does not have veto power. In other words, if the negative vote of the littoral states of the Black Sea does not reach three-fourths majority, the relevant amendment request will not be vetoed (Toluner, 1996, p. 180).

Amendment of other provisions of the Convention is possible by applying the classic principle of unanimity. So far, no partial changes have been made to the Convention using this method.

2.6. A Brief Review of the Convention

The regime of Turkish Straits is regulated by the Montreux Convention. The convention was drafted in 1936 and since then, there have been advancements in science and technology that have resulted in larger ships carrying a variety of goods, including dangerous materials. Türkiye has taken measures to ensure traffic safety, and the implementation of regulations has resulted in a decrease in accidents. The importance of the Turkish straits has increased in recent times, and the political balance established by the Montreux Convention still applies.

From the perspective of those who advocate for the international status of strategic straits and passages, the Montreux Straits Convention is considered as "*a step backward*." According to Bruel (Bruel, 1947, p. 406) the Convention is a regulation where exceptions become the rule and the rule becomes the exception. In words of Toynbee (1937, p. 586) "*by the substitution exclusive Turkish sovereignty over the Straits for supervision International Commission subordinate to the League (as provided in the Treaty of Lausanne) yet another instrument of international supervision was abolished, and with it a precedent for the internationalisation of various key strategic positions on the Earth's surface might have become a great value in the future evolution of the of collective security*".

In our opinion, the Montreux Convention should be evaluated as a vital gain, which not only ensures the indivisibility of sovereignty over the "*homeland*" but also provides a solid foundation for Türkiye to pursue regional and global balances aligned with its security interests. This Convention is a significant step forward that must be considered as a crucial success.

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The Montreux Convention can be considered a sign of a "*peace front*" in Europe that accepts the principle of "*revision by negotiation*" if necessary. The Convention has effects that go beyond its regulatory field and subject, and it has been a practice of the policy of collective cooperation for peace. (Aras, 2003, p. 165) Along with this accepted regime, the Montreux Convention has made Türkiye "*a country that other states seek to be friendly with*" in the international system (Sönmezoğlu, 2015, p. 376). According to Canbolat, Atatürk's foreign policy approach can be described as a "*conditional reality*". By setting targets within proportional limits through political and military manoeuvrability, he made it possible for the Republic of Türkiye to gain a respected place and recognition in the international system (Canbolat, 2009, p. 230). While, political realism asserts that national interests can only be achieved through power due to the inherently bad nature of human beings. In contrast, conditional reality offers a neutral perspective that eliminates any factors that could distort one's view of reality. This allows for a more flexible approach to decision-making in every situation. However, it is important to recognize that decision-making is influenced by specific conditions, and it is often challenging to make equitable decisions in the real world. Acknowledging this reality is crucial to developing effective plans for ourselves and the world (Canbolat, 2018, pp. 150-151).

It can be said in this context that the Montreux Convention was successfully achieved as a foreign policy objective by taking into account the international conjuncture through the rational calculation of national interests and national power capacity.

The Montreux Convention is an international consensus and a multilateral official document with significant implications in international law for several reasons. Firstly, it was the first treaty that came into effect through entirely peaceful means after the First World War. Secondly, none of the signatories were willing to disrupt the existing status quo, which has resulted in the treaty remaining undisputed to date. Thirdly, due to Türkiye's geographical location controlling both the eastern and western ends of the straits, all nations, including the United States, a leading global maritime power, are bound by the provisions of the treaty (Howard, 1936). The Montreux treaty allows Türkiye to retain its sovereignty while also accommodating the requirements and benefits of international maritime trade. This treaty established a new transit regime for the straits, and the responsibility for implementing and supervising this new regime was entrusted to Türkiye. In addition, the use of the straits by warships takes into account Türkiye's security interests and includes privileges for states with a coastline on the Black Sea. These distinctions have enabled Türkiye to ensure its security (Şener, 2014, p. 489).

The importance of the Montreux Convention in maintaining the stability of the Black Sea region is crucial. Türkiye should avoid any actions that may jeopardize its integrity. Türkiye's role in maintaining the stability of the region is critical, and any unilateral actions could lead to unintended consequences. Therefore, the preservation of the Montreux Convention remains a vital means of ensuring the continued peace and stability of the Black Sea region (Kırval & Özkan, 2022)

The Montreux Convention had a significant impact on the European balance of power by reinforcing Türkiye's control over the Straits and increasing its status and influence in international affairs. However, despite Montreux being celebrated as a symbol of a new trend in European affairs, the tone of the debates and the substance of the discussions actually reflected a waning confidence in the League's ability to effectively promote collective security (DeLuca, 1975, p. 8).

The Montreux Convention, cannot be seen as a text that clearly resolves all the legal problems that may arise in the straits in the present and future. It is necessary to refrain from taking steps that could lead to the Turkish Straits being subjected to a regime similar to that of the Panama Canal or the Suez Canal (Howard, 1947, pp. 63-72)., as advocated by some states. The regime established by the Montreux Convention not only ensures the security of Türkiye but also the security and stability of the Black Sea region. As a regional power of moderate size, Türkiye's absolute sovereignty over the Turkish straits, one of the world's most critical passages, requires Türkiye to have "concern beyond that of a regional state." "*The straits put Türkiye in a position to be affected by global developments and adverse events anywhere on the earth*" (Sander, 1991, s. 77). The Convention also strikes a balance between the principle of freedom of navigation and the security concerns of Türkiye and Black Sea states (Dyoulgerov, 1999, p. 72).

However, the adaptability of the Montreux Convention to changing circumstances has been the subject of recent public debate in Türkiye. While some experts support the official position against modifying the Convention, others argue that it should be revised to grant more powers to the Turkish government. The experts who support the official position believe that even discussing minor provisions of the Montreux Convention could lead to unwanted consequences. Therefore, they suggest that any necessary changes should be made gradually through an interpretive process.

On the contrary, certain experts highlight the importance of amending the Convention (Soysal, 1992, p. 13). These experts believe that the Convention's current limitations on regulating ship passage and protecting

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the environment pose new security risks, such as environmental pollution and terrorism. Additionally, the changing nature of security risks under post-Cold War conditions, such as proliferation of nuclear, chemical, and biological weapons, has made revising the Convention more necessary than ever. Although the Convention has served the interests of Türkiye and other Black Sea powers well in the past, it is time to consider a different perspective to address these emerging security risks (Karaosmanoglu, 1993 , pp. 139-140). This issue will be discussed in detail in the third section.

CHAPTER **III**

**EFFORTS TO CHANGE AND REGULATE
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III

EFFORTS TO CHANGE AND REGULATE THE STRAITS REGIME AFTER WORLD WAR II

1. The Status of the Straits During World War II

Türkiye successfully applied the status foreseen in the Montreux Straits Convention during peacetime for six years from 1936 to 1939.

Türkiye followed a cautious foreign policy in order to stay out of the war “*non-belligerent*” during the Second World War (Oran, 2016a, p. 393); It has implemented various foreign policy strategies, from neutrality to alliance strategy. In this period when Türkiye decided to stay “*out of the war*”, the status of the Straits was subject to the provisions regulating the non-belligerent status of Türkiye stated in the Convention. Thus, Türkiye successfully applied its non-belligerent status within the framework of neutrality law. Türkiye also occasionally employed an alliance strategy to maintain this status. Examples include the 1939 alliance agreement with the England and France (Gönlübol, et al., 1996, pp. 143-144) and the 1941 Pact with Germany (Gönlübol, et al., 1996, pp. 156-159). In addition, although Türkiye had principled acceptance of entering the war due to the insistent efforts of the United States and the England at the Cairo Conference in 1943, it was soon understood that the purpose behind this acceptance was to “*gain time*” (Aydın, 2016, p. 463). During World War II, Türkiye implemented a rational foreign policy in the context of realpolitik by reconciling different foreign policy strategies according to its national security interests and the international conjuncture (Sönmezoğlu, 2006, pp. 8-11). Türkiye has constantly expressed its legal and political justifications in order to remain out of the war. It took advantage of the internal conflicts among both the Axis powers and the Allied powers (Oran, 2016a, pp. 394-395). France withdrew from the war by signing an armistice; Relations between France and the England have been severed, so Türkiye has argued that it cannot be pressured to enter the war in the context of the Triple Alliance (Erkin, 1968, p. 163).

Türkiye implemented this status until February 23, 1945, by closing the Straits to the ships of belligerent states. After Türkiye declared war on Germany on February 23, 1945, it was given full authority to allow or deny

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passage to ships passing through the straits until the end of the war. Türkiye began to apply the status applicable to belligerent states in wartime to the Straits. The closure of the straits by Türkiye did not satisfy the Soviet Union, which was in urgent need of support from Western allies. The Soviet Union stated that it was put in a disadvantaged position since it was unable to receive support from the Allies due to the inability of their ships to pass through the straits. The Soviet Union explicitly expressed its demands for changing the status of the Turkish Straits both during and after the war, citing its disadvantageous position during the war.

When explained in the terminology of international relations, Türkiye pursued an "*active neutrality*" policy during the Second World War, remaining loyal to the agreements it signed and building a safe area that would not engage in conflict with Germany or the Soviet Union. Thus, during the war, Türkiye was able to protect its non-belligerent position by following a balance of power policy between the parties in line with its neutrality policies and alliance strategies (Sönmezoğlu, 2015, pp. 406-407).

During the Moscow talks in 1939, the Soviet Union presented some conditions to Türkiye, which can be summarized as follows: (Erkin, 1968, p. 142)

- The joint defence of the Straits and the signing of a treaty for this purpose.
- Joint decision-making by Türkiye and the Soviet Union regarding the passage of warships belonging to third countries through the Straits, whether Türkiye is at war or neutral.
- Treatment of commercial ships carrying war materials as warships.
- The ability of Soviet submarines to pass through the Straits without being subject to the provisions of the Montreux Straits Convention.
- Acceptance of the passage of warships through the Straits based on coercive decisions of the League of Nations only if the Soviet Union participates in these measures.
- Permission for Soviet Union, not Türkiye, to allow warships to pass through the Straits for humanitarian purposes during the

police period to go to the Black Sea based on the Montreux Straits Convention.

- If Türkiye and the Soviet Union cannot reach an agreement, both states should not participate in any conference proposing changes to the Straits regime.

In the final meeting between Türkiye and the Soviet Union held on October 16, 1939, the Soviet government insisted that Türkiye should prevent non-littoral states from entering warships into the Straits, in accordance with Articles 20 and 21 of the Montreux Convention, and that Türkiye and the Soviet Union should act together to ensure security in the Straits and the Black Sea during the implementation of Articles 20 and 21. The Soviet Union wanted to include itself in the discretion power granted to Türkiye by these articles by insisting on this demand, aiming to limit the sole discretion power given to Türkiye (Burçak, 1983, p. 93).

Türkiye clearly rejected the Soviet Union's demands by stating that the Montreux Straits Convention was an international treaty and could not be amended through negotiations and agreements between two states. Throughout history, the Soviet Union had built its policy towards the Straits on the goal of closing it to all states in the light of developments, and had tried to accomplish this by defending it at the multilateral conference, the Lausanne Conference. However, at the Montreux Straits Conference, the Soviet Union changed its policy and aimed to differentiate the status of states in the Straits based on a distinction between states with coasts on the Black Sea and those without, instead of applying the same policy to all states (Burçak, 1983, p. 112).

On the day that the Montreux Straits Convention was signed, the Soviet Union's Foreign Minister Litvinov made a speech stating that all parties participating in the conference were satisfied with the treaty that was signed, and that the interests of non-participating states were also protected by the decisions made at the conference (Bilsel, 1933, p. 24).

However, during World War II, it became clear that the Bosphorus regime accepted through the Montreux Straits Convention did not fully satisfy the Soviets. During this period, the Soviet Union attempted to ensure the security of the Black Sea in line with its own security interests and sought a way to solve the Bosphorus issue in the most appropriate manner. The Soviet Union, which was unhappy with the articles of the treaty concerning the passage of warships, also clearly expressed its desire to jointly control the straits, passages, and waterways that were of great importance for its own security. These demands would have meant the reappearance of the

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bases given to the Soviets in the 1833 Hünkâr Iskelesi Treaty and the placement of Soviet soldiers there. This situation would have forced Türkiye to pursue a policy in line with the Soviet Union, which would have caused Türkiye's paths to diverge from European states. Additionally, Türkiye's compliance with these demands would have indirectly assisted Germany and Italy in achieving their objectives (Burçak, 1983, pp. 113-114).

The efforts of Türkiye to form an alliance with the West, which rejected these demands, the claims of the Soviet Union on Turkish territories, and Türkiye's excessive demands contrary to sovereignty and threatening behaviours resulted in the Turkish-British-French alliance treaty on October 13, 1939. This aid treaty aims to prevent the war from spreading to the Mediterranean and the Balkans (Gönlübol, et al., 1996, p. 119; Burçak, 1983, p. 121). France also joined the negotiations that began between Türkiye and England after the occupation of Albania, but did not sign the Turkish-British declaration on May 12, 1939, as the issue of Hatay had not yet been resolved. When the Hatay issue was resolved on June 23, 1939, France also signed the declaration on the same day (Gönlübol, et al., 1996, pp. 132-133; Gürün, 1997, pp. 668-669). The Soviet Union responded positively to this declaration. However, the Türkiye-France-England alliance treaty of October 1939 received a different reaction from the Soviets. Although the alliance treaty did not differ in nature from the previously declared declaration, the Soviet Union interpreted it as a war document rather than a peace-promoting initiative (Burçak, 1983, p. 117; Aydın, 2016, p. 424).

The Soviets maintained this position until 1941, after which relations between Germany and the Soviet Union deteriorated. In order to ensure Türkiye's non-belligerent status, the Soviet Union sent a note to Türkiye in 1941 stating that it had withdrawn its demands from the Straits. As a result, the Turkish-Soviet Non-Aggression Declaration was issued on March 25, 1941, and the 1925 treaty with the same purpose was reaffirmed (İnan, 1995, p. 104; Burçak, 1983, p. 173; Aydın, 2016, p. 438). After Germany attacked the Soviet Union, England and the Soviet Union gave Türkiye a joint note on August 10, 1941, confirming their loyalty to the Montreux Convention and declaring that they had no intention of attacking Türkiye or making any demands regarding the Straits. It was also emphasized that both states respected Türkiye's territorial integrity. As a result, the two governments provided Türkiye with a new guarantee (Gönlübol, et al., 1996, p. 158; Baltalı, 1959, p. 109).

However, after 1943, the situation began to change. The Soviet Union repeatedly demanded that Türkiye end its non-belligerent status (Aydın,

2016, pp. 454-457). During the negotiations, Türkiye perceived a threat from the Soviets, especially towards the end of the war. Türkiye closed the Straits to the passage of warships in accordance with the rules of the Montreux Convention. The closure of the Straits to the ships of belligerent states, and the inability to send aid to the Soviet Union through the Straits, created a disadvantageous situation for both the Soviet Union and its allies (Aydın, 2016, pp. 470-475; İnan, 1995, p. 104).

2. The Straits in Conferences Held During and After the War

The Straits issue has been one of the most influential topics on Turkish-Soviet Union relations during and after World War II. Although the Turkish Straits were mentioned at the Tehran Conference in 1943, their essence was discussed in the Stalin-Churchill Moscow meeting in October 1944. After the meeting, Churchill informed Roosevelt about Stalin's demands. It seems that Stalin, Churchill, and Roosevelt reached a consensus on addressing the Straits issue at the planned trilateral meeting in the future (Sönmezoğlu, 2016, p. 319).

On April 4th, 1945, in its response note, Türkiye informed the Soviet Union that it was ready to discuss these issues. On June 7th, 1945, talks were held between Sarper and Molotov in Moscow. Soviet Foreign Minister Molotov clearly stated that Türkiye needed to do what was necessary to win the friendship of the Soviet Union. Later, Molotov added that Türkiye must consent to border revision and return the Kars and Ardahan provinces, which the Soviet Union was forced to give up in 1918. Secondly, Molotov stated that Türkiye did not have adequate defence capabilities for the Dardanelles Straits against an attack from the Mediterranean, and therefore, the Soviet Union must be allowed to have bases in the straits. Thirdly, Molotov demanded that an agreement be reached in principle between Türkiye and the Soviet Union for the revision of the Montreux Convention (Erkin, 1968, pp. 253-254).

The Soviets declared that the signing of a new Turkish-Soviet treaty depended on four issues. The first one was the return of Kars and Ardahan to Russia; the second was the joint defence of the straits region by allowing Russia to have bases in the region; the third was the revision of the Montreux Convention; and the fourth was border revision in favour of Bulgaria and Greece in the Thrace region (Baltalı, 1959, p. 115).

Sarper rejected Molotov's demands, and on June 12th, 1945, Soviet Ambassador Vinogradov officially informed the Turkish government of the demands made in the Molotov-Sarper meeting. According to some scholars, during the Molotov-Sarper meeting, Soviet Foreign Minister

Molotov presented these issues as "*offers*" rather than "*demands*", and there were no official or written demands made by Russia to Türkiye. They also note that these offers were brought up in private discussions between Russia and Türkiye (Özkan, 2017, p. 64; Tulun, March 2020, pp. 12-13).

Türkiye rejected these Soviet demands. As a reason for its refusal, Türkiye stated that the Montreux Convention established the regime for the straits through an international convention and any changes must be made in accordance with the procedures provided for in the convention (Gönlübol, et al., 1996, pp. 192-193). The Soviet Union, with the support of the England and the United States, will take action again to break Türkiye's resistance.

2.1. Yalta Conference

Towards the end of World War II, discussions between the USA, England, and the Soviet Union gained momentum to establish a post-war order. On February 4th, 1945, these three states came together for the Yalta Conference. During the conference, the Soviet Union raised the issue of reviewing the Montreux Convention's regime to meet the security requirements of the new era and added the Turkish Straits to the conference agenda.

Stalin put forward the principle of *rebus sic stantibus*, stating that the regime established by the Montreux Convention needed to be changed and that the necessary changes should also take into account the security interests of the Soviet Union. The Soviet Union defended a free passage regime through the straits. (Aydın, 2016, p. 472; İnan, 1995, p. 105).

The United States, on the other hand, believed that the straits regime established by the Montreux Convention was functional, but expressed its willingness to accept some changes in the regime (Gürsel, 1968, p. 223). Roosevelt had stated that the Soviet Union should be able to achieve free access to warm seas without any hindrance. Churchill also accepted the principle of revising the convention but emphasized the need to guarantee Türkiye's sovereignty and territorial integrity. At the Yalta Conference, it was decided to change the straits regime in favour of the Soviet Union, and it was agreed that the issue would be taken up later by the foreign ministers and Türkiye would be informed at an appropriate time deemed suitable (Erkin, 1968, pp. 266-267).

Immediately after the Yalta Conference, the Soviet Union unilaterally terminated the 1925 Treaty of Friendship and Non-Aggression between Türkiye and the Soviet Union, which was due to expire on November 7,

1945, with a declaration on March 19, 1945. The Soviet Union stated that it terminated the 1925 treaty in accordance with the principle of *rebus sic stantibus*, citing that it no longer suited the conditions of the day due to fundamental changes (Burçak, 1947, pp. 172-173; Erkin, 1968, pp. 246-247). As a result, the political rivalry between the two states, which was already a historical reality, turned into a confrontation during the Cold War period (Aydın, 2020, p. 213).

2.2. Potsdam Conference

On July 17th to August 2nd, 1945, the United States, England, and the Soviet Union came together at Potsdam to discuss whether the collaboration that began during the war would continue after it. Despite some hesitation, Stalin had previously conveyed to Churchill and Roosevelt his request to modify the Montreux Straits Convention to allow for free passage through the straits, and he received support in principle from both leaders.

Due to President Roosevelt's death on April 12th, 1945, Harry Truman represented the United States at Potsdam. In July 1945, elections were held in England, and the Conservative Party lost. Therefore, Churchill represented England in the first half of the conference, and later, the new Prime Minister, Clement Attlee, represented the country (Armaoğlu, 1996, p. 404).

Stalin left both the Tehran and Yalta conferences with hope after receiving responses from his allies. The Soviet Union was not able to advance its agenda with Türkiye as it desired because the Allies did not communicate their demands to Türkiye. During the Sarpier-Molotov talks before the Potsdam Conference, Soviet demands were conveyed to Türkiye but were clearly rejected. The Soviet Union hoped to receive support from the England and the United States to persuade Türkiye to accept their demands for a base and border change during the Potsdam Conference. At this conference, Stalin stated that a Russian base was necessary for the adequate defence of the straits and that a bilateral agreement between Türkiye and the Soviet Union on the Turkish straits was necessary. President Truman responded to Stalin by stating that territorial claims from Türkiye were a matter that could be resolved between the two states, but the issue of the straits concerned the entire world, including the United States (Erkin, 1968, p. 285).

Stalin insisted that a new regime needed to be established between Türkiye and the Soviet Union regarding the Turkish straits. He expected the U.S. and England to accept his policy, but the issue created disagreements

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among the three states at the conference because it was not a bilateral matter between Türkiye and the Soviet Union, and the Soviet Union's demand for bases in the straits was deemed unacceptable.

President Truman supports the idea of free passage through all international waterways globally, but Stalin believes that the Turkish Straits have a distinct status and should be handled differently. President Truman noted that the selfish domination of Europe's waterways had been a persistent cause of wars for the past two centuries. He specifically mentioned the Danube River, the Rhine River, the Kiel Canal, and the Turkish Straits as examples. At the Potsdam Conference, the President proposed that navigation of these waterways be free and unrestricted, with international authorities regulating navigation. The United States, England, the Soviet Union, France, and riparian states were all expected to be members of the agency (Howard, 1947, p. 69).

In response to the Soviet Union's insistence, the United States and England suggested a proposal to ensure free passage through the Straits, with the guarantee of other relevant states in addition to the three major powers. Nonetheless, the Soviet Union rejected this proposal (Gönlübol, et al., 1996, pp. 195-196).

Although England is positive about the idea of reconsidering the Montreux Convention in favour of the Soviet Union and countries bordering the Black Sea, it has criticized the Soviet Union's approach to the issue. It has made it clear that this issue is not a bilateral matter that Türkiye and the Soviet Union can decide between themselves. The United States and England have clearly rejected the Soviet Union's request for bases in the Straits. England found the Soviet Union's other demands, apart from the revision of the Montreux, to be dangerous in terms of the risk of Türkiye falling under Russian control. England also did not fail to warn Stalin not to further worry Türkiye (Sever, 1997, pp. 27-28).

Since no agreement was reached at Potsdam, a decision was made at the end of the conference stating that the Montreux Straits Convention did not comply with the conditions of the changing times and direct negotiations should be held between the United States, England, the Soviet Union, and Türkiye for its revision. US President Truman took on the task of convincing Türkiye of the benefits of an international control system (Erkin, 1968, p. 269).

During the Potsdam Conference, the difference between the attitudes of the England and the United States can generally be expressed in abstract terms as follows: the England's diplomatic experience and balance of power

policy, which it had gained throughout its historical process, enabled it to know well both Russian and Turkish foreign policies and the strategic positions of these two states in international relations. On the other hand, the United States, which emerged as a political actor on the international relations stage, had little experience in international relations due to the Monroe Doctrine. Therefore, it could not perceive the tactical nature of the alliance relationship between The Soviet Union and the US during World War II (Türkmen, 2012, p. 59). The interpretation of the *direct negotiations* was a major point of contention in the Straits debate of 1945-1946. The British and Americans believed that these conversations were simply the next step in the revision process. However, the Soviets believed that each great power should have separate discussions with Türkiye to revise the convention. According to the Soviet perspective, these discussions were not just preparatory or for exchanging views but should lead directly to the revision of Montreux (DeLuca, 1977, pp. 512-513).

Although the US and England openly declared at the Potsdam Conference that they were not against changing the Montreux regime, their policy towards the Straits changed shortly thereafter.

2.3. Note Exchanges between the US-UK-USSR and the Republic of Türkiye

Following the decision made at the Potsdam Conference, the three countries began to individually deliver the notes in which they demanded a change in the regime of the Straits to Türkiye as of November 2, 1945. It would be useful to summarize the notes and the corresponding Turkish notes, in the order of the United States, the England, and the Soviet Union.

2.4. The United States of America Note of November 2, 1945

In its note, the American government reminded of the decisions taken at Potsdam. It was added that Türkiye would be pleased to attend the conference that could be convened to determine new provisions that would enhance the international security of the control of the Straits, which have an important place in the trade of the Black Sea states and all states. In its note, the US argued that it was necessary to amend the passage regime through the Straits in accordance with certain principles in order to adapt it to the conditions of the day: (Erkin, 1968, pp. 271-272; Howard, 1947, p. 70)

1. The Straits should always be open to the commercial vessels of all states.

2. Warships of states that have a coast on the Black Sea should be able to transit through the Straits at all times.
3. During peacetime, warships of states that do not have a coast on the Black Sea should not transit through the Straits without the permission of the United Nations authority and the consent of the states that have a coast on the Black Sea, except for a specified tonnage.
4. The League of Nations should be replaced by the United Nations, and Japan should be removed from among the parties.

The United States of America^A seemed to have abandoned the idea of international control and freedom of transit at the Turkish straits. On November 24, 1945, in England, they declared that they agreed in principle with America's proposals. However, the Soviet Union rejected the American proposal (Sever, 1997, p. 30).

The second principle meant acceptance of the claim of the Soviet Union, which sought to regard the Black Sea as a closed sea. The third principle could upset the balance between the Black Sea states and states that do not have a coast on the Black Sea, which was established with difficulty in the Montreux Straits Convention. This particularly made it possible for the Black Sea states to intervene against an enemy state without any concerns by using their absolute and unlimited passage rights through the Straits at all times during wartime. Trying to link the passage right to the approval of the United Nations Security Council, which could be vetoed, could lead to the risk of the right being confined to a prohibitive nature (Erkin, 1968, p. 272).

In his speech on Army Day, April 6, 1946, President Truman restated the United States' determination to remove obstacles that impede international navigation. The aim was to ensure that no nation would be deprived of free access to seaports and international waterways simply because of its geographical location. (Howard, 1947, pp. 70-71)

2.5. The British Note of November 21, 1945

The note given by the British government adopted the views expressed in the American note. It stated that the re-evaluation of the Montreux Straits Convention was necessary but that the issue was not urgent, implying that the regime for the Straits should be kept within the narrow framework of the Montreux Straits Convention (Erkin, 1968, p. 272).

2.6. The Turkish Note of December 6, 1945

In its response note dated December 6, 1945, Türkiye stated that the principles put forward by the United States could be accepted as the basic framework for negotiations at the conference. Türkiye announced that it would attend the international conference that would be held for this purpose. Türkiye emphasized that the decisions to be taken at the conference must necessarily be in accordance with Türkiye's independence, sovereignty, and territorial integrity, and demanded that all states adhere to these principles (İnan, 1995, p. 109).

2.7. The Soviet Note of August 7, 1946

The Soviet note of August 7, 1946 was the first official request made by the Soviet Union to Türkiye regarding the status of the Straits after World War II. The note was based on four main points: (Bilsel, 1948, p. 42)

1. The decisions of the Potsdam Conference
2. Türkiye's responsibility
3. The inadequacy of the existing regime
4. The principles of a new regime

The Soviet's government contacted Türkiye regarding the regime of the Straits in accordance with the decisions made at the Potsdam Conference. Additionally, the Soviet Union claimed that Türkiye violated the Montreux Convention on the Straits during the war and that Türkiye should be held responsible for the damages incurred by the Soviet Union. The note protested against the passage of the German patrol vessel *Seefalke* on July 9, 1941, the Italian auxiliary warship *Taraviso* on August 1, 1941, eight EMS type auxiliary warships in May 1944, and five *Kriegtransport* type auxiliary warships in June 1944 (Bilsel, 1948, p. 43; DeLuca, 1977, pp. 507-510).

The Soviet Union also demanded changes to the Montreux Convention, claiming that the current regime did not protect the security of states with access to the Black Sea. The proposed changes included the following: (Bilsel, 1948, pp. 45-46; Howard, 1947, p. 71)

1. The Straits should always be open to the passage of commercial vessels from all countries.

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2. States with access to the Black Sea should always be allowed to pass warships through the Straits.
3. States without access to the Black Sea should not pass warships through the Straits, except under specific provisions.
4. The regime of the Straits should be under the control of the Black Sea states.
5. Türkiye and Russia should jointly provide defence to prevent the use of the Straits by some countries to the detriment of others.

DeLuca argues that Russia's diplomatic initiative was clearly part of a larger coordinated effort to escalate the "*war of nerves*" and test Türkiye's willingness to resist Soviet demands. This was evident due to the large-scale troop movements in Transcaucasia and Bulgaria, as well as naval exercises in the Black Sea, which coincided with the diplomatic initiative. The increased military and diplomatic pressure was aimed at pushing Türkiye to the brink and see if it would give in to Soviet demands (DeLuca, 1977, p. 516).

2.8. The Turkish note dated August 22, 1946.

The response of Türkiye to the note given by the Soviet Union on August 22, 1946 was to reject the fourth and fifth conditions presented by the Soviet Union, while accepting the first three. Türkiye argued that the establishment of a regime for the Turkish Straits was not solely a matter concerning the countries that have a coast on the Black Sea. Türkiye also emphasized that the defence and control of the Straits were its responsibility (Toluner, 1996, p. 117).

In its response, Türkiye explained the events that took place during World War II and stated that Türkiye could not be held responsible for them. For instance, Türkiye allowed the German "*Seefalke*" motor to pass through the Straits because there was no evidence that it would be used for military purposes, and it did not have the characteristics of a military vessel, as defined in the second attachment of the note. The Turkish response described the "*Seefalke*" as a merchant vessel (Bilsel, 1948, p. 67; Sönmezoğlu, 2006, p. 122).

The Italian "*Tarvisio*" ship was initially allowed to pass through the Straits as a tanker, but later, when Turkish authorities learned that it was an auxiliary warship, they did not allow it to pass through again. Although the note stated that the ship was shown as a commercial vessel and the Italian

foreign ministry had removed it from the list of auxiliary warships, the Turkish authorities did not allow it to pass through the Straits again (Bilsel, 1948, pp. 67-68; Sönmezoğlu, 2006, pp. 122-123).

The Turkish government clearly stated in the note that EMS-type ships weighing less than 100 tons and carrying commercial cargo were allowed to pass through the straits, provided that it was certain that they were carrying such cargo and that Germany gave assurances that they belonged to private companies. Regarding Kriegstransport-type ships, it was stated that the Turkish government allowed them to pass through the straits because they were classified as commercial ships, not auxiliary warships, and were not included in Annex 3 of the agreement. It was pointed out that all of these incidents were due to the fact that the tonnage, qualifications, and descriptions specified in Annex 2 of the agreement were not adhered to (Bilsel, 1948, pp. 68-69; Sönmezoğlu, 2006, p. 123).

The fourth and fifth principles put forward by the Soviet Union were rejected by the Turkish government for the following reasons, respectively, as stated in the response note: (Bilsel, 1948, pp. 74-75)

"The amendment procedure, which excludes other states, appears to disregard the equal rights of other signatory states, which have equal rights to participate in negotiations and sign the supplementary text.

The fifth principle is contrary to Türkiye's sovereignty and security rights, which Türkiye cannot waive or accept imitations of. Acceptance of this proposal would mean the end of the balance and connection role that Türkiye plays in the straits, and the alleged security of the Black Sea states would be based on the destruction of Türkiye's security. The Republic of Türkiye government believes that it is its duty to defend the country with all its might against any invasion, no matter where it comes from, and that taking all necessary measures to ensure the country's security against any potential threat from outside is Türkiye's responsibility."

The views expressed in this note by the Soviet Union were accepted by Türkiye within the framework of the conjuncture of the period, including: (i) the permanent openness of the Straits to commercial vessels, (ii) the permanent openness of the Straits to warships of Black Sea states, and (iii) the prohibition of passage through the Straits by warships of states without a coastline in the Black Sea except under specific conditions. The fifth article, which was contrary to Türkiye's security interests, and the fourth article, which was contrary to the interests of other states, were not adopted by Türkiye, the United States, and England (Sönmezoğlu, 2006, p. 123).

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On August 19, 1946, the United States responded to the Soviet note and reaffirmed that the regulation of the Straits was not solely the concern of the Black Sea powers. The United States of America emphasized that Türkiye should be primarily responsible for defending the Straits, and any aggression or threat against the region would require action from the United Nations Security Council. The United States of America also suggested that the Straits regime should be consistent with the principles and aims of the United Nations (Howard, 1947, p. 72; DeLuca, 1977, pp. 517-518).

2.9. Soviet Note of September 24, 1946

Although Türkiye did not give this note to the England and the United States, who the Soviet Union did not want to interfere in the Straits issue, Türkiye informed both countries about it.

The response from the Soviet Union on September 24, 1946, restated their fundamental stance, referenced historical examples to support their proposals, and maintained that their suggestions were consistent with the principles and objectives of the United Nations. The Soviet note also suggested that negotiations between the three governments and Türkiye should happen before convening a conference on the Straits (Howard, 1947, p. 72; DeLuca, 1977, pp. 519-520).

In its first note, the Soviet Union repeated its demands and claims and stated that the Black Sea is a closed sea that is recognized by the whole world and also by Türkiye through the Moscow Treaty of 1921. It claimed that this recognition was made possible by the fifth article of the Moscow Treaty, which states:

"The two contracting parties agree to notify a special conference composed of representatives of the littoral States, in order to ensure the maintenance of the free passage of the Straits for the commercial relations of all nations, of the definitive notification of the international status of the Straits and the Black Sea, without prejudice to the full sovereignty of Türkiye and without affecting the status of the capital, Istanbul" (Bilsel, 1948, pp. 76-86).

However, the Soviet Union clearly stated that the joint defence of the Straits, which Türkiye did not accept as contrary to its sovereignty rights or as a threat to its security.

2.10. The Turkish note dated October 18, 1946

Türkiye once again rejected the claims and demands of the Soviet Union in detail, and also stated that the fifth article of the Moscow Treaty did not express any provision. In its response note to the Soviet Union, Türkiye stated that previous international settlement methods related to the Straits, including those with Russia's participation, have acknowledged that restrictions on the freedom of passage for states, whether they have a coastline or not, have been imposed to some extent as exceptions agreed upon by other states for the general interest. Türkiye has voluntarily consented to these exceptions.

The restrictions imposed on the transit regime of the Straits throughout history by means of treaties confirm their exceptional nature. The limitations accepted by the Lausanne Straits Treaty and the Montreux Straits Convention, which have littoral states to the Black Sea, clearly show their exceptional nature when considered together with the requirement of the participation, agreement, and approval of both littoral and non-littoral states for any changes to this regime.

Furthermore, the provision in the fifth article of the 1921 Moscow Treaty, which stipulated that the status of the Straits would be determined at a conference in which littoral states to the Black Sea would participate, can no longer be invoked due to the fact that those parties who rejected this provision signed the Montreux Convention and became parties to it. Both agreements have been signed and ratified by littoral and non-littoral states.

During the London Conference, the Soviet Union did not raise any objections to the statement that the issue of the Straits concerned the whole world, and it did not mention the relevant article of the Moscow Treaty during the conference. However, the Soviet delegate defended the element mentioned in the fourth article of National Act⁵ by reading it out during the conference.

The other Black Sea states, however, held different views from the Soviet Union and by signing the final agreement at the conference, it abandoned the Moscow system. In addition, the Soviet Union did not raise any objections during the conference and finally, it ratified the Montreux Convention on the Straits, unlike the Treaty of Lausanne. The fifth article of the Moscow Treaty could not be put into practice and thus it became

⁵ "The security of Istanbul, which was the capital of the Ottoman Empire, and the Marmora Sea must be safeguarded against any harm. Subject to this principle, the decision made by us and all other relevant states in alliance regarding the access of the world trade and communications through the Mediterranean and Black Sea Straits is valid."

irrelevant. As stated from the Turkish point of view, this article has no historical value beyond its existence (Bilsel, 1948, pp. 53-54).

The closed seas doctrine suggests that seas connected to the open sea through a waterway and with limited littoral access should be subject to special regulation. However, this view was rejected at the 1958 Geneva Conference, and it was also not accepted by the United States, the England, and Türkiye in relation to the Black Sea. Therefore, it is evident that there cannot be a universally accepted closed regime with respect to the Black Sea, and the free passage of the straits prevails, which can be restricted by both participating and non-participating states (Toluner, 1996, p. 184).

During the 1958 United Nations Conference on the Law of the Sea, the Soviet Union proposed the establishment of special transit regimes based on historical reasons and international treaties in some seas while the definition of open seas was being discussed. However, they later withdrew the proposal. If accepted, this proposal could have led to the regulation of the Bosphorus by the countries with coastlines on the Black Sea, due to its status as a closed sea, and could have resulted in the Soviet Union being granted military bases in the region for the defence of the straits (Belik, 1962, pp. 32-33).

In this context, the previous statement regarding the United States' desire to participate in the conference can be evaluated as follows: the England, France, and Türkiye have accepted the United States' participation in the conference to amend the treaty, despite the United States not being a party to the treaty. The Soviet Union, on the other hand, participated in discussions regarding this issue with the United States at the Yalta and Potsdam conferences. Therefore, it can be considered that the Soviet Union acknowledges the United States' involvement in this matter (Belik, 1962, p. 33).

After examining all these conference discussions and note exchanges, it can be said that, as Hurewitz (1962, p. 632) also noted, when the conditions and circumstances are deemed appropriate, Russia may resort once again to simple, "*old-fashioned imperialism*" in order to fulfil its "*obvious fate*" in the Turkish Straits. Russia opposes the continuation of the Montreux regime and demands exclusive rights, dominant control, and special base privileges. It refuses to accept proposals from the US or Türkiye. In contrast, the US and UK are determined to establish a multilateral arrangement for the Straits that respects Turkish sovereignty, grants equal rights to all parties, and imposes strict limits on non-Black Sea powers' warships. Türkiye opposes any setup that compromises its independence or security (Padelford, 1948, p. 186).

3. Cold War Period and the Turkish Straits

In January 1946, American President Truman stated that he had no doubt that the Soviet Union intended to invade Türkiye and seize control of the straits, and warned that a new war would break out if the situation was not stopped (Coffey, 1985, p. 236). He famously stated, "*Only one language do they understand—how many divisions have you?*". He made it clear that Türkiye should not be left alone against Russia (Gönlübol, et al., 1996, p. 201; Harris, 1972, p. 19). In February of the same year, British Foreign Secretary Bevin expressed his desire not to see Türkiye become a satellite state, and emphasized the importance of Türkiye remaining an independent and free state in a speech to the House of Commons (Burçak, 1947, p. 203).

3.1. The Effects of the Developments During the Cold War Period on the Turkish Straits

As a response to the requests from the Soviet Union for the amendment of the Montreux Convention regarding the Turkish Straits, the diplomatic debates over the Straits ended due to the firm stance of Türkiye, the United States, and the England. As Buzan (1976, p. 245) has noted, with the escalation of the Cold War and the consequent hardening of East-West relations, diplomatic negotiations on the issue began to gradually diminish. The American assistance provided to Türkiye under the Truman Doctrine firmly secured Türkiye's position within the NATO-CENTO framework, leading to a prolonged period of enmity between Türkiye and the Soviet Union. This period only came to an end when the Soviet government abandoned its territorial claims against Türkiye on May 30, 1953. Turkish-Soviet relations remained quite distant until 1953. At this date, the Soviet Foreign Minister Molotov gave a note to Türkiye stating that the Soviet Union had no territorial or base demands from Türkiye.

The attempt to change the legal status of the Straits was made through diplomatic channels between 1945-1946, but it did not yield any results. Therefore, according to the relevant provisions of the Montreux Straits Convention, an international conference would need to be convened to fulfil such a request. However, no such request has been made to date, and thus no conference has been held. As a result, the Montreux Straits Convention is still in force, even though its term ended in 1956. (İnan, 1995, pp. 115-116).

Additionally, the Cold War and the bipolar international system prevented the Montreux Straits Convention from being on the international relations agenda for a long time. During this period, both poles adopted policies to

avoid conflicts, and although some reactions occurred during accidents in the Straits or the passage of ships not covered by the Convention, they did not have a lasting impact.

Starting from the 1950s, the United States took action to establish a “*northern tier*” through an alliance system from East Asia to Western Europe against the Soviet Union's expansion. With the establishment of the Baghdad Pact in 1955, which Türkiye was also a part of, the gap between the alliances formed by NATO in 1949 and SEATO in 1954 was filled. Like the one led by England in the Paris Peace Treaty of 1856, this time, it was aimed to prevent Russia's southward expansion with a political “*tier*” led by the United States. During this period, the importance of alliances became even more significant (Uçarol, 1994, p. 193).

The first official opinion on this issue was expressed by the Western European Union. By adopting a common policy for the defence of the Mediterranean, the Western European Union Parliament accepted the request to amend the Montreux Convention concerning the Dardanelles and Bosphorus Straits. The proposed changes included a redesign of the articles regulating the passage of warships in the convention to include modern ships and weapons (Çelik, 1969, pp. 146-147).

The problematic aspect of the Convention is its provisions regulating ship tonnage and the amount of weapons they can carry. At the time of the signing of the Convention, the size of the weapons a ship could carry was related to the ship's weight. This is why tonnage restrictions were introduced in the Convention.

Weapons were restricted based on their caliber, not their range. However, the development of more intense and effective firearms that have replaced gunpowder has necessitated reducing the caliber of weapons to increase their range and destructive power. Today's medium-sized ships are equivalent in size to destroyers from the 1930s and 1940s, which allows countries without access to the Black Sea to pass through the Straits with only small ships. Countries with a coastline on the Black Sea are concerned about the effective weapons that these ships can carry.

With the emergence of aircraft carriers, the absence of a provision regulating their passage created some problems in international relations. The passage of the Kiev through the straits in July 1976 sparked controversy. Western scholars argued that the ship was clearly an aircraft carrier and that the convention indirectly prohibited the passage of aircraft carriers (Pazarıcı, 1986). The Soviet Union defended a different view. Eventually, a compromise was reached, and the Kiev was officially defined

as an "*anti-submarine cruiser*," (Knight, 1977, p. 125) subjecting it to the same rules as large vessels permitted to transit the straits. Although Western countries interpreted this as a violation of the convention, they did not make any official complaints. According to Knight, based on the definition of aircraft carriers in the convention, it seems that the Kiev satisfies the criteria of being "*designed primarily for the purpose of carrying and operating at sea*". According to U.S. officials, the transit of Soviet Kiev-class V/STDL and helicopter carriers through the Straits violates a specific prohibition in the Convention. The officials argue that the negotiations leading up to the Convention indicate that restrictions on navigation were intended for both Black Sea powers and other nations. Therefore, it is not contradictory to conclude that the transit of aircraft carriers belonging to Black Sea powers is forbidden by the Convention (Altuğ, 1992, pp. 192-193).

However, the passage of the Kiev created a legal precedent for other aircraft carriers, such as the Admiral Kuznetsov, to pass through the straits in the future (December 2, 1991 (Akan & Tezcan, 1993a).

According to the Soviet Russian perspective, a comprehensive examination of the Montreux Convention concludes that the passage of any ships belonging to Black Sea states through the straits does not violate the Convention's letter and spirit, from a legal standpoint. Turkey, on the other hand, asserts that the Montreux Convention does not explicitly prohibit the transit passage of aircraft carriers through the Straits. Turkey believes that preserving the Convention in its current form is critical and that any effort to turn it into an east-west issue would be futile. Despite significant changes in the international system during the Cold War, the Convention has remained effective, thanks to Turkey's adherence to its letter and spirit (Altuğ, 1992, pp. 195-196).

The deficiencies of the treaty in terms of military issues and technical adjustments related to warships are not the only problems caused by the current conditions, but also the lack of measures related to the safety of maritime traffic and environmental protection in the straits. The treaty does not include regulatory and preventive provisions regarding the nature of the ship's cargo and its harmful and polluting passage (Versan, 1992).

With the technological advancements that have taken place since 1936, enormous tankers that put the straits at potential risk have emerged. The possibility of collision, explosion, fire, sinking, or irreparable damage to the straits caused by tankers carrying petroleum or LPG passing through the straits necessitates Türkiye to establish and enforce some rules regarding the straits based on its sovereignty rights for security reasons. This is both

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a matter of national jurisdiction as a sovereignty rights and compliance with principles of international law (Odman, 1993a).

According to Article 31 of the 1968 Vienna Convention on the Law of Treaties, treaties can only be interpreted in good faith in accordance with the ordinary meaning of the terms of the treaty, in light of its object and purpose. In this regard, the provisions of the Montreux Convention on the Turkish Straits should be in accordance with the requirements and understanding of the time when it was applied, and the regulations should arise through anticipating the requirements of certain matters. In this context, it is evident that the provisions regarding the free passage of commercial vessels through the Straits during peacetime do not regulate every detail in detail. Therefore, it can be said that Türkiye is left with room for manoeuvre to regulate within the framework of international maritime law (Odman, 1993a).

Türkiye has the right to deny passage to a ship, for example, if it is determined to be on fire or if a large tanker, some of which now exceed 350,000 tons, wants to pass through the Straits. These measures are aimed at ensuring both Türkiye's own security and the safety of other vessels passing through at the same time. Additionally, Türkiye has the right to close the Straits to passage during the construction of bridges over the Straits or during sports events, for example, if necessary for its own security. The United Nations Convention on the Law of the Sea also acknowledges Türkiye's right to make regulations to ensure safe passage based on its sovereignty rights (Mengül, 1993).

The incident of a person dying in their home's bedroom due to the Soviet-flagged Arkhangelsk ship crashing into the shore on September 4, 1963 is probably the only example of its kind in maritime history. The collision occurred when the ship hit a mansion in the Baltalimanı district of Istanbul. Therefore, ships passing through the Turkish Straits must have sufficient technical conditions to ensure safety and prevent danger (Aybay R. , 2019, p. 2736).

Another example occurred in October 1991, when a Lebanese-flagged ship collided with a Filipino-flagged ship, causing both vessels to sink. One of the ships was carrying live sheep, which decayed in the sea, causing a lack of oxygen in the water. Environmental problems can also arise from waste produced by tankers carrying petroleum and its derivatives, polluting the Straits. The Montreux Convention is inadequate in addressing these issue (Akan & Tezcan, 1993b).

Measuring the emerged environmental pollution and fully compensating for the damage is also difficult. For example, in 1979, a collision occurred between the tanker named "*Indepententa*" and the dry cargo ship named "*Evriali*", causing the air-gas mixture in the ship's tank to explode and thus a fire broke out on the ship. As a result of the accident, in addition to environmental pollution, the traffic in the strait was disrupted for days. It should be noted that marine traffic insurance is not mandatory for our topic. The shipowner may choose to voluntarily obtain such insurance (Aybay, 2000, pp. 35-39). The "*Indepententa*" ship had "*hull and machinery insurance*" and "*P&I Club Insurance*", which is typically done by every shipowner. Thus, the shipowner compensated for damages with the first insurance and third parties compensated for their damages with the second insurance. Therefore, Türkiye has benefited from this insurance due to environmental pollution (Mengül, 1993). The collision of two Greek Cypriot vessels, Nassia and Shipbroker, occurred in the Bosphorus in 1994. The incident resulted in 20,000 tons of crude oil burning for five days, leading to a week-long suspension of traffic in the Bosphorus. (Republic of Türkiye Ministry of Foreign Affairs, 2022)

It cannot be argued that the principle of free passage recognized by all states under the Montreux Convention results in Türkiye's domestic jurisdiction-based powers being completely abolished for the sake of its security. As Odman also noted, "*the protection of legitimate interests is the responsibility of national and international law*". Although Türkiye requested the inclusion of a provision preserving its sovereignty-based powers during the Montreux Straits Conference, no additional provision was added to the convention in this regard. Nevertheless, it is legally possible for Türkiye to exercise its sovereignty over its territory and territorial waters, as well as its powers over trade and warships passing through the straits, while preserving the provisions of the convention. Moreover, as there is no doubt about the passage being made in accordance with the principle of innocent passage, and this principle being adopted by all states, there is no need to include an explicit provision to that effect in the convention (Odman, 1993b).

According to the 1982 UNCLOS, passage through territorial waters is "*innocent*" as long as it does not threaten the peace, order or security of the littoral state (Article 19-1). Therefore, if passage poses a threat to security, peace, or order, Türkiye has the right to prevent such passage. The principle of innocent passage is of a general nature and, along with other principles such as transit passage and freedom of navigation, forms customs of international law that also applies to the Turkish Straits. Thus, in some areas not regulated by the Montreux Convention, such as environmental protection and regulation of traffic through the straits, it can be argued that

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customary international law grants Türkiye certain rights. This is because customary rules on the environment have emerged and been accepted after the written agreement (the Montreux Convention), and thus have an influential character on the convention's provisions (Akan & Tezcan, 1993d). The innocent passage through the territory of a state is an international customary rule and has an *erga omnes* character, meaning it is valid for all states. (Pazarıcı, 1998, pp. 48-49).

The principles derived from international law mentioned above form the basis for expanding Türkiye's powers to regulate passage through the straits. Secondly, Article 1 of the Montreux Convention on the Straits states that freedom of passage cannot be restricted, and Türkiye and other states are obliged to comply with this. Furthermore, in order to protect the rights of other states against violations such as risky passage or abuse, Türkiye is granted the right to regulate passage. Thirdly, there is a fundamental principle regarding the interpretation of the Convention. In cases where there are no clear provisions, a broad interpretation is used. It is generally accepted that a narrow interpretation is used for treaty provisions that limit a state's jurisdiction powers (Pazarıcı, 1995, p. 189). Again, as mentioned before, there is the possibility of expanding the framework of the Convention in order to meet the needs, regarding the interpretation of the treaties according to their subject and purpose.

The 2nd article of the Montreux Convention has incorporated the passage of commercial vessels into the free regime, stating that "*with any kind of cargo*". However, it has hindered the establishment of a monitoring mechanism that could prevent risks that could arise from dangerous cargoes carried by these vessels, particularly in Istanbul, the Marmora Sea, and surrounding settlements. Additionally, despite Türkiye signing the treaty against chemical and biological weapons, the relevant provision of the Montreux Convention that provides unconditional freedom of passage hinders Türkiye's ability to act effectively against arms or drug trafficking.

For example, the detection of arms smuggling on a Cypriot-flagged ship Cape Maleas in October 1991 brought the fight against smuggling to the agenda. Iran claimed that the weapons belonged to them, and Türkiye detained the ship for a while suspecting that systematic weapon smuggling, but later had to release the ship (Ekşi, 1997, pp. 163-170; Case of Islamic Republic of Iran Shipping Lines v. Turkey, 2007).

In cases other than this provision, Türkiye has the authority to regulate the passage of commercial ships through the Straits based on its national sovereignty. In accordance with customary rules of international maritime law, Türkiye has the power to ensure safe passage and regulate maritime

traffic. This authority can be exercised in areas not covered by contractual regulations, provided that the regulations concern the continuity and safety of passage.

Such regulations must be made in parallel with the regime to which the Straits are subject, in accordance with international maritime law and the principle of security, without violating the second article of the Montreux Convention and without affecting its essence, in order to fill the gaps in the contract and strengthen freedom under the scope of "*innocent passage*" (İnan, 1995, pp. 85-86).

Especially in the last thirty years, the state that advocates two different ways of delivering Azerbaijan and Kazakh oils to the Mediterranean and the world (Türkiye and the Russian Federation) has brought the Turkish Straits back to the agenda of the international public. Türkiye opposes the passage of tankers carrying their oil through the Straits due to security concerns, while the Russian Federation opposes these views and adopts an opinion that commercial vessels can pass freely through the Straits based on the Montreux Straits Convention (Joyner & Mitchell, 2002, pp. 528-529). Within the framework of the second and third articles of the Convention, commercial vessels can pass through the Straits freely during peacetime without any practice other than health checks. The passage of commercial vessels through the Straits cannot be limited or prevented, except in the case of war or imminent danger of war.

However, considering the increasing maritime traffic, narrow waterways, strong and reverse currents, and intense meteorological events such as dense fog, it is practically impossible for giant oil tankers to pass through the Straits without disrupting traffic. Additionally, it is also doubtful whether these passages are compatible with the purpose of "*considering Türkiye's security*" under the Montreux Convention or to what extent they are compatible.

International law imposes limitations on the regulatory and legislative powers of littoral states when it comes to passage through their territorial waters. These powers cannot be used without restriction. The limitations, as described by Toluner in "*The Regulation of Passage Through the Turkish Straits and The Montreux Convention*" (1981, pp. 86-87) are as follows: The first limitation is the principle of non-discrimination. This means that laws and regulations must be applied equally to all ships, regardless of their nationality or the type of cargo they carry. The second limitation is the preservation of the essence of the right of passage. Regulations or rules cannot make it practically impossible for foreign ships to pass through, nor can they violate the right of innocent passage. The third limitation is

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related to the right of free passage. It prohibits littoral states from imposing charges on ships passing through their territorial waters, except for specific services provided to the ship. The fourth limitation prohibits littoral states from enacting rules that would affect the design, construction, manning, or equipment of foreign ships. It cannot be claimed that the Montreux Convention is more restrictive regarding Türkiye's regulatory powers over the straits. The convention's terms simply affirm the principles of international law of the sea mentioned above, including "*by day and night,*" "*under any flag with any kind of cargo*", "*without any formalities except as provided in Article 3*", and "*no taxes or charges other than those authorized by Annex I*".

In this context, it is necessary to mention two regulations below. The first regulates the entry of foreign warships for visit purposes to the straits, while the second is the 1998 regulation adopted to increase navigational safety and ensure the continuity of passage through the straits.

3.2. Regulation on the Arrival and Activities of Foreign Armed Forces' Ships to Turkish Inland Waters and Ports

The Montreux Convention regulates that the Republic of Türkiye may invite the naval forces of foreign states to make courtesy visits to ports in the straits for a certain period of time. Based on its sovereignty, the Montreux Convention, and rights arising from international law, Türkiye has the authority to regulate the entry of warships belonging to foreign states into Turkish territorial waters, straits, and ports during peacetime and their movements and activities in these areas.⁶

For this purpose, a regulation was made in 1978. Subsequently, various amendments were made to this regulation in November and December 1983, and most recently in December 2022. It is necessary to provide

⁶ Türkiye made its first regulation in this field with the regulation regarding the conditions that the naval forces visiting Turkish Republic ports and territorial waters and their accompanying air forces must comply with, issued on July 25, 1925. New regulations were introduced on this issue along with the regulation on the issues that foreign naval and air forces visiting Turkish ports, airbases, and airports or conducting operations in territorial waters must comply with, issued on June 22, 1966. The regulations regarding the passage of foreign armed forces ships through Turkish territorial waters, their arrivals at Turkish ports and their activities in these waters were changed by the foreign navy with the regulation issued on December 27, 1978. The principles that the air forces of foreign states visiting or operating in airbases and airports in Türkiye must comply with continued to be subject to the provisions of the regulation dated June 22, 1966 (İnan, 1995, p. 93 footnote: 110).

information about the regulation that Türkiye has issued based on its regulatory authority without going into too much detail.

The 1978 regulation limited the innocent passage of warships belonging to foreign states through Turkish territorial waters. This situation was a violation of international law and was subject to the permission of the government of the Republic of Türkiye. When it became necessary to change it, a regulation was issued on November 24, 1983.

In the regulation (T.C. Cumhurbaşkanlığı, 1983), concepts such as warship, other vessels belonging to armed forces, nuclear vessel, nuclear energy, nuclear accident, radioactive materials and waste, and nuclear fuel were defined in accordance with international law rules. The regulation explicitly states that the provisions of bilateral or multilateral agreements to which Türkiye is a party are reserved (Article 32).

The aim here is to emphasize Türkiye's principle of *pacta sunt servanda*. In the regulation, it is stated that in case there are regulations that contradict the provisions of the Montreux Convention, the provisions of the agreement will be valid. It is clear that if there are issues that are not regulated in the convention, the provisions of the relevant regulation will be valid, and if there are issues that are not regulated in the regulation, the provisions of the convention and international law rules and agreements to which Türkiye is a party will be valid (Inan, 1995, p. 95).

These ships are required to hoist their national flags in a visible place as long as they are present in the Turkish straits, inland waters, and ports (Article 5), and they must act in accordance with Turkish legislation, international law rules, and agreements (Article 4). They are required to refrain from behaviors that may threaten Türkiye's territorial integrity, political independence, and security. They cannot engage in any action aimed at research, surveillance, or intelligence gathering that would be detrimental to Türkiye's security or defence, nor can they engage in any propaganda activity aimed at affecting Türkiye's defence and security (Article 6).

During their stay in Turkish territorial waters and ports, any damages caused by these ships will be determined by the competent Turkish courts. The state whose flag the damaging ship is carrying is responsible for compensating for the damage within the framework of international law principles and agreements (Article 7).

These ships cannot use active and passive underwater listening, detection, monitoring and diagnostic devices without the prior permission of the

Turkish Government, except for maneuvers, exercises and training that have been accepted through special agreements (Article 8).

Foreign armed forces ships that have obtained permission to visit Turkish territorial waters and ports cannot enter Turkish airspace by air with aircraft, helicopters, or unmanned aerial vehicles (UAVs) unless accompanied by Turkish military units or directly under their control. Foreign Armed Forces ships cannot fly their aircraft, helicopters, or UAVs within Turkish airspace without the permission of the Turkish Government. (Article 9).

Except for manoeuvres, exercises, and training agreed upon in special agreements, foreign Armed Forces ships cannot conduct any manoeuvres or exercises for any purpose in Turkish territorial waters, ports, and airspace without prior permission from the Turkish Government. They also cannot organize shooting and training activities with guns, torpedoes, guided missiles, and other weapons (Article 10).

While foreign armed forces ships are in Turkish territorial waters and ports, they cannot conduct drilling activities, diving, hydrographic and oceanographic research and measurements, establish sea marks, change their location or character, take pictures of prohibited areas, or conduct any scientific or military research activities without the permission of the Turkish Government. Diving is prohibited. However, in emergency situations, diving can be allowed with the permission of Turkish authorities and with Turkish diving personals. The discharge of all wastes and cargo residues generated during the normal operations of the ship, in a manner that may cause harm to the environment, directly or indirectly, into the seas or inland waters is prohibited according to the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78) and its annexes defining the types of waste (Article 11).

The regulation specifies that warships belonging to foreign states can make three different types of visits during peacetime, which are official, unofficial, and routine visits. These visit types are defined as follows:

1. Official visits refer to the visits of ships belonging to a foreign state, which come upon the invitation of Türkiye or to participate in an important national or international event, or upon an official request for a visit.
2. Unofficial visits are visits aimed at strengthening the friendship between two countries and maintaining good relations between

the armed forces, without any purpose of participating in any national or international event.

3. Routine visits are visits made by warships belonging to foreign states to participate in manoeuvres, exercises, and training with the Turkish Armed Forces, or to provide logistical support.
4. Türkiye Republic will decide whether to limit or remove the duration of stay of these ships.

3.3. Turkish Regulations for the Administration of Maritime Traffic in the Turkish Straits (1998)

With the advancement of technology, uncertainties regarding the implementation of the Montreux Straits Convention have started to arise, leading to debates among international actors. Among these uncertainties are the increase in sea traffic density, the construction of specialized ships due to the development of the shipping industry, the increase in ship sizes, the types and quantities of cargo being transported, which have become a serious threat to the straits region and have also led to intensified sea traffic. In addition, with the transportation of Caspian Sea oil to international markets through the Turkish straits, there has been a significant increase in the number of tankers passing through the straits region. The growth in tanker sizes has added to this situation, resulting in a high density of sea traffic in the straits and large accidents occurring one after another.

The narrow and long waterway of the straits cannot handle the increasing congestion, and certain areas have a significantly narrowed geographical structure. The sea surface currents, differentiated by the salt density of the Aegean and Marmora Seas, as well as the topography of the area, pose risks for ships manoeuvring through them. Especially in certain areas, the sea currents can reach speeds of 8 knots, which is another risk factor. Additionally, sharp turning points and geographical features with protrusions and indentations also increase the risks. Meteorological events, such as fog, also play a significant role in these risks. Furthermore, accidents can occur due to vessels not fully complying with international standards, insufficient technical equipment, and accidents caused by humans unintentionally.

It should be remembered that accidents that occur in the straits have a high potential to cause significant environmental pollution. Accidents involving nuclear materials or hazardous waste on board vessels can lead to environmental disasters of irreversible magnitude. Additionally, efforts to transport oil from the Caspian and Kazakhstan through the Turkish Straits

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have required Türkiye to prepare a regulation in 1994. While preparing this regulation, Türkiye acted with the motivation to ensure the continued safe passage of vessels through the straits, fulfil its responsibilities under the Montreux Convention, and protect both national and international interests (Newman, 1994).

Until the collapse of the Soviet Union, the Black Sea region, which had a coastline to the Black Sea, was closely related to the Soviet Union, Romania, and Bulgaria as independent states. However, after the collapse of the Soviet Union, the number of countries with a coastline to the Black Sea has increased. Ukraine, Moldova, and Georgia have become new littoral states directly connected to the Black Sea, while Armenia and Azerbaijan have indirectly become states connected to the Black Sea. In addition to these, Turkmenistan, Uzbekistan, Kazakhstan, Kyrgyzstan, and Tajikistan have become able to trade by sea and connect to world markets through the Black Sea and the Straits. Therefore, the number of states that are directly or indirectly connected to the Black Sea and the Straits and are linked to the global market has increased (Uçarol, 1994, pp. 197-198; Gerolymatos, 2014, pp. 74-75).

The increasing maritime traffic, the environmental damage and Russia's efforts to use the straits for oil transportation, as well as the potential disasters that could result from accidents involving these tankers, have understandably caused deep concern in Türkiye. Türkiye does not have the authority to prevent the passage of these types of cargo ships through the straits. However, as previously stated, when interpreted in accordance with international legal norms and the Montreux Convention, it becomes apparent that Türkiye has the right to regulate traffic and ensure safe passage based on its sovereignty powers. To this end, in 1994, Türkiye adopted a regulation to regulate maritime traffic and ensure safe passage through the straits.

Russian Federation reacted to this regulation that came into effect on January 1, 1994. Türkiye sent a note to relevant countries on April 5, 1994, informing them about the regulation. In its response note on April 29, 1994, Russia Federation stated that this regulation was a unilateral attempt that violated the Montreux Convention and international law. As the disagreements between Türkiye and the Russian Federation could not be resolved, Russia took action on this matter through International Maritime Organisation (IMO).

In discussions at IMO, The Russian Federation along with Bulgaria, Cyprus, Greece, Romania, and Ukraine, strongly opposed them and raised political, legal, and technical objections. The legal objections were based

on the provisions of the Turkish draft rules and national regulations, which were seen as denying, hampering, or impairing the customary law rights of navigation through the straits, suspending those rights for reasons other than force majeure, imposing authorisation requirements and procedures on certain categories of vessels, and contradicting the terms of the 1936 Montreux Convention. The political objection was that Türkiye chose a unilateral approach instead of a multilateral one to address the issue (Plant, 1996, p. 19).

According to Russia Federation, Türkiye had issued this regulation to prevent oil shipments through the Turkish straits. Russia believed that Türkiye aimed to pave the way for the Baku-Tbilisi-Ceyhan pipeline project. Another issue that Russia Federation was concerned about was that the regulation was made without consulting them. Here, Russia's most important concern was related to the Black Sea fleet. In addition, more than 60% of Russia's required foreign trade was also carried out through the straits. Russia believed that this regulation would have negative effects on its military-strategic and commercial interests (Kamel, 1999). Russian authorities have reported that the regulations have led to delays in shipping through the Turkish Straits, resulting in significant economic losses and price increases for shippers. They also assert that hundreds of Russian vessels are forced to wait for extended periods at the entrance to the Straits, causing substantial economic damage to shipowners (Pavlyuk, 1998, p. 988).

In discussions at IMO technical criticisms were also raised, including that: (Plant, 1996, pp. 19-20)

- a. *Requiring vessels over 200 metres to pass only in daylight and with specified tug escorts unilaterally chosen by Türkiye was unreasonable.*
- b. *The restrictions based on surface current speeds were unreasonable in light of modern vessel capabilities.*
- c. *Closing the straits to one- or two-way traffic during the passage of large vessels was unnecessary and likely to lead to concentrations of shipping at the strait entrances, compromising safety and increasing tanker operating costs.*
- d. *The modified Colregs Rule 10(b), as applied in the envisaged traffic separation schemes, could only be complied with by small vessels under 150 metres in length, making those schemes inconsistent with the concept of traffic separation and inappropriate under IMO ships' routing safety criteria, set out in Ships' Routing.*

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Despite the objections of the Russian Federation and Greece, the European Parliament supported Türkiye's efforts to ensure passage safety by putting the traffic regulation into effect. On April 20, 1994, the European Parliament passed a resolution calling on Türkiye to increase security measures in the Straits region and to tighten rules regarding the passage of oil tankers (Hürriyet, 1994).

As Türkiye did before the Montreux Convention, it did not neglect to seek the views of relevant countries and other international organisations when preparing the regulation. Firstly, it applied to the IMO and submitted the traffic separation scheme. The authority to establish traffic separation arrangements is the responsibility of the state, according to Articles 72/1-d and 10 of the 1972 International Regulations for Preventing Collisions at Sea (COLREG) and these schemes must be approved by the IMO. In this context, Türkiye applied to the IMO, took into account the organisation's recommendations, and thus fulfilled its obligations arising from international law.

Russia has claimed that Türkiye has deviated from the rules and recommendations of the IMO. In this context, in 1995, at an IMO meeting, Russia managed to pass a decision that obligated littoral states to adhere to the recommendations and rules of the International Maritime Organisation. Greece, Ukraine, Bulgaria, the Greek Cypriot administration of Cyprus, and Romania supported Russia in this matter (Başyurt, 1998).

Türkiye could not prevent Russia's objections to the articles in the regulation that limit the passage of large vessels, which came into effect in 1994. As the differences in views with Russia could not be resolved, Türkiye declared in 1997 to IMO that it intended to make some changes to the regulation. These changes were defined as follows: defining deep-draft vessels as 15 meters instead of 10 meters; increasing the lower limit for the large vessel class from 150 meters to 200 meters; and giving ships with the ability to perform backing also the authority to perform their own backups. (Özersay, 2015, p. 591).

The 1994 Regulations were open to interpretation by Turkish officials, which was unacceptable for countries like Russia and Greece in the Black Sea and Aegean basins. In response to these concerns, the new Regulations for the Turkish Straits Maritime Traffic Order were enacted on November 6, 1998. These adjustments aimed to clarify the ambiguous nature of the 1994 Regulations and allay fears that Türkiye was attempting to exert national control over the Straits. However, Article 20, which specifies when the Straits may be closed, still raises concerns among Russian officials and

scholars who believe it goes against the Montreux Convention's interpretation (Gerolymatos, 2014, p. 77).

While discussing the 1998 Regulations at IMO meetings, Türkiye faced objections from several countries including Black Sea states, Greece, and Russia. These nations accused Türkiye of violating the principle of free passage, which was established by the Montreux Straits Convention, through the adoption of these regulations.

However, Türkiye has issued regulations to regulate sea traffic in the Straits in order to ensure navigation, safety of life, property, and environmental protection by establishing a maritime traffic system (Article 1). The regulation covers the length of ships passing through the Straits (Article 25), technical equipment (Article 5), speed limits (Article 13), rules applicable to ships operated by nuclear-power, transporting nuclear cargo or nuclear waste, hazardous/dangerous cargo or waste (Article 26), and prohibition against environmental pollution (Article 29), and aims to ensure safe and continuous passage.

The most important of these regulations is the introduction of a traffic separation scheme in accordance with international law (COLREG) (Article 3). All ships are required to comply with warnings and inspections and comply with the flag state regulations and international rules (Article 5). Article 7/2 stipulates that ships that do not comply with these conditions will pass through the Straits under security measures. The implementation of the traffic separation scheme will be monitored by a traffic control centre and traffic control stations to be established (Article 4).

As mentioned Article 6, a navigation Plan I (NP-I) is required to ensure that the crossings through the Straits are safe, timely and efficient, and that the Straits are not unnecessarily closed to maritime traffic. According to the data, the rate of providing navigation plans has increased rapidly over the years, but it has not reached 100% (Turan, 2004, pp. 70-71).

During construction projects, scientific research, rescue and aid efforts, prevention, and elimination of sea pollution, and also in cases of *force majeure* as accidents or pursuit of criminals, traffic may be temporarily stopped as necessary. This applies to situations on and under the sea, as well as during firefighting and sports activities (Article 20).

If ships do not navigate within the designated traffic separation lanes, the Administration takes necessary measures to ensure passage safety and informs the IMO and flag-state of the situation (Article 21). According to

Article 6 of the regulations, ships are required to submit their navigation plans to traffic control centres.

Pilotage and tugboat services have been made optional, thus correcting the violation of international law in the 1994 regulations. The regulations require ships carrying dangerous cargo to provide a sailing plan 24 hours before entering the straits; however, it remains unclear whether the cargo carried by the ship is reported or not (Özersay, 2015, p. 598).

In addition, if the visibility distance drops by even one mile, the traffic in the straits will be kept one-way, and if it falls below 0.5 miles, the traffic in the Istanbul Strait can be closed in both directions. It can be said that a regulation has been created that slows down and even interrupts passage through the straits. This is interpreted as being able to make passage through the straits safer than the previous regulation (Özersay, 2015, p. 597). The regulation clearly states that when the current speed exceeds 6 knots per hour in the Dardanelles, large tonnage vessels with a deep draft carrying dangerous foreign cargo cannot enter the straits, regardless of their speed capacity. In Article 49, it is explicitly stated that the provisions of Articles 5, 6/a, 9, 10, 11, 12, 15, 21, 25, 26, 27, 31, 38, 39, 46, 47, and 51, are exempted for warships, auxiliary warships, and other state-owned ships not used for commercial purposes.

As a result of the increase in the tonnage and number of tankers, it has been prohibited for ships and tankers exceeding 200 meters in length to pass through the straits at night, and it is mandatory to provide 24-hour prior notice of the cargo being transported. In addition, if ships between 250 and 300 meters in length are carrying dangerous cargo, traffic flow will be one-way during their passage through the straits (Toluner, 2004, p. 328).

In sum, due to its geographical location, narrow width, strong currents, sharp turns, and unpredictable weather conditions, the Istanbul Strait is considered the world's most important natural narrow waterway. Each day, approximately 2 million people, 150 non-stopover vessels, and 23 vessels carrying hazardous cargo pass through the strait, making it an area of high traffic density. This situation poses a significant danger to the over 10 million people residing in Istanbul, who are at risk of facing potential hazards caused by maritime traffic at any moment (Directorate General of Coastal Safety, 2022).

Given the complexity of the traffic structure, the increase in tonnage and length of vessels, and the rise in the number of vessels carrying hazardous cargo, along with the increasing incidents of maritime accidents and adverse weather, sea, current and climate conditions, environmental

factors, local risks, national and international developments, and other maritime activities in the region, it is necessary to establish Turkish Straits Vessel Traffic Services. This move is in line with the regulations and recommendations of the International Maritime Organisation and the Montreux Convention, and the need for cooperation with other similar systems (Directorate General of Coastal Safety, 2022).

3.4. A Brief Review of the Regulation

The Montreux Convention granted Türkiye full control over the Straits and provided for the free passage of merchant vessels during peacetime. The Convention also established a system of passage quotas for warships, based on the size of the vessel and the duration of its stay in the Black Sea. Under the Convention, warships of non-Black Sea states can only transit through the Straits if they are either going to their own territorial waters or are in the service of the Black Sea littoral states. In addition, the convention prohibits the passage of submarines through the Straits.

The Montreux Convention was created to regulate the passage of ships through the straits. However, advancements in technology and shipbuilding have led to larger ships carrying more goods, including hazardous materials. This poses a threat to the environment, transportation safety, and the people living along the strait shores. To address these concerns, Türkiye has implemented various measures, including traffic separation schemes and regulations on ship size and cargo. Despite objections, the 1994 and 1998 regulations have successfully improved traffic and reduced accidents. The political and military significance of the Turkish Straits remains high, and the Montreux Straits Convention still maintains the necessary political balance, even though the transportation and environmental safety conditions have changed significantly since its creation.

The 1936 Montreux Convention is the current international legal framework that governs vessel passage through the Turkish Straits. This agreement grants Türkiye the authority to regulate maritime traffic in the straits but also obliges it to ensure "*complete freedom of innocent passage and navigation*" to all merchant vessels. However, the convention allows vessels carrying hazardous cargo to pass through the Straits without any restriction. In 1994, Türkiye introduced the Turkish Straits Regulations to address the environmental and safety concerns arising from tanker traffic. These regulations subject all merchant vessels to additional rules that further limit their freedom of passage. The Black Sea governments, particularly Russia, object to these regulations, citing the violation of their right to innocent passage. Türkiye desires to protect the marine ecosystem,

but it must balance environmental protection with the political necessity of maintaining friendly relations with its Black Sea neighbours for economic and strategic reasons. As a result, Türkiye has compromised on certain aspects of the regulations at the expense of environmental protection, leading to persistent tensions with Russia over the need to balance navigational and environmental safety.

The notion of "*freedom of passage and navigation*" should not be misconstrued as a license for unrestricted access through the congested and narrow Turkish Straits. The Montreux Convention was formulated and ratified during a specific era and subsequent to its inception, several fresh global agreements governing maritime activities have been established. Therefore, a rational interpretation of the Montreux Convention must factor in the evolving nature of marine traffic, the attendant hazards, and the contemporary international agreements (Aybay & Oral, 1998). The regime of the Turkish Straits was regulated by the Turkish Government in 1994 and 1998, which adopted the "*Regulation on the Passage of Vessels Through the Turkish Straits*." The regulation established a system of traffic separation schemes, which separates the traffic lanes for inbound and outbound ships in the Straits.

The territory of a state carries both rights and responsibilities. In the case of the Turkish Straits, any arrangement should be in line with the developments in the current period. The state has an obligation to regulate its territory in a way that is responsive to the needs and challenges of the time, while also upholding the rights of its citizens and the integrity of its borders (Toluner, 2004, p. 394).

The Montreux Convention did not provide a regulation for all legal issues that may arise due to passage. For example, the Montreux Convention does not define the term "*belligerent*". The Montreux Convention does not provide a clear explanation of what constitutes a "*belligerent*" and does not require any official declaration of war or similar action. However, according to the Hague Convention, the term "*belligerents*" encompasses not only armies but also militia and voluntary corps (Oral, 2022). Therefore, regarding the issues that are not regulated, defined, or subject to a provision in the convention, the state can fulfil its responsibilities in this field by acting in parallel with the international agreements and regulations accepted and applied in international law.

The innocent passage is an important principle extensively regulated in maritime law. This principle also includes the regulation of passage through straits according to international law. The authority of littoral states to regulate passage arises from their territorial sovereignty. When the

expression "*complete freedom and passage and navigation*" in Article 2 of the Montreux Convention is interpreted in accordance with its ordinary meaning and the purpose and objective of the Convention, it is clearly seen that it coincides with the principle of innocent passage in maritime law. In the preparatory work of the Montreux Convention, Türkiye's legitimate rights as a littoral state and other necessary authorities regarding innocent passage were reserved, as with all other littoral states (Toluner, 1981, p. 82).

Türkiye has the authority to exercise police and judicial powers over the straits and to demand that the passage be innocent, provided that it does not violate the explicitly stated restrictive provisions in the Montreux Straits Convention, does not interfere with the essence of the right of passage, and does not deviate from general maritime law regulations concerning other similar straits. The Convention did not abolish Türkiye's authority to regulate passage through the straits. Therefore, passage through the straits must always be innocent and non-aggressive (inoffensive), regardless of the circumstances (Toluner, 2004, pp. 396-397).

The regulation issued in 1994 and 1998 has a legally legitimate basis and was deemed necessary due to the increasing danger of collisions and pollution caused by the intense increase in maritime traffic. It cannot be interpreted as a violation of the Montreux Convention or an attempt to obstruct navigation. The regulation is essentially a reasonable and legitimate legal procedure to prevent accidents and ensure regular navigation in the Turkish Straits, made in accordance with the provisions of the Montreux Convention (Scharfenberg, 1996, p. 333).

States cannot use these types of sovereignty powers unlimitedly. International maritime law has imposed general limitations on the regulatory and legislative powers of littoral states. These limitations include non-discrimination, non-infringement of the essence of the right of passage, and regulations that do not violate the principle of free passage. (Toluner, 1981, p. 86)

As Rona Aybay emphasised (Aybay R. , 2019, p. 2735), it has been acknowledged that Türkiye's obligation to allow commercial vessels to pass through the Straits "*non-stopover*", includes ensuring that the passages are made in safety. Therefore, at the international level, it has been proven that Türkiye, as the dominant power in the Straits, has the authority to take measures to ensure navigational safety in the Straits. The littoral state has the authority to establish laws and regulations for the regulation of innocent passage and navigation, according to customary principles of the

law of the sea. These regulations may encompass safety measures for navigation and marine traffic, such as sea lanes and traffic separation schemes, for all types of ships, especially those carrying hazardous substances, tankers, and nuclear-powered ships. Additionally, the littoral state can enforce measures to safeguard cables and pipelines, preserve the environment, and conserve living resources of the sea. Furthermore, the littoral state can implement measures to prevent, reduce, and control pollution. In summary, the passage highlights several areas where the littoral state has the power to regulate navigation and protect the marine environment in line with customary principles of the law of the sea (İnan, 2001; İnan, 2004, p. 169).

The regulations issued in 1994 and 1998 fall within the scope of the legitimate powers reserved in the Montreux Convention. The use of these powers is not a violation of the convention, as it involves exercising the authority to ensure safe passage and regulate maritime traffic, which is granted to littoral states under international law. Therefore, it does not infringe upon the essence of the passage regime or constitute a violation. The purpose of issuing these regulations is to ensure the security of the straits region and the continuity of the right of passage. Hence, they should be considered both a right and an obligation (Toluner, 2004, p. 403).

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Türkiye has taken various measures to ensure transportation, life, property, and environmental safety through the straits. Measures taken through the Port Law and port regulations have been added to them through the "*Regulation on the Traffic Order of the Straits and the Marmara Region*" adopted in 1994. These regulations provide for traffic separation schemes aimed at ensuring transportation safety and order in the straits, and place certain obligations on ships passing through the straits in terms of their size and cargo. There have been various objections to these regulations, and as a result, Türkiye revised the 1994 regulation and adopted a new regulation in 1998. Since Türkiye began implementing the 1994 and 1998 regulations, the improvement in strait traffic and the decrease in the number of accidents demonstrate how successful these regulations have

been. The military and political significance of the Turkish Straits has not decreased today, on the contrary, it has increased to an unprecedented and complex degree in history (Güneş, 2007, pp. 3-4).

The Regulations, implemented on July 1, 1994, were introduced with the primary objective of promoting navigation safety, preserving the environment, and regulating the maritime traffic scheme in the region. These regulations represented a significant amendment to the Montreux Convention's rules of passage, deemed necessary by Türkiye to regulate traffic in the straits and minimize the likelihood of future accidents. The 1994 Regulations were reviewed and revised in 1998 to ensure that they applied to all vessels navigating the straits and reflected the evolving traffic circumstances in the region. One notable change was the explicit inclusion of environmental concerns, which had not been previously addressed in Turkish Straits law. The 1998 Revised Regulations included extensive provisions for promoting safe navigation and preventing pollution and accidents in the straits (Joyner & Mitchell, 2002, pp. 526-528).

Upon examining the 1994-98 Regulations in light of the Montreux Convention, it can be concluded that the Regulations do not violate international law. Türkiye's argument that it possesses the unilateral right to exercise sovereignty in the straits is grounded in the legal principles established by the Montreux Convention. The preamble of the Convention asserts that it regulates the passage and navigation in the straits "*in a way that will protect the security of Türkiye and the security of the littoral states in the Black Sea*". Türkiye maintains that the limitations on tanker traffic also align with its national security interests, as well as the interests of the Black Sea states.

The Turkish government contends that its actions are justified due to the frequent ship collisions and accidents that have occurred in the straits from 1960 to 1994, resulting in disruptions to maritime traffic, human casualties, and significant material damage that sometimes lasted for several days. Consequently, Türkiye invokes Article 24 of the Montreux Convention, which grants Türkiye the authority to regulate activities in the Turkish Straits, as a basis for asserting its jurisdiction over tanker traffic in the straits.

It is reasonable to point that the Montreux Convention's provision for freedom of passage did not eliminate or reduce Türkiye's sovereign authority over the straits. As long as Türkiye applies its national regulatory measures in a non-discriminatory manner based on published legal criteria and accepted standards, and in compliance with the Montreux

Convention's spirit and modern international law, Türkiye believes it has the right to exercise regulatory and enforcement powers in the straits.

This conclusion is reasonable since most of the restrictions imposed by Türkiye through the 1994-98 Regulations are likely to contribute to the protection and preservation of the marine environment under the straits regime, provided they are applied in a non-arbitrary manner that does not unreasonably restrict the freedom of navigation (Joyner & Mitchell, 2002, pp. 538-539).

Despite these challenges, Türkiye maintains that it has the right to regulate passage through the Straits under the Montreux Convention, which allows for the establishment of passage quotas to limit the number and size of vessels passing through. To ensure the safe passage of vessels, Türkiye has implemented domestic regulations, including a Traffic Separation Scheme (TSS) designed to prevent collisions and separate northbound and southbound traffic. The quotas are intended to prevent overcrowding and potential accidents that could lead to environmental disasters and threaten regional security. The Turkish authorities also employ radar and other technologies to monitor vessel traffic in the Straits and have implemented measures to address the risks posed by tanker traffic, such as requiring double-hull tankers.

Lastly, as Tarhanlı (1998, 90) highlighted, the passage through the straits, which can be seen as a resource utilization involving mutual interdependence between coastal states and flag states passing through the straits, should be ensured through adherence to certain principles to the benefit of all parties involved. However, the current international commercial relations do not strongly support the expectation of states and other actors to act in the direction of mutual interdependence and mutual interests. The development and implementation of such behaviour mainly remain dependent on the goodwill of actors and the willingness to put issues on a reasonable track.

3.5. Current Debates

3.5.1. Termination of the Convention

The Montreux Convention has been subject to controversy and criticism over the years. Some countries have argued that the convention is outdated and does not reflect the current geopolitical reality of the region. Others have accused Türkiye of using the convention to exert excessive control over the straits and to limit the passage of certain military vessels.

The Turkish Straits have also been subject to environmental concerns due to the heavy traffic passing through the narrow channels. The risk of accidents, collisions, and oil spills has raised concerns about the impact of the straits on the marine environment and the surrounding areas.

The Montreux Convention, which regulates the passage regime in the straits, is constantly brought up in discussions surrounding maritime accidents in the region. However, some proposals regarding changing the agreement could cause serious problems for the interests of the Republic of Türkiye. Two wrong assessments have been made, which export powers granted to all littoral states by international maritime law and call into question Türkiye's sovereign rights over passing ships from the second article of the Convention. These opinions suggest a clear change in the second article, which concerns national sovereignty powers. Additionally, there is a proposal to terminate the Montreux Strait Treaty and for Türkiye to gain authority over the passage regime in the straits as desired. However, this proposal risks the termination of the agreement altogether (Toluner, 2004, p. 396).

If an important emphasis is to be made, despite all criticisms, the fact that no steps have been taken so far towards the termination or amendment of the Montreux Convention shows how delicately the treaty is built upon a balance.

If the Montreux Straits Convention were to be terminated, Türkiye would face a significant security threat in the form of a new regime. Under such a scenario, the United Nations Convention on the Law of the Sea would come into play, with major powers pushing for a transit passage regime for commercial vessels. The introduction of transit passage provisions, which grant more rights and fewer obligations to passing ships than in the innocent passage regime, was hotly contested during the 1982 Third Law of the Sea Conference. The United States, a proponent of transit passage, advocated for it not just for trade freedom but also to gain a strategic advantage in competition, allowing warships to pass through all major straits. In contrast, littoral states have more obligations and rights in the innocent passage regime. As such, the littoral state's rights and obligations are reduced under transit passage. Notably, the term "*transit*" does not appear in the original French version of the Montreux Straits Convention, nor in the official Turkish translation. "...*la complete liberté de passage et de navigation...*" (Aybay, 1998, pp. 51-53).

The procedures for termination and amendment of the Convention are regulated under two separate articles. Article 28 outlines the provisions for termination and states that the Convention will be in effect for 20 years

from the date it enters into force. However, the principle of freedom of passage and transit, as confirmed in Article 1 of the Convention, will have an unlimited duration. If no contracting states has given notice to terminate the Convention to the French Government two years before the end of the aforementioned 20-year period, the Convention will remain in effect until two years have passed since the sending of such termination notice. This notice will be conveyed to the parties by the French Government. If the Convention is terminated in accordance with the provisions of this article, the parties undertake to be represented at a conference to determine the provisions of a new Convention.

If an application for termination under Article 28 is made, the Convention foresees that the parties come together in an international conference to discuss new arrangements. If such a conference is convened, it is certain that the new Convention, especially in terms of warships, will contain much broader freedoms than the Montreux Convention, given the "*transit passage*" regime governing the passage of warships through the straits envisaged by the UNCLOS and the International Court of Justice's 1949 Corfu Channel case.

According to UNCLOS, there are three types of straits: national, international, and those subject to special status. The Straits regulated by the Montreux Convention are in the category of straits subject to "*lex specialis*", and it should be determined whether they will be classified as national or international straits only after the *sui generis* status ends (Saribeyoğlu-Skalar & Cecanpınar, 2021, p. 72).

The termination of the Montreux Convention results in the Turkish Straits being subject to the general rules of international law. Since the Turkish Straits lead to the Black Sea and the Aegean Sea, both of these seas will be considered open seas, and the status of the Turkish Straits will be that of an "*international strait*". In this case, the transit regime will be subject to the "*transit passage regime*". In such a scenario, the right of Türkiye to restrict certain crossings provided by the Montreux Convention (such as the suspension of night crossings of commercial vessels in times of war) will disappear. In particular, the authority of Türkiye to make arrangements regarding warships, which was granted by the Montreux Convention, will be completely eliminated if it feels threatened by war or in a state of war (Şener, 2014, p. 489).

If the agreement is terminated and a new regime cannot be established, significant risks arise. Specifically, under the transit passage regime, the right to suspend passage is not available. Türkiye is not a party to UNCLOS and may argue that the provisions of the transit passage regime

do not apply to it. Indeed, according to articles 26 and 35 of the 1969 Vienna Convention on the Law of Treaties, a treaty is only binding for its parties and does not create rights or obligations for third parties. However, if a rule or regime is considered a customary rule in international law for each state, then it may be applied. In fact the transit passage regime has turned into a customary rule is a matter of dispute, (Ünlü, 2002, pp. 74-75; Demir, 2018, p. 344). If this issue is regarded as a customary rule in international law, it could be binding for Türkiye. Otherwise, it may be stated that the transit passage regime does not apply to Türkiye. Therefore, it is necessary to redefine the passage regime for Türkiye, and it is possible to discuss the application of the innocent passage regime recognized by customary law for straits that connect the open sea, as acknowledged in the Corfu Channel Case Judgement by the ICJ. Even in this case, Türkiye will have lost its right to regulate the regime it had under the Montreux Convention since an unavoidable innocent passage regime will be applied (Saribeyoğlu-Skalar & Cecanpınar, 2021, p. 73).

The entirety of the provisions of the law of the sea agreement regarding the straits cannot be considered as a part of customary law. While principles such as freedom of passage and non-stopover passage, are part of customary international law, rules such as innocent passage or transit passage have not yet acquired this status, and therefore, can be seen as a component of gradually developing international law (Tarhanlı, 1998, p. 89).

The fact that the Turkish Straits are waterways used in international navigation does not mean that they cannot be evaluated within the territorial integrity of Turkey. Therefore, some scholars argue that transit passage cannot be applied to the Turkish Straits (Demir, 2018, p. 345).

It is stipulated that the states party to the agreement will come together in a conference with the use of the termination right. translation: In the event of the termination of the treaty, there is uncertainty about which transit regime the Turkish Straits, which are waterways used in international navigation, would be subject to. These regimes can be expressed as innocent passage, transit passage, internal waters regime, and international customary law, respectively (Demir, 2018, pp. 339-353). However, if no result is achieved from the conference, it is possible to initiate a negotiation process with the initiative of other relevant countries. Since the states that are not parties to the agreement can also participate in this process that can be initiated, it is becoming almost impossible to reach an agreement that can protect Türkiye's security and interests from such a process.

The Montreux Convention is a critical foundation for the security of the Turkish Straits and the Black Sea as a whole. If the agreement is terminated

without a replacement, the resulting instability and uncertainty will pose a significant threat to the security interests of Türkiye and all countries with a coast on the Black Sea. In such a scenario, Türkiye, being the sole sovereign state on the Turkish Straits, will remain the sole authority responsible for law enforcement and judicial powers. All states will be expected to comply with the innocent passage and navigation regulations in the Straits. Türkiye will continue to exercise its powers in these matters, guided by the general principles of Article 23 of the Lausanne Peace Treaty and the first article of the Montreux Convention in determining passage and navigation procedures. However, the regulation of the offshore area of the Black Sea will be outside the jurisdiction of Türkiye (Kurumahmut, 2006, s. 20-21) .

With the inclusion of the Turkish Straits in the international straits regime, the effects of the Montreux Convention will directly disrupt the balance regime, which is currently in favour of Türkiye and contributes to the stability of the Black Sea region. This situation poses significant risks, especially in the context of strategic balances. Not only foreign military ships, but also foreign warplanes will be able to transit through the straits. Ensuring Türkiye's security during these transits will become almost impossible in practice. Regulations regarding prior notification of the passage of military ships, restrictions on tonnage during passage and the duration of their stay in the Black Sea will also be eliminated.

The United States' dissatisfaction with the limitations imposed on non-littoral states' warships by the Montreux Convention in the Black Sea is well-known. It desires to use the "*transit passage regime*" introduced by the 1982 UNCLOS to the fullest extent possible in the region, including the deployment of aircraft carriers and nuclear submarines without any restrictions. The United States of America aims to increase its influence in the area through the use of this new channel. Russia, however, is not content with this situation. Given the possibility of the US making more effective efforts to modify the Convention in line with its interests, Türkiye should always be cautious (Şener, 2015, p. 12).

However, it can be said that the determining factor of the "*conflict of interest*" in Turkish-American relations stems from the global policies pursued in line with the national interests of the United States and the regional policies pursued by Türkiye in line with its own interests (Molla, 2009, p. 33). This is true not only for the Cold War period, but also for the post-Cold War period. However, it is possible for both the USA and Türkiye to find common ground against Russia's resurgent "*expansionist*" policies in the global system. In this regard, it is suitable in terms of complementary interests to support strategies that protect the balance

system brought by the Montreux regime and policies that increase Türkiye's regulatory powers over the straits.

As Oral mentioned (2016) the passage of commercial and military vessels is governed by a distinct "*lex specialis*" under the Montreux Convention. The Convention established a unique legal framework for transit that can be observed in specific provisions relating to the passage of commercial and vessels of war. Türkiye has the authority to charge a fee to all ships passing through the straits without stopping at any port. These fees are not based on any specific services provided and are the only fees allowed to be imposed by a littoral state under current international law. Furthermore, Article 3 of the Convention requires all vessels to undergo health inspections, which are prohibited by international law. The Convention also sets provisions for the passage of vessels of war, which require foreign states to inform Turkish authorities before passage through the straits. Restrictions on the size, quantity, and type of vessels of war allowed to pass are also included. Although vessels of war are entitled to transit passage rights under international legal norms, some debates have arisen regarding the necessity of notifying or obtaining permission in certain cases where innocent passage rights cannot be suspended (Oral, 2016). In light of all of these developments, it is undoubtedly essential for Türkiye to approach the issue of the Bosphorus and the Montreux with great care and sensitivity. If the Montreux Convention is debated, Türkiye's security and sovereignty gains over the Straits will inevitably be subject to discussion (Tütüncü, 2017, p. 120).

The strategic importance of the Montreux Convention remains for Western states with regard to Russia's provisions that make it difficult for aircraft carriers and submarines to reach the Mediterranean (Buzan, 1976, p. 247). This situation is valid not only from the NATO perspective but also from the European Union perspective. For example, in 2011, the European Parliament adopted a decision stating that questioning the Montreux Convention and the Treaty of Lausanne through critical statements and initiatives endangered international peace and stability (European Parliament, 2021).

The Convention aims to ensure the security of both the Turkish Straits and the Black Sea by addressing the security concerns of both Türkiye and Russia. The measures specified in the agreement are designed to protect the security interests of Russia, while also guaranteeing the security of Türkiye (Bilsel, 1947, p. 738).

Losing the Cold War certainly damaged Russia's prestige, but they are once again trying to establish a naval presence in the Eastern Mediterranean.

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The old Soviet naval base in Tartus, Syria, is seen as Russia's "*material-technical support point*" and is being expanded to support their warships in the Mediterranean. In response to Russia's expansionist policies, it is important for the US to monitor Russia's Black Sea fleet (during wartime). The US needs Türkiye's help to do this because the Montreux Convention restricts the entry of US warships into the Black Sea. In return, the US will support Türkiye's policies and efforts to regulate the "*Straits region*". Under these conditions, Russia may insist on changes to the Montreux Convention to limit Türkiye's unilateral actions regarding pipelines in order to maintain balance. However, Russia's main concern and effort will be to prevent an increase in Türkiye's control over the Straits (Gerolymatos A. , 2014, p. 78; Plant, 1996, p. 26; Oral, 2016, pp. 31-32). In addition Russia considers any restrictions on commercial vessels in the straits as detrimental to its interests, as it seeks to transfer the oil loaded from the port of Novorossisk through the Black Sea and the straits to the Western markets. Therefore, Russia does not find it suitable for its interests that the trade route is squeezed by various regulations aimed at increasing Türkiye's control over the straits (Yılmaz, 2010, p. 32).

Vulnerability in the region extends beyond the military and political spheres. The rapid expansion of economic relations, as a result of globalisation, has affected maritime activities in the Black Sea and continues to do so. Additionally, the laying of natural gas and oil pipelines on the sea floor has increased the risks caused by human activities on the marine environment. The growing trend of fishing and seafood hunting, specifically fishing, is putting significant strain on the already fragile biological potential of the Black Sea. Furthermore, political tensions and crises in the region are detracting from important issues such as the preservation and sustainability of the marine ecosystem (Karlıklı, 1997, p. 46).

3.5.2. Subjecting the Convention to the Amendment Procedure.

According to Article 29 each contracting state shall have the right to propose amendments to one or more provisions of the Convention at the end of every five-year period starting from the entry into force of the Convention.

According to Article 29 of the Convention on the amendment procedure, each contracting state has the right to propose a change to one or more provisions of the Convention at the end of each five-year period starting from the entry into force of the Convention. If the proposed change aims to modify Articles 14 or 18, it must be supported by another contracting state; if it aims to modify any other article, it must be supported by two

contracting states. Thus, the supported proposal for amendment will be notified to each of the parties three months before the end of the current five-year period. This notification will include the nature and reasons for the proposed amendment.

If there is no possibility of reaching a conclusion through diplomacy on these proposals, the contracting states will participate in a conference on this issue. This conference can only make decisions by unanimity; the amendment situations related to Articles 14 and 18 are outside of this provision; a majority consisting of three-fourths of the contracting states will be sufficient for these situations.

This majority will be calculated to include three-quarters of the coastal states of the Black Sea, including Türkiye. As decisions regarding any proposed changes, other than those related to Articles 14 and 18, can only be made unanimously, any changes related to Türkiye's sovereignty over the Straits and its control over the freedom of passage can only be made with Türkiye's approval.

Regarding Articles 14 and 18, which cover the rules concerning the passage of warships of non-littoral states through the Straits, including passage arrangements, procedures, types of ships, tonnage, and duration of stay in the Black Sea, the acceptance of proposed changes requires the agreement of three-quarters of the contracting states with a coast on the Black Sea. Currently, the littoral states that are parties to the Montreux Convention in the Black Sea are Türkiye, Russia, Romania, and Bulgaria.

Actually, there are two main factors that could potentially threaten the current well-balanced system established by the Montreux Convention and the status quo in the Black Sea region. The first factor is the pressure exerted by smaller countries in the area to internationalize issues related to the Black Sea. If the EU and the US were to become involved in an arrangement for the Black Sea, the Straits - which are currently under exclusive Turkish control - would no longer remain as the sole gateway into and out of the Black Sea. The second factor relates to the energy markets. (Lembke & Sever , 2006, p. 71).

It should be noted that the U.S., not being a party to the Convention, does not have such a right under international law. However, it is generally accepted in the international community that Romania's efforts to enable NATO presence in the Black Sea were carried out with the encouragement and approval of the United States. If Romania and Bulgaria propose to alter these regulations with American support, Türkiye and Russia will counter such a move due to their convergence of national interests, thereby

blocking any decision in this direction. For Türkiye, preserving and upholding the Convention in its current form is a vital political and security priority (Elekdag, 2017, p. 14).

3.5.3. Turkish Straits within the International Regime Approach

Regimes are defined as "*implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations*" by Krasner, (1982, p. 185) and as "*social institutions around which actor expectations converge in given area of international relations*" by Young. (Young, 1982, p. 277) Principles refer to beliefs about truth, norms are behaviour patterns that can be seen as rights and obligations, rules are orders and prohibitions necessary for actions, and decision-making processes are the concepts that express implementation (Keohane, 1982, pp. 341-342). Regimes are continuous insofar as they are fair and can fulfil their designated functions in terms of governance. While actors who take on the responsibility of implementing regimes use them for their own interests and benefits, they must also accurately calculate changes in the balance of power in international relations.

International regimes, which are systems of rules, norms, and institutions that govern the behaviour of states in various issue areas. international regimes embody principles related to fact, causation, and rectitude, as well as political rights and obligations that are regarded as legitimate. The principles related to fact and causation might include scientific or empirical knowledge about how the world works, while the principles related to rectitude might include ethical or moral considerations such as human rights or justice. The political rights and obligations might include norms about the conduct of states in the international system, such as the respect for sovereignty or the prohibition on the use of force. the formation and transformation of international regimes represents a concrete manifestation of the internationalisation of political authority. This means that states are delegating some of their powers and responsibilities to international institutions and norms, which are becoming increasingly influential in shaping the behaviour of states in the international system. In this way, international regimes are seen as a way of extending the reach of political authority beyond the state and creating a more integrated and coordinated global governance system (Ruggie, 1982, p. 380).

Although regimes are instances of cooperative behaviour that enable and promote cooperation, cooperation can still occur even without established regimes. Regimes can have facilitating effects in terms of ensuring order and stability, but this concept may not necessarily be in line with order and stability. Regimes can also change, and there are two possible ways for this

(Haggard & Simmons, 1987, pp. 495-496). Change can exhibit evolutionary or revolutionary character. Changes in regimes and balance of power affect each other. Most regimes operate to the advantage of some participants and can create situations where others are disadvantaged. When the balance of power changes, new norms are imposed, and advantaged and disadvantaged situations can be reversed (Puchala & Hopkins, 1982, pp. 249-240).

Regime theory provides a useful framework for understanding the legal and institutional context that governs the regime of the Turkish Straits. The Convention established a set of rules and norms that guide the behaviour of states and other international actors in the region, and has contributed to the stability and security of the Black Sea region. As the geopolitical situation in the region continues to evolve, the regime of the Turkish Straits will continue to be an important issue for the international community, and the Montreux Convention will remain a key legal framework for the use of the waterway.

The regime established in the Montreux Convention is based on three norms. The first is the security of Türkiye, the second is the use of freedom of navigation and passage, and the third is the preservation of the balance between the Black Sea and the Mediterranean (Akgün, 1998a, pp. 390-391). These norms are implemented as the Montreux regime through the principles, rules, and practices determined by the contracting states coming together.

The regime that the Straits are subject to has two aspects: legal and political. The legal regime concerns whether the Straits are open or closed for international navigation and the determination of its conditions. The political regime of the Straits is related to the security of Türkiye and the states with coasts on the Black Sea. Both regimes have been regulated according to the international conjuncture throughout history. (İnan, 2004, p. 162).

When the regime related to the Turkish Straits is examined from a historical perspective, it can be said that the regime reflects the balance of power in international relations and also has a characteristic feature that ensures the security of both Türkiye and the Black Sea while also maintaining the continuity of trade. In addition, while the free passage of commercial vessels through the straits is a general rule, except for a few exceptions, a general freedom similar to that of warships has not been granted. This is also a second feature that has historically been continuous. Thirdly, in the context of regional balances, the security of the Black Sea and the Mediterranean has been ensured for the actors in this region. This

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has been carried out especially by assuming responsibility in both the civilian and military contexts, ensuring passage under rules and supervision, and implementing the regime. The application of the regime has generally been the sole responsibility of a single state through unilateral or international treaties, and only once has it been entrusted to an international commission under the Treaty of Lausanne and the Lausanne Straits Convention (Akgün, 1998a, pp. 390-391).

The Montreux Straits Convention has allocated the longest-lasting regime in the straits after the regime envisaged by the Treaty of Küçük Kaynarca, which lasted for 223 years. We can attribute this to various reasons. Firstly, from Türkiye's perspective, the Montreux Straits Convention is more effective in meeting security needs than the Lausanne Straits Agreement and fully establishes its sovereignty over the country. Secondly, it has established a functional "*balance system*" between the rights that states with a coastline on the Black Sea should have and the limited rights that states without a coastline on the Black Sea should have (Tarhanlı, 2000, p. 9). The Montreux Convention is regarded as creating an "*objective system*", indicating that the agreement is binding not only on signatory nations but also on non-party states (Ünlü, 2020).

The regime of the Turkish Straits has been subject to various controversies and debates. Some countries, such as Russia, have criticized the Montreux Convention as being discriminatory, while others have raised concerns about the potential risks of tanker traffic and accidents in the Straits. The Turkish Government has taken various measures to address these concerns, including increasing the number of pilots and tugboats in the Straits, and establishing a Vessel Traffic Service to monitor vessel movements.

During the Cold War era, the elimination of ideological polarisation led to a clear emphasis on a balance concept at the regional policy level. While the importance of ideological factors in inter-country relationships in the Black Sea region has decreased, geopolitical factors have become more prominent. Under the "*balance system*" established by the Montreux Convention, stability can be observed to the extent that it is independent of the determining influence of the multi-centered international system (Sönmezoğlu, 2006, pp. 468-469).

However, Montreux Convention, there are international organisations emphasized vital role of the Turkish Straits in international system. The NATO recognized the importance of the Straits for the defence of Europe and the Atlantic Alliance and reaffirmed the commitment of the international community to the regime of the Turkish Straits.

The Turkish Straits have been of great importance to NATO, both strategically and militarily. the Turkish Straits are of significant strategic importance to NATO due to their location. They provide a crucial link between the Black Sea and the Mediterranean, which allows goods to be transported from Russia and other countries in the region to Europe, the Middle East, and beyond. The Straits are also important for the transportation of oil and gas, which flows from the Caspian region and Russia to Western markets. Any disruption to the flow of goods through the Straits could have serious economic consequences, not only for NATO member states but for the wider international community as well.

Secondly, the Turkish Straits are of great military importance to NATO. During the Cold War, the Straits were a vital link between the Black Sea and the Mediterranean for NATO naval forces. This allowed NATO to project power into the Black Sea region, which was a crucial theater of operations during the Cold War. Today, the Straits continue to be important for the deployment of NATO naval forces, particularly in the Eastern Mediterranean, where tensions have risen in recent years due to conflicts in Syria and other parts of the region.

The security of the Turkish Straits is therefore of great importance to the Alliance. Türkiye's location at the crossroads of Europe and Asia makes it a critical partner for NATO, particularly in its efforts to promote regional stability and security. As such, NATO has been supportive of Türkiye's efforts to regulate the regime of the Turkish Straits and has worked closely with the Turkish authorities to ensure the safe passage of vessels through the waterway. The Straits provide a vital link between the Black Sea and the Mediterranean and are a crucial waterway for international trade and commerce. As the geopolitical situation in the region continues to evolve, the Turkish Straits will remain a key role for regional and international actors, and the Alliance will continue to monitor developments in the region closely.

The regime of the Turkish Straits is governed by a complex set of international agreements and domestic regulations. The Montreux Convention provides the legal framework for the transit of vessels through the Straits, while other international agreements and domestic regulations aim to ensure their safe passage. As the geopolitical situation in the region continues to evolve, the regime of the Turkish Straits will remain a critical issue for the international community, and the implementation and enforcement of these agreements and regulations will be crucial for maintaining regional stability and security.

The Montreux Convention is a crucial international agreement that safeguards Türkiye's security interests and establishes a delicate balance between the rights and interests of coastal and non-coastal states in the Black Sea. This treaty has been carefully, impartially, and transparently enforced by Türkiye, particularly during the Second World War, the Cold War, and the crises with Georgia and Ukraine. The Convention continues to exist as a regime that maintains stability and balance thanks to this responsible and principled approach.

The regulation of navigation through the Straits is important to many nations, both near and far, and has been established through public international law developed through conferences of concerned nations. Events like World War II have shown that abandoning this practice would not be wise.

Especially, the constantly evolving and challenging security situation in the Black Sea region is a dynamic issue. Due to its strategic location, Turkey is regarded as the second hegemon in the area, with the ability to control access to and from the Black Sea via the Turkish Straits (Wezeman & Kuimova, 2018). Despite Turkey's extensive changes since the 1920s, its multidimensional geographical strategic position continues to shape its foreign policy, enabling it to gain economic and political benefits.

Turkey's actions in the Black Sea are regulated by the Montreux Convention, which was established in 1936. This agreement pertains to the Bosphorus Strait, Dardanelles Strait, and the Sea of Marmara, providing Turkey with full military control over these areas. The Convention limits the presence of non-littoral forces in the Black Sea to a maximum of 21 days. Turkey is authorized to close the Straits to all foreign warships during wartime; however, it guarantees complete freedom of passage to civilian ships during peacetime (Wölfer, 2022). The Montreux Convention has significantly influenced Turkey's role in maritime security, serving as a balancing element between the West and Russia (Koru, 2017).

Turkey's autonomy of action in the region is constrained by the regional power imbalance with Russia. In order to maintain the exclusive control over the Bosphorus and Dardanelles Straits granted by the Montreux Convention of 1936, Turkey has implemented its clauses in an impartial manner, avoiding any disputes regarding the classification of Russian ships and refraining from granting any favourable treatment to NATO vessels. As a NATO ally, Turkey is consistently grappling with the challenge of balancing its national security interests and its commitments to the alliance (Toucas, 2018).

Turkey's political interests in the Black Sea region differ from Russian's for the region. Cooperation between Turkey and Russia is of pragmatic nature, and they do not aim to establish a joint system by dividing the Black Sea into spheres of influence. In this context, Turkey-Russia relations are shaped around naval security, economic partnership, and energy (Tanrisever, 2012, p. 1; 21).

The regime of the Turkish Straits is governed by international conventions that ensure their innocent passage and regulate the use of the waterways. The Montreux Convention remains the primary agreement that establishes the legal framework for the passage of vessels through the Straits. The Turkish Government has also adopted regulations to ensure the innocent passage of vessels and address concerns about the potential risks of tanker traffic. As a critical link between Europe and Asia, the Turkish Straits will continue to play a vital role in global trade and commerce, and the regime governing their use will remain a subject of debate and discussion.

Regime theory is a concept in international relations that refers to the rules, norms, and institutions that govern the behaviour of states and other international actors. In the context of the Turkish Straits, regime theory can be applied to the legal framework that governs the use of the waterway, including the Montreux Convention of 1936.

The Convention, established the legal framework for the regime of the Turkish Straits. The Convention defines the rights and responsibilities of states that wish to use the Straits for commercial or military purposes and establishes rules for the passage of vessels through the waterway. Under the Convention, Türkiye has sovereignty over the Straits and has the right to regulate their use. The regime of the Turkish Straits has been recognized by the international community as the legal framework for the use of the waterway. The Convention has been adhered to by the countries that use the Straits and has contributed to the stability and security of the region.

The Montreux Convention also established a demilitarized zone in the Black Sea region, which prohibits the entry of military vessels from non-Black Sea states. This provision was included to prevent the militarisation of the Black Sea region and to maintain the balance of power in the region. However, the Convention also allows for the passage of military vessels through the Straits under certain conditions, such as during times of peace and in limited numbers.

The stamina of the Montreux Convention can be evaluated in terms of the balance between principles, rules, and implementation procedures, as well as issues in the power politics, conflict of interests, shifts in capacity

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distribution. In terms of the continuity of the regime, it is important to adhere to the principles, rules, and their implementation by the parties. Actors who benefit from the implementation of the regime take a stance in favor of its continuity when they calculate that their interests will be harmed if the regime changes. Despite the various attempts by the two major actors of the international system, the United States and the Soviet Union, to change the regime that governs the Turkish Straits during the Second World War and in the aftermath of the Cold War, both actors later realized that the risks posed by this change could be greater than the opportunities they currently enjoy, so the demands for change in this direction gradually disappeared (Akgün, 1998b, p. 33).

At this point, a second observation can also be made. That is, changes in power and capacity distribution in the international system can bring the Montreux Convention to the top of the international agenda. The Convention itself has the capacity to affect both regional and global power balances and to have strategic consequences. Especially during the Cold War, the rules governing the passage of the US Navy to the Black Sea were favorable to the Soviet Union, while similarly, the southward movement of Soviet warships, including aircraft carriers, was restricted in a way that Russia did not desire, which created an advantage for the United States (Akgün, 1998b, p. 33).

As the West aims to encircle Russia and Russia seeks to strengthen its regional dominance, Turkey has once again begun to play a balancing role between the West and Russia. Naval security is among the prominent issues here, and the balancing mechanism is largely related to the Montreux Convention. Turkey is acting cautiously to prevent the disruption of the balance in the Black Sea and to prevent Russia from resorting to aggressive policies to restore the balance. Therefore, Turkey opposes NATO presence in the Black Sea (Özdamar, 2010, p. 342). After losing its naval dominance in the Black Sea to Russia (Güvenç & Egeli, 2016, p. 102), Turkey preferred avoiding to draw Russian criticism. That's why Turkey did not participate in EU sanctions against Russia. During this period, Turkey has acted to maintain transit security and continuity while also preserving the balance in the Black Sea in the face of regional balances and reactionary policies of international actors (Neset, et al., 2021). It has followed a cautious policy to prevent questioning the Montreux regime, which could create dangerous situations.

At this point, Turkey, who is responsible for implementing and overseeing the regime, is placed at the center of global and regional power policies (Akgün, 1998b, p. 33). Therefore, Turkey has attempted to pursue a cautious policy that protects both its national interests and alliance

relationships, while not disrupting its relations with the Soviet Union, the leader of the rival bloc, with whom it shares a border in the Black Sea.

All of these factors make it possible to consider the Montreux Straits Treaty not only within the framework of freedom of passage but also as a security regime at the center of political and strategic policies.

CONCLUSION

The Turkish Straits, consisting of the Bosphorus and Dardanelles, are narrow waterways that connect the Mediterranean Sea to the Black Sea, and are of immense geopolitical significance. The straits act as a vital link between Asia and Europe, and are a key pathway for global trade and commerce. The importance of the Turkish Straits can be attributed to its strategic location, historical significance, and the Montreux Convention.

Geographically, the Turkish Straits provide the most direct passage between the Mediterranean and the Black Sea. The straits are situated at the crossroads of Europe and Asia, making them a crucial gateway between these two continents. Additionally, the straits provide access to the rich natural resources of the Caspian Sea region, making them important for energy transit.

The Turkish Straits have also played a significant role in the political and military history of the region. The straits have been a key battleground during several wars, including the Crimean War and World War I, making them a symbol of regional power and strategic importance. Control of the straits has been a key objective for several empires and nations throughout history, including the Ottoman Empire, Russia, and the Allied Powers.

The Montreux Convention of 1936, which governs the use of the Turkish Straits, further highlights their geopolitical importance. The convention provides Türkiye with the authority to regulate the passage of ships through the straits, while ensuring the freedom of passage of commercial vessels in peacetime. The convention also sets limits on the number, size, and duration of warships passing through the straits, as well as the types of vessels that are allowed to passage.

The Montreux Convention is a treaty that regulates the navigation of military vessels through the Turkish Straits, which connects the Black Sea to the Mediterranean. The importance of preserving this Convention, which has been a key instrument in maintaining the stability of the Black Sea region since its signing before the Second World War. The Convention limits the passage of vessels of war through the Straits and specifies the tonnage and number of vessels that can pass through the Straits at any given time. The Convention also provides for the neutrality of the Straits and prohibits any military bases or installations from being established in the region.

The significance of the Black Sea region for the West, particularly the United States, as it is the only sea where they do not have free access. This

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creates an incentive for all relevant states to seek opportunities to alter this situation, potentially creating further instability in the region. The Montreux Convention's key role in international relations is to maintain peace and stability in the Black Sea region.

Ongoing conflicts and tensions in the region create an unbalanced geopolitical climate. Therefore, any attempt to replace or amend the Montreux Convention may not be in Türkiye's best interests, as it could potentially alter the status quo and lead to further instability in the region. The importance of preserving the Convention as a means of maintaining stability and preventing any unilateral actions that could lead to unintended consequences.

Türkiye, as a littoral state, plays a crucial role in maintaining the stability of the region. Türkiye should avoid taking any actions that may jeopardize the Montreux Convention, particularly in the face of potential conflicts between the West/NATO and Russia. Türkiye's actions are critical in preventing further destabilisation in the region and ensuring the continued efficacy of the Montreux Convention.

The geopolitical significance of the Turkish Straits can also be seen in the economic benefits they provide. The straits are a crucial passage for global trade, with thousands of ships passing through every year. The straits provide access to several ports, including Istanbul and Izmir, which are major commercial hubs and gateways to the Middle East and Central Asia. Additionally, the straits are vital for the transportation of energy resources, with oil and gas pipelines connecting the Caspian Sea region to the Mediterranean.

In conclusion, the Turkish Straits hold immense geopolitical significance due to their strategic location, historical importance, and the Montreux Convention. The straits act as a key pathway for global trade and commerce and are a vital link between Europe and Asia. The straits are also important for energy transit, making them crucial for global energy security. The Turkish Straits remain a symbol of regional power and strategic importance, and their geopolitical significance will continue to shape the political and economic landscape of the region.

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ANNEX I

The Statistics Summary of Vessels Passed Bosphorus Strait (İstanbul)

Table 1: The Statistics Summary of Vessels Passed Bosphorus Strait (İstanbul)

| <i>The Statistics of Vessels Passed Bosphorus Strait (İstanbul) According to Their Length and Pilot Request</i> | | | | | | | | | | | | | |
|-----------------------------------------------------------------------------------------------------------------|-------------------|------------|-------------------|------------|-------------------|------------|-------------------|------------|-------------------|------------|--------------------|------------|---------------|
| Years | Longer Than 300 M | | Between 250-300 M | | Between 200-250 M | | Between 150-200 M | | Between 100-150 M | | Shorter Than 100 M | | Total |
| | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels |
| 2006 | 0 | 0 | 957 | 948 | 2.666 | 2.601 | 7.216 | 5.949 | 22.427 | 16.025 | 21.584 | 7.066 | 54.880 |
| 2007 | 25 | 25 | 1.114 | 1.110 | 2.514 | 2.476 | 6.840 | 5.729 | 23.889 | 9.996 | 22.224 | 7.349 | 56.606 |
| 2008 | 25 | 25 | 1.256 | 1.251 | 2.630 | 2.611 | 7.931 | 6.800 | 22.050 | 9.789 | 20.304 | 6.525 | 54.396 |
| 2009 | 8 | 8 | 1.051 | 1.050 | 2.812 | 2.795 | 8.256 | 6.976 | 20.683 | 8.573 | 18.612 | 8.575 | 51.422 |
| 2010 | 6 | 6 | 1.216 | 1.216 | 2.401 | 2.401 | 7.881 | 6.510 | 20.990 | 9.902 | 18.377 | 8.000 | 50.871 |
| 2011 | 6 | 6 | 1.283 | 1.283 | 2.511 | 2.511 | 8.419 | 7.026 | 20.176 | 9.585 | 17.403 | 5.600 | 49.798 |
| 2012 | 14 | 14 | 1.285 | 1.285 | 2.567 | 2.558 | 9.278 | 7.481 | 18.976 | 8.544 | 16.209 | 4.930 | 48.329 |
| 2013 | 14 | 14 | 1.268 | 1.268 | 2.519 | 2.515 | 9.307 | 7.450 | 18.341 | 8.506 | 15.083 | 4.270 | 46.532 |
| 2014 | 2 | 2 | 1.364 | 1.364 | 2.929 | 2.925 | 10.154 | 8.207 | 16.734 | 7.779 | 14.346 | 4.231 | 45.529 |
| 2015 | 0 | 0 | 1.283 | 1.283 | 2.647 | 2.629 | 10.235 | 8.385 | 16.178 | 7.306 | 13.201 | 3.746 | 43.544 |
| 2016 | 0 | 0 | 1.143 | 1.143 | 2.730 | 2.715 | 10.363 | 8.659 | 16.077 | 6.828 | 12.240 | 3.011 | 42.553 |
| 2017 | 5 | 5 | 1.318 | 1.317 | 2.682 | 2.681 | 10.965 | 9.565 | 16.101 | 7.053 | 11.907 | 3.438 | 42.978 |
| 2018 | 3 | 3 | 1.377 | 1.375 | 2.726 | 2.708 | 11.640 | 10.293 | 14.466 | 6.128 | 10.891 | 3.058 | 41.103 |
| 2019 | 0 | 0 | 1.324 | 1.324 | 3.076 | 3.075 | 11.873 | 11.665 | 15.497 | 7.426 | 9.342 | 3.142 | 41.112 |
| 2020 | 2 | 2 | 1.299 | 1.299 | 3.651 | 3.651 | 10.592 | 10.302 | 14.441 | 6.780 | 8.419 | 2.720 | 38.404 |
| 2021 | 0 | 0 | 1.410 | 1.410 | 3.896 | 3.895 | 10.459 | 10.355 | 14.617 | 6.766 | 8.169 | 2.931 | 38.551 |
| 2022 | 2 | 2 | 1.313 | 1.313 | 2.764 | 2.760 | 9.034 | 8.951 | 14.434 | 7.335 | 7.599 | 3.019 | 35.146 |

Source: (TC Ulaştırma ve Altyapı Bakanlığı, 2023)

<https://denizcilikistatistikleri.uab.gov.tr/uploads/pages/turk-bogazlari-gemi-gecisi-istatistikleri/yillara-gore-karsilastirma-tablosu-63da182447e63.xls> (accessed 12.01.2023)

ANNEX II

The Statistics Summary of Vessels Passed
Dardanelles Strait (Çanakkale)

Table 2: The Statistics Summary of Vessels Passed Dardanelles Strait (Çanakkale)

| The Statistics Summary of Vessels Passed Dardanelles Strait (Çanakkale) | | | | | | | | | | | |
|-------------------------------------------------------------------------|-------------------------|------------------------|---------------|--------------|------------------------|--------------------------------|----------------------------|---------------|-------|-------|---------|
| Years | Number Of Vessels | Total Gross Tonnage | With Pilot | SpI Given | Non Call In Vessels | LOA Longer Than 200 M | Lower Than 500 GT | Total Tankers | | | Towaged |
| | | | | | | | | TTA | LPG | TCH | |
| 2006 | 48.915 | 595.826.240 | 16.871 | 48.264 | 32.061 | 4.845 | 1.404 | 7.204 | 798 | 1.565 | 131 |
| 2007 | 49.913 | 611.885.819 | 16.885 | 48.802 | 31.981 | 4.945 | 1.873 | 6.527 | 754 | 1.990 | 138 |
| 2008 | 48.978 | 657.396.892 | 18.334 | 48.565 | 31.981 | 5.223 | 844 | 5.990 | 777 | 1.991 | 162 |
| 2009 | 49.453 | 667.412.661 | 18.588 | 49.210 | 32.559 | 5.176 | 615 | 6.293 | 842 | 2.432 | 146 |
| 2010 | 46.686 | 672.843.533 | 18.678 | 46.469 | 28.768 | 5.098 | 598 | 6.017 | 902 | 2.333 | 138 |
| 2011 | 45.379 | 705.412.518 | 18.920 | 45.196 | 27.983 | 5.494 | 572 | 5.661 | 974 | 2.183 | 159 |
| 2012 | 44.613 | 735.728.537 | 18.775 | 44.416 | 27.418 | 5.919 | 519 | 5.656 | 1.038 | 2.304 | 134 |
| 2013 | 43.889 | 745.567.671 | 18.924 | 43.579 | 26.534 | 5.824 | 448 | 5.822 | 1.380 | 2.097 | 123 |
| 2014 | 43.582 | 761.631.756 | 19.107 | 43.238 | 26.257 | 5.902 | 512 | 5.875 | 1.206 | 2.169 | 116 |
| 2015 | 43.230 | 777.989.382 | 18.843 | 42.755 | 25.220 | 5.842 | 581 | 6.009 | 1.036 | 2.479 | 122 |
| 2016 | 44.035 | 772.922.682 | 19.006 | 43.543 | 26.071 | 5.665 | 661 | 6.041 | 881 | 2.559 | 139 |
| 2017 | 44.615 | 823.460.636 | 19.925 | 43.888 | 26.087 | 6.197 | 755 | 6.145 | 734 | 2.599 | 149 |
| 2018 | 43.999 | 849.140.218 | 19.958 | 43.513 | 25.835 | 6.612 | 732 | 6.181 | 698 | 2.368 | 156 |
| 2019 | 43.759 | 872.312.222 | 21.616 | 43.321 | 26.184 | 7.010 | 714 | 6.178 | 669 | 2.996 | 138 |
| 2020 | 42.036 | 858.844.972 | 21.175 | 41.581 | 24.639 | 7.430 | 779 | 5.644 | 671 | 3.057 | 126 |
| 2021 | 43.342 | 898.473.519 | 23.706 | 42.896 | 24.668 | 7.855 | 820 | 5.196 | 627 | 3.385 | 131 |
| 2022 | 42.340 | 871.621.677 | 23.969 | 42.124 | 20.584 | 7.223 | 722 | 5.874 | 616 | 3.414 | 120 |

Source: (TC Ulaştırma ve Altyapı Bakanlığı, 2023)

<https://denizcilikistatistikleri.uab.gov.tr/uploads/pages/turk-bogazlari-gemi-gecis-istatistikleri/yillara-gore-karsilastirma-tablosu-63da182447e63.xls> (accessed 12.01.2023)

ANNEX III

The Statistics of Vessels Passed Bosphorus Strait (İstanbul) According to Their Length and Pilot Request

Table 3: The Statistics of Vessels Passed Bosphorus Strait (İstanbul) According to Their Length and Pilot Request

| <i>The Statistics of Vessels Passed Bosphorus Strait (İstanbul) According to Their Length and Pilot Request</i> | | | | | | | | | | | | | | |
|-----------------------------------------------------------------------------------------------------------------|-------------------|------------|-------------------|------------|-------------------|------------|-------------------|------------|-------------------|------------|--------------------|------------|---------------|------------|
| Years | Longer Than 300 M | | Between 250-300 M | | Between 200-250 M | | Between 150-200 M | | Between 100-150 M | | Shorter Than 100 M | | Total | |
| | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot |
| 2006 | 0 | 0 | 957 | 948 | 2.696 | 2.601 | 7.216 | 5.949 | 22.427 | 10.025 | 21.584 | 7.066 | 54.880 | 26.589 |
| 2007 | 25 | 25 | 1.114 | 1.110 | 2.514 | 2.476 | 6.840 | 5.729 | 23.889 | 9.996 | 22.224 | 7.349 | 56.606 | 26.685 |
| 2008 | 25 | 25 | 1.256 | 1.251 | 2.630 | 2.611 | 7.931 | 6.800 | 22.050 | 9.789 | 20.504 | 6.525 | 54.396 | 27.001 |
| 2009 | 8 | 8 | 1.051 | 1.050 | 2.812 | 2.795 | 8.256 | 6.976 | 20.683 | 8.573 | 18.612 | 5.575 | 51.422 | 24.977 |
| 2010 | 6 | 6 | 1.216 | 1.216 | 2.401 | 2.401 | 7.881 | 6.510 | 20.990 | 9.902 | 18.377 | 6.000 | 50.871 | 26.035 |
| 2011 | 6 | 6 | 1.283 | 1.283 | 2.511 | 2.511 | 8.419 | 7.026 | 20.176 | 9.585 | 17.403 | 5.600 | 49.798 | 26.011 |
| 2012 | 14 | 14 | 1.285 | 1.285 | 2.567 | 2.558 | 9.278 | 7.481 | 18.976 | 8.544 | 16.209 | 4.930 | 48.329 | 24.812 |
| 2013 | 14 | 14 | 1.268 | 1.268 | 2.519 | 2.515 | 9.307 | 7.450 | 18.341 | 8.506 | 15.083 | 4.270 | 46.532 | 24.023 |
| 2014 | 2 | 2 | 1.364 | 1.364 | 2.929 | 2.925 | 10.154 | 8.207 | 16.734 | 7.779 | 14.346 | 4.231 | 45.529 | 24.508 |
| 2015 | 0 | 0 | 1.283 | 1.283 | 2.647 | 2.629 | 10.235 | 8.385 | 16.178 | 7.306 | 13.201 | 3.746 | 43.544 | 23.349 |
| 2016 | 0 | 0 | 1.143 | 1.143 | 2.730 | 2.715 | 10.363 | 8.659 | 16.077 | 6.828 | 12.240 | 3.011 | 42.553 | 22.356 |
| 2017 | 5 | 5 | 1.318 | 1.317 | 2.682 | 2.681 | 10.965 | 9.565 | 16.101 | 7.053 | 11.907 | 3.438 | 42.978 | 24.059 |
| 2018 | 3 | 3 | 1.377 | 1.375 | 2.726 | 2.708 | 11.640 | 10.293 | 14.466 | 6.128 | 10.891 | 3.058 | 41.103 | 23.565 |
| 2019 | 0 | 0 | 1.324 | 1.324 | 3.076 | 3.075 | 11.873 | 11.665 | 15.497 | 7.426 | 9.342 | 3.142 | 41.112 | 26.632 |
| 2020 | 2 | 2 | 1.299 | 1.299 | 3.651 | 3.651 | 10.592 | 10.302 | 14.441 | 6.780 | 8.419 | 2.720 | 38.404 | 24.754 |
| 2021 | 0 | 0 | 1.410 | 1.410 | 3.896 | 3.895 | 10.459 | 10.355 | 14.617 | 6.766 | 8.169 | 2.931 | 38.551 | 25.357 |
| 2022 | 2 | 2 | 1.313 | 1.313 | 2.764 | 2.760 | 9.034 | 8.951 | 14.434 | 7.335 | 7.599 | 3.019 | 35.146 | 23.380 |

Source: (TC Ulaştırma ve Altyapı Bakanlığı, 2023)
<https://denizcilikistatistikleri.uab.gov.tr/uploads/pages/turk-bogazlari-gemi-gecis-istatistikleri/yillara-gore-karsilastirma-tablosu-63da182447e63.xls> (accessed 12.01.2023)

ANNEX IV

The Statistics of Vessels Passed Dardanelles Strait (Çanakkale) According to Their Length and Pilot Request

*Table 4: The Statistics of Vessels Passed Dardanelles Strait (Çanakkale)
According to Their Length and Pilot Request*

| The Statistics of Vessels Passed Dardanelles Strait (Çanakkale) According to Their Length and Pilot Request | | | | | | | | | | | | | | |
|-------------------------------------------------------------------------------------------------------------|-------------------|------------|-------------------|------------|-------------------|------------|-------------------|------------|-------------------|------------|--------------------|------------|---------------|------------|
| Years | Longer Than 300 M | | Between 250-300 M | | Between 200-250 M | | Between 150-200 M | | Between 100-150 M | | Shorter Than 100 M | | Total | |
| | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot | Total Vessels | With Pilot |
| 2006 | 0 | 0 | 1.456 | 1.217 | 3.389 | 2.707 | 10.546 | 5.596 | 18.284 | 4.076 | 15.240 | 3.275 | 48.915 | 16.871 |
| 2007 | 29 | 29 | 1.750 | 1.588 | 3.166 | 2.509 | 10.050 | 5.475 | 19.614 | 3.983 | 15.304 | 3.301 | 49.913 | 16.885 |
| 2008 | 43 | 43 | 1.923 | 1.790 | 3.257 | 2.644 | 11.241 | 6.362 | 18.602 | 4.215 | 13.924 | 3.289 | 48.978 | 18.334 |
| 2009 | 94 | 94 | 1.429 | 1.327 | 3.653 | 2.881 | 11.517 | 6.253 | 18.987 | 4.832 | 13.779 | 3.203 | 49.453 | 18.588 |
| 2010 | 111 | 111 | 1.715 | 1.594 | 3.272 | 2.609 | 11.229 | 6.438 | 17.155 | 4.726 | 13.209 | 3.205 | 46.686 | 18.678 |
| 2011 | 138 | 138 | 1.982 | 1.809 | 3.374 | 2.770 | 11.715 | 6.859 | 16.412 | 4.686 | 11.761 | 2.661 | 45.379 | 18.920 |
| 2012 | 206 | 206 | 2.163 | 1.983 | 3.550 | 2.995 | 11.823 | 6.558 | 15.671 | 4.489 | 11.207 | 2.544 | 44.613 | 18.775 |
| 2013 | 216 | 216 | 2.208 | 2.102 | 3.400 | 2.827 | 11.993 | 6.682 | 15.409 | 4.626 | 10.687 | 2.471 | 43.889 | 18.924 |
| 2014 | 212 | 212 | 2.153 | 2.061 | 3.537 | 2.900 | 12.670 | 7.321 | 14.698 | 4.328 | 10.320 | 2.285 | 43.582 | 19.107 |
| 2015 | 143 | 143 | 2.255 | 2.192 | 3.444 | 2.732 | 13.487 | 7.478 | 13.798 | 4.097 | 10.123 | 2.201 | 43.230 | 18.843 |
| 2016 | 115 | 115 | 1.852 | 1.831 | 3.698 | 2.969 | 14.057 | 7.868 | 13.928 | 4.114 | 10.385 | 2.109 | 44.035 | 19.006 |
| 2017 | 203 | 203 | 2.096 | 2.038 | 3.898 | 3.029 | 14.440 | 8.452 | 13.792 | 3.957 | 10.186 | 2.246 | 44.615 | 19.925 |
| 2018 | 253 | 253 | 2.260 | 2.226 | 4.099 | 3.082 | 14.633 | 8.580 | 12.770 | 3.548 | 9.984 | 2.269 | 43.999 | 19.958 |
| 2019 | 317 | 317 | 2.209 | 2.198 | 4.484 | 3.640 | 14.465 | 9.111 | 12.890 | 3.946 | 9.394 | 2.404 | 43.759 | 21.616 |
| 2020 | 316 | 316 | 2.259 | 2.247 | 4.855 | 3.870 | 13.145 | 8.261 | 12.631 | 4.292 | 8.830 | 2.189 | 42.036 | 21.175 |
| 2021 | 462 | 462 | 2.197 | 2.188 | 5.196 | 4.401 | 13.319 | 8.974 | 13.106 | 4.992 | 9.062 | 2.689 | 43.342 | 23.706 |
| 2022 | 530 | 530 | 2.351 | 2.343 | 4.342 | 3.780 | 13.091 | 8.972 | 13.432 | 5.660 | 8.594 | 2.684 | 42.340 | 23.969 |

Source: (TC Ulaştırma ve Altyapı Bakanlığı, 2023)

<https://denizcilikistatistikleri.uab.gov.tr/uploads/pages/turk-bogazlari-gemi-gecis-istatistikleri/yillara-gore-karsilastirma-tablosu-63da182447e63.xls> (accessed 12.01.2023)

ANNEX V

The Statistics of Vessels Passed Bosphorus Strait (İstanbul) According to Their Ship Type

Table 5: The Statistics of Vessels Passed Bosphorus Strait (İstanbul) According to Their Ship Type

| <i>The Statistics of Vessels Passed Bosphorus Strait (İstanbul) According to Their Ship Type</i> | | | | | | | | | | | | | |
|--------------------------------------------------------------------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Years | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
| Barge / Barge Carrier | 28 | 17 | 2 | 19 | 12 | 17 | 6 | 18 | 3 | 9 | 15 | 13 | 34 |
| Bulk Carrier | 5.863 | 6.341 | 7.163 | 6.898 | 7.263 | 7.485 | 7.664 | 8.206 | 8.501 | 8.811 | 8.592 | 8.684 | 7.076 |
| Cement Carrier | 3 | 4 | 2 | 1 | 4 | 8 | 4 | 6 | 12 | 9 | 18 | 46 | 38 |
| Container Ship | 2.292 | 2.718 | 2.707 | 2.868 | 3.073 | 2.664 | 2.734 | 2.659 | 2.561 | 2.642 | 2.633 | 2.735 | 2.426 |
| Ferry | 1 | 3 | 1 | 1 | 4 | 2 | 1 | 1 | 1 | 2 | 1 | 2 | 1 |
| General Cargo Ship | 30.876 | 29.288 | 27.126 | 25.521 | 24.107 | 22.412 | 21.344 | 21.163 | 19.269 | 18.637 | 16.864 | 16.891 | 15.371 |
| Livestock Carrier | 243 | 238 | 390 | 432 | 391 | 434 | 585 | 544 | 508 | 530 | 555 | 566 | 491 |
| Naval | 114 | 94 | 129 | 196 | 237 | 318 | 342 | 237 | 176 | 178 | 205 | 190 | 30 |
| Passenger Ship | 631 | 481 | 583 | 474 | 649 | 444 | 291 | 336 | 367 | 250 | 74 | 217 | 85 |
| Refrigerated Cargo Carrier | 602 | 441 | 248 | 204 | 65 | 24 | 40 | 46 | 34 | 59 | 52 | 48 | 15 |
| Roll on Roll of Vessel | 457 | 599 | 492 | 406 | 431 | 377 | 352 | 396 | 245 | 266 | 222 | 268 | 274 |
| Other Tanker, TTA | 6.464 | 6.216 | 5.912 | 5.685 | 5.587 | 5.825 | 6.033 | 6.212 | 6.014 | 5.934 | 5.252 | 5.085 | 5.447 |
| Chemical Tanker, TCH | 1.711 | 1.660 | 1.779 | 1.561 | 1.618 | 1.576 | 1.681 | 1.878 | 1.950 | 2.462 | 2.653 | 2.701 | 2.782 |
| Liquefied Petroleum Gas/Natural Gas Tanker, LPG/LNG | 1.099 | 1.227 | 1.336 | 1.760 | 1.540 | 1.232 | 989 | 742 | 623 | 561 | 530 | 462 | 424 |
| Tug | 293 | 245 | 274 | 241 | 231 | 282 | 237 | 262 | 384 | 270 | 175 | 214 | 234 |
| Vehicle Carrier | 42 | 47 | 37 | 47 | 93 | 17 | 16 | 45 | 88 | 113 | 87 | 18 | 67 |
| Other | 152 | 179 | 148 | 218 | 224 | 427 | 234 | 227 | 367 | 379 | 476 | 411 | 351 |

Source: (TC Ulaştırma ve Altyapı Bakanlığı, 2023)
<https://denizcilikistatistikleri.uab.gov.tr/uploads/pages/turk-bogazlari-gemi-gecisi-tatistikleri/yillara-gore-karsilastirma-tablosu-63da182447e63.xls> (accessed 12.01.2023)

ANNEX VI

The Statistics of Vessels Passed Dardanelles Strait (Çanakkale) According to Their Ship Type

Table 6: The Statistics of Vessels Passed Dardanelles Strait (Çanakkale) According to Their Ship Type

| <i>The Statistics of Vessels Passed Dardanelles Strait (Çanakkale) According to Their Ship Type</i> | | | | | | | | | | | | | |
|-----------------------------------------------------------------------------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Years | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
| Barge / Barge Carrier | 9 | 5 | 14 | 9 | 19 | 34 | 29 | 89 | 57 | 75 | 109 | 179 | 60 |
| Bulk Carrier | 6.045 | 6.458 | 7.442 | 7.048 | 7.525 | 7.714 | 8.060 | 8.585 | 8.916 | 9.204 | 9.170 | 9.349 | 8.049 |
| Cement Carrier | 22 | 19 | 19 | 7 | 6 | 4 | 0 | 6 | 14 | 10 | 17 | 45 | 47 |
| Container Ship | 4.840 | 5.056 | 4.653 | 4.653 | 4.595 | 4.346 | 4.728 | 4.957 | 5.123 | 5.238 | 5.219 | 5.502 | 5.767 |
| Ferry | 8 | 9 | 21 | 4 | 6 | 14 | 29 | 24 | 30 | 26 | 26 | 29 | 9 |
| General Cargo Ship | 21.731 | 20.205 | 18.992 | 17.995 | 17.297 | 16.282 | 16.680 | 16.485 | 15.764 | 14.771 | 14.197 | 14.713 | 13.880 |
| Livestock Carrier | 283 | 354 | 529 | 454 | 416 | 478 | 653 | 627 | 601 | 592 | 593 | 607 | 521 |
| Naval | 93 | 94 | 115 | 218 | 237 | 341 | 335 | 271 | 217 | 216 | 211 | 206 | 34 |
| Passenger Ship | 745 | 886 | 806 | 770 | 692 | 783 | 190 | 49 | 55 | 101 | 26 | 43 | 489 |
| Refrigerated Cargo Carrier | 653 | 440 | 280 | 244 | 124 | 91 | 125 | 113 | 67 | 83 | 76 | 71 | 32 |
| Roll on Roll of Vessel | 2.064 | 2.129 | 1.861 | 2.115 | 2.234 | 2.373 | 2.473 | 2.479 | 2.243 | 1.957 | 1.649 | 1.974 | 2.140 |
| Other Tanker, TTA | 6.017 | 5.661 | 5.656 | 5.822 | 5.875 | 6.009 | 6.041 | 6.145 | 6.181 | 6.178 | 5.644 | 5.196 | 5.874 |
| Chemical Tanker, TCH | 2.333 | 2.183 | 2.304 | 2.097 | 2.169 | 2.479 | 2.559 | 2.599 | 2.368 | 2.996 | 3.057 | 3.385 | 3.414 |
| Liquefied Petroleum Gas/Natural Gas Tanker, LPG/LNG | 120 | 133 | 133 | 109 | 131 | 121 | 126 | 82 | 103 | 130 | 129 | 129 | 139 |
| Tug | 782 | 841 | 905 | 1.271 | 1.075 | 915 | 755 | 652 | 595 | 539 | 542 | 498 | 477 |
| Vehicle Carrier | 323 | 334 | 321 | 329 | 321 | 328 | 365 | 365 | 398 | 365 | 306 | 341 | 337 |
| Other | 379 | 399 | 397 | 455 | 507 | 503 | 454 | 511 | 597 | 634 | 567 | 627 | 628 |

Source: (TC Ulaştırma ve Altyapı Bakanlığı, 2023)
<https://denizcilikistatistikleri.uab.gov.tr/uploads/pages/turk-bogazlari-gemi-gecisi-istatistikleri/yillara-gore-karsilastirma-tablosu-63da182447e63.xls> (accessed 12.01.2023)

ANNEX VII

Main Search and Rescue Coordination Center Accident / Events Statistics, 2016-2022

*Table 7: Main Search and Rescue Coordination Center Accident /
Events Statistics, 2016-2022*

| Year | Type of Accident / Events | Number of Accident / Events | Number of Survived Person | Number of Dead People | Number of Missing People |
|------|---------------------------|-----------------------------|---------------------------|-----------------------|--------------------------|
| 2022 | Marine Accidents | 291 | 1.404 | 53 | 39 |
| | Aircraft Accidents | 16 | 20 | 6 | 0 |
| | Medical Evacuation | 97 | 97 | 0 | 0 |
| | Piracy and Armed Robbery | 0 | 0 | 0 | 0 |
| | Total | 404 | 1.521 | 59 | 39 |
| 2021 | Marine Accidents | 690 | 2.097 | 71 | 30 |
| | Aircraft Accidents | 12 | 11 | 12 | 0 |
| | Medical Evacuation | 156 | 101 | 21 | 0 |
| | Piracy and Armed Robbery | 0 | 0 | 0 | 0 |
| | Total | 858 | 2.209 | 104 | 30 |
| 2020 | Marine Accidents | 599 | 1.445 | 120 | 41 |
| | Aircraft Accidents | 8 | 190 | 11 | 0 |
| | Medical Evacuation | 174 | 127 | 25 | 0 |
| | Piracy and Armed Robbery | 0 | 0 | 0 | 0 |
| | Total | 781 | 1.762 | 156 | 41 |
| 2019 | Marine Accidents | 485 | 2.403 | 85 | 54 |
| | Aircraft Accidents | 7 | 9 | 8 | 0 |
| | Medical Evacuation | 140 | 120 | 13 | 0 |
| | Piracy and Armed Robbery | 2 | 7 | 0 | 0 |
| | Total | 634 | 2.539 | 106 | 54 |
| 2018 | Marine Accidents | 161 | 602 | 17 | 22 |
| | Aircraft Accidents | 14 | 7 | 26 | 0 |
| | Medical Evacuation | 63 | 70 | 7 | 0 |
| | Piracy and Armed Robbery | 0 | 0 | 0 | 0 |
| | Total | 238 | 679 | 50 | 22 |
| 2017 | Marine Accidents | 277 | 2.961 | 129 | 66 |
| | Aircraft Accidents | 8 | 34 | 6 | 0 |
| | Medical Evacuation | 12 | 12 | 0 | 0 |
| | Piracy and Armed Robbery | 0 | 0 | 0 | 0 |
| | Total | 297 | 3.007 | 135 | 66 |
| 2016 | Marine Accidents | 480 | 13.336 | 183 | 96 |
| | Aircraft Accidents | 1 | 1 | 0 | 0 |
| | Medical Evacuation | 24 | 24 | 0 | 0 |
| | Piracy and Armed Robbery | 0 | 0 | 0 | 0 |
| | Total | 505 | 13.361 | 183 | 96 |

Source: (TC Ulaştırma ve Altyapı Bakanlığı, 2023)
<https://denizcilikistatistikleri.uab.gov.tr/uploads/pages/diger-istatistikler/ana-arama-kurtarma-merkezi-kaza-olay-istatistikleri-63da1f9a22a00.xls> (12.01.2023)

ANNEX VIII

Convention Regarding the Regime of
the Straits. Signed at Montreux
(French and English)

N° 4015.

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

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

**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° 4015. — CONVENTION ¹ 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 Traité ² de paix signé à Lausanne le 24 juillet 1923 ;

Ont résolu de substituer la présente convention à la Convention ³ 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 Neïcov, ministre plénipotentiaire, directeur des Affaires politiques au Ministère des Affaires étrangères et des Cultes ;

¹ 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
AUSTRALIE
BULGARIE
FRANCE
GRÈCE
ROUMANIE
TURQUIE
UNION DES RÉPUBLIQUES SOVIÉTIQUES SOCIALISTES
YOUGOSLAVIE
JAPON

9 novembre 1936.

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.

² Vol. XXVIII, page 11, de ce recueil.

³ Vol. XXVIII, page 115, de ce recueil.

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 Amiralauté ;

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, Jusammi, grand-cordon de l'Ordre du Soleil-Levant, ambassadeur extraordinaire et plénipotentiaire à Paris ;

M. Masa-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 PELI A, 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. Süad DAVAZ, ambassadeur extraordinaire et plénipotentiaire de la République turque à Paris ;

M. Numan MENEMENCIOĞLU, 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 SADAQ, 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 :

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

...

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.

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'excèdera 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

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. À cette fin, chaque Puissance riveraine fera connaître, conformément à l'annexe IV à la présente convention, au Gouvernement turc, le 1^{er} janvier et le 1^{er} 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.

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.

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.

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 BIDICA 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 État 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

ANNEXES

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.) Dr R. ARAS.
 (L. S.) Suad DAVAZ.
 (L. S.) N. MENEMENCIOLU.
 (L. S.) Asim GÜNDÜZ.
 (L. S.) N. SADAK.
 (L. S.) Maxime LITVINOFF.
 (L. S.) Dr 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> ¹ |
| a) Contrôle sanitaire | 0,075 |
| b) Phares, bouées lumineuses et bouées de chenaux ou autres : Jusqu'à 800 tonnes Au-dessus de 800 tonnes | 0,42 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.

¹ Actuellement 100 piastres équivalent à environ 2 francs 50 centimes-or.

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 ¹

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.

¹ Les textes de la présente annexe ont été empruntés au Traité naval de Londres du 25 mars 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) Être armés d'un canon d'un calibre supérieur à 155 millimètres (6,1 pouces) ;
- b) Être conçus ou équipés pour lancer des torpilles ;
- c) Être 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) Être armés d'un canon d'un calibre supérieur à 155 millimètres (6,1 pouces) ;
- b) Être armés de plus de huit canons d'un calibre supérieur à 76 millimètres (3 pouces) ;
- c) Être conçus ou équipés pour lancer des torpilles ;
- d) Être conçus pour être protégés par des plaques de blindage ;
- e) Être conçus pour atteindre une vitesse supérieure à vingt-huit nœuds ;
- f) Être conçus ou aménagés principalement pour mettre en action des aéronefs en mer ;
- g) Être 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^{er} 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.

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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 équivalant 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.

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.
Asım GÜNDÜZ.
N. SADAK.
Maxime LITVINOFF.
Dr I. V. SOUBBOTITCH.

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

Le Chef du Protocole,
Şevket Keçecy.

¹ TRADUCTION. — TRANSLATION.

No. 4015. — CONVENTION² 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 Treaty³ of Peace signed at Lausanne on the 24th July, 1923 ;

Have resolved to replace by the present Convention the Convention⁴ signed at Lausanne on the 24th July, 1923, and have appointed as their Plenipotentiaries :

HIS MAJESTY THE KING OF THE BULGARIANS :

Dr. Nicolas P. NICOLAËV, 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 ;

¹ Traduction du Foreign Office de Sa Majesté britannique.

¹ Translation of His Britannic Majesty's Foreign Office.

² 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 | |
| AUSTRALIA | |
| BULGARIA | |
| FRANCE | |
| GREECE | |
| ROUMANIA | |
| TURKEY | |
| UNION OF SOVIET SOCIALIST REPUBLICS | |
| YUGOSLAVIA | |
| JAPAN | |

November 9th, 1936.

April 19th, 1937.

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.

³ Vol. XXVIII, page 11, of this Series.

⁴ Vol. XXVIII, page 115, of this Series.

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, Jusammî, Grand-Cordon of the Order of the Rising Sun, Ambassador Extraordinary and Plenipotentiary in Paris ;

M. Massa-aki HOTTA, 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. RÜSTÜ 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 :

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

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.

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

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.

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.

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 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.

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

ANNEXES

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. SOUBROTITCH.

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> ¹ |
| (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 Aegean Sea to the Black Sea and return back to the Aegean Sea or else a voyage through the Straits from the Black Sea to the Aegean 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 Aegean 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.

¹ 100 piastres at present equals 2.5 francs gold (approx.).

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.¹

A. STANDARD DISPLACEMENT.

(1) The standard displacement of a surface vessel is the displacement of the vessel, complete, fully manned, engaged, 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, engaged 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.

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

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 ;

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.

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.
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. MENEMENCIÖGLÜ.
Asım GÜNDÜZ.
N. SADAK.
Maxime LITVINOFF.
Dr. I. V. SOUBBOTITCH.

ANNEX IX

TURKISH REGULATIONS FOR THE ADMINISTRATION OF MARITIME TRAFFIC IN THE TURKISH STRAITS

Law No : 1998

Date of Decision : 08/10/1998

Number of Decision : 98/11860

No and Date of Official Gazette : 06/11/1998- : 23515 Repeating
Published

PART 1

Purpose, Applicability and Definitions

Purpose and applicability

ARTICLE 1 - The purpose of Vessel Traffic Regulations is to ensure safety of navigation, safety of life, property and marine environment by improving the safety of vessel traffic in the Straits. These regulations shall apply to all vessels entering or navigating within the limits of Turkish Straits.

Definitions and Abbreviations

ARTICLE 2- For the purposes of these regulations the terms;

- a) **Administration** means Republic of Turkey Prime Ministry Maritime Under Secretariat (T.C. BASBAKANLIK DENIZCILIK MUSTESARLIG I)
- b) **Turkish Straits** means the navigable waters of Marmara Sea, Istanbul and Canakkale Straits, and the coastline surrounding these areas.
- c) **Rules** mean Turkish Laws, regulations and all International Conventions which the Turkish Republic is a signatory.

- d) **Vessel Restricted In Her Ability To Manoeuvre In The Traffic Separation Scheme** describes vessels with a length over all of 150 meters or upwards and deepest draught 10 meters or upwards and the vessels due to their technical condition which are restricted in their ability to proceed in the appropriate lane as required by these regulations.
- e) **Vessel** means every description of water craft which is able to navigate at sea by means of any kind of propulsion except under oars.
- f) **Direct Passing Vessel** describes a vessel planned not to call any port, berth or place within Turkish Straits, and reported the same in her Sailing Plan to the Turkish authorities before entering to the Straits.
- g) **Indirect Passing Vessel** describes a vessel which planned to call a port, berth or place within Turkish Straits, or a vessel whose direct passing has been cancelled by her Master and/or has had her cancelled her direct passing interrupted.
- h) **Direct Passing Cancelled Vessel** describes a vessel which her Master cancelled her direct passing.
- i) **Direct Passing Interrupted Vessel** describes a vessel during direct passing, delayed for the purpose of investigations or legal proceedings by the Turkish administrative or legal authorities due to a marine casualty or accident includes but not limited to any occurrence involving a vessel which results in damage by or to the vessel such as collision or grounding.
- j) **Deep Draft Vessel** means a vessel having a deepest draught of 15 meters or greater.
- k) **Large Vessel** means a vessel having a length overall of 200 meters or more.
- l) **Total Towing Length** means the distance between the fore end of the towing vessel and aft end of the tow and the distance between the aft end of the pushing vessel and the fore end of the vessel being pushed with full manoeuvring speed.
- m) **Northern Limit Of The Strait of Istanbul** is the line drawn between Anadolu Light and Turkeli Light.

- n) **Southern Limit Of The Strait of Istanbul** is the line drawn between Ahirkapi Light and Kadikoy, Incirburnu Breakwater Light.
- o) **Northern Limit Of The Canakkale Strait** is the meridian passing through Zincirbozan Light.
- p) **Southern Limit Of The Canakkale Strait** is the line drawn between Mehmetcik Light and Kumkale Light.
- q) **By day** means between sunrise and sunset.
- r) **By night** means between sunset and sunrise.
- s) **TUBRAB** means position and information reporting system to manage vessel movements within Turkish straits which is accomplished by a vessel providing information which includes Sailing Plan 1 and 2, Position and Calling point reports.

PART 2

GENERAL PROVISIONS

Traffic Separation Schemes and boundary lines

ARTICLE 3- Turkish Straits and Approaches TSSs, as described in Annex 1 has been established in compliance with The International Convention For Preventing Collision At Sea (COLREGS 72) Reg. (10) and adopted by IMO. The boundary lines of the traffic separation scheme are as follows;

On the North, the North border of the area connecting the following points:

| Latitude | Longitude |
|----------|-----------|
| 41 16 N | 028 55 E |
| 41 21 N | 028 55 E |
| 41 21 N | 029 16 E |
| 41 14 N | 029 16 E |

On the South, the South border of the area connecting the following points:

| Latitude | Longitude |
|----------|-----------|
| 40 05 N | 026 11 E |
| 40 02 N | 025 55 E |
| 39 50 N | 025 53 E |
| 39 44 N | 025 55 E |
| 39 44 N | 026 09 E |

Traffic Control Center and Stations

ARTICLE 4- The Administration has established Traffic Control Center and Stations in order to implement the use of TSS' s, the control the vessel movements within and to keep TUBRAP system operational.

Technical condition and Reporting requirements for vessels arriving and intending to pass through the Turkish Straits

ARTICLE 5- All vessels before entering the Turkish Straits;

- a) Should be seaworthy, meeting with the requirements of the International Conventions and their Flag Administration.
- b) Prior to transmitting the Sailing Plan 2 (Reg. 6 para.2) the Master shall assure himself that the vessel is technically in compliance with the following conditions and the same to be logged in the vessel Log Book.
 - 1) Main propulsion and Auxiliary machinery are in good working order and ready for immediate manoeuvring.
 - 2) Emergency Generators are in good working order and maintained in the readiness.
 - 3) Primary and Secondary steering gears, Radar/s and Compasses are in good working order.
 - 4) Engine room telegraph, rudder angle, RPM and if fitted Pitch indicators are in good working order and illuminated as to be readily visible to the pilot.
 - 5) Navigational lights, whistle and all other bridge equipment are in good working order and complete.
 - 6) All internal vessel control communications and vessel control alarms are in good working order.
 - 7) VHF transceivers are efficient.
 - 8) An Aldis lamp and at least one good binocular are kept ready on the bridge at all times.

- 9) Windlass, capstans and mooring winches are in good working order and both anchors are ready for letting go at all times with standby crew.
- 10) Towing lines of adequate strength and condition and heaving lines are ready on forward and aft together with line throwing appliances. Vessels loaded with explosives, dangerous goods or hazardous materials additionally shall suspend "Towing Off" wires of adequate strength and condition on forward and aft with their eyes run out and maintained at 1 or 2 meters above the waterline.
- 11) Vessel is not trimmed by the stem as to dangerously affect the manoeuvring and /or steering and never will be trimmed by the head while navigating within the Turkish Straits.
- 12) As much as possible the trim is arranged such that the propeller blades are under the water level and in any case the blades are not above the water level more than 5 % of the propeller diameter.
- 13) The cargo and trim of the vessel is arranged such that from the conning position the forecastle and the view of the sea surface is not obscured.
- 14) A copy of these regulations and related nautical publications are on board together with updated Turkish Straits and Marmara sea charts of a large enough scale.
- 15) Number and certification of the officers and crew of the vessel is in compliance with the requirements of the STCW/78-95 Convention.
- 16) Vessel has Shipboard Emergency Plans and fully trained Emergency Squads for responding to all possible casualties and all related emergency, safety and fire fighting equipment are in readiness for immediate use.

If any vessel can not comply with any requirements listed above, the nearest Traffic Control Center must be informed by the Master. Failure to notify will result the Administration to take necessary measures as prescribed in reg. 7 para 2.

Reporting system in Turkish Straits (TUBRAB) a) Sailing Plan 1 (SP 1)

ARTICLE 6- Owners, Masters or Agents of the vessels with dangerous cargo or the vessels of 500 GRT and upwards, shall submit "Sailing Plan 1" in writing to the nearest Traffic Control Center in IMO standard format as defined by the Administration at least 24 hours before the vessel's arrival at Istanbul or Canakkale Straits.

" Vessels navigate in traffic separation scheme in difficulty " shall submit advance " Sailing Plan 1 " in writing as required by Reg. 25.

Vessels at Marmara Sea ports with dangerous cargo on board and the vessels of 500 GRT and upwards shall submit "Sailing Plan 1" in writing at least 6 hours before their departure.

a) Sailing Plan 2 (SP 2)

After sending SP 1 and assuring himself that the vessel is in compliance with the requirements of Reg. 5, two hours or 20 miles (whichever earlier) before the entrance of the Turkish Straits, the Master shall submit Sailing Plan 2 in IMO standard format as defined by the Administration.

The Master, shall take into consideration the information received from the Traffic Control Station and navigate with care and caution.

The transmission time of SP 2 and all information received must be recorded in the vessel Log Book.

b) Position Report (PR)

All vessels with a L.O.A of 20 meters and upwards, shall make a voice radio position report by VHF in IMO standard format to the nearest Traffic Control Station 5 miles before the entrance of the Straits.

c) Calling Point Report (CPR)

All vessels with a L.O.A. of 20 meters and upwards while proceeding within the Straits shall make a voice radio call point report by VHF in IMO standard format at the positions defined by Administration to the nearest Traffic Control Station.

Vessel which her navigational safety is impaired before entering the Straits

ARTICLE 7 - Vessel which her navigational safety is impaired due to any technical reason, including failures of any essential equipment / machinery shall notify the Traffic Control Center by telex, telephone, fax or VHF.

The Traffic Control Center will advise anchorage / waiting position to the said vessel for undergoing necessary repairs and surveys. After receiving the vessel's final condition upon completion of repairs and surveys, the Traffic Control Station will decide and inform the Master whether the vessel is permitted to proceed with or without any additional safety measures.

ARTICLE 8

Pilot onboard flag

Vessels having a pilot onboard must hoist the International code flag 'H' by day.

Signals of " Direct Passing Vessels"

ARTICLE 9 - Within the limits of Turkish Straits all "direct passing vessels" while navigating or at anchor shall hoist the International code ' T ' flag by day and an all-round green light (where it can be best seen) by night. If the Master cancels her direct passing or her direct passing is interrupted these signals shall not be displayed.

Anchoring permission for the "Direct Passing Vessels"

ARTICLE 10 - Subject to the permission of the Traffic Control Center, in order to supply needs, the direct passing vessels through the Turkish Straits may wait at the anchorage areas referred in Reg. 23 for 48 hours without free pratique under the supervision of the related authorities.

During this 48 hour period the vessel can exchange crew, land patients or dead bodies, supply bunker or provisions, undergo minor repairs, make agent contacts or supply other similar articles.

If the direct passing vessel requires to stay at anchor more than 48 hour period, have to anchor at the recommended anchorage area and must undergo free pratique, customs, immigration and other necessary formalities.

PART 3

NAVIGATING THROUGH THE ISTANBUL AND CANAKKALE STRAITS

Precautions for safe passage

ARTICLE 11- The Master of a vessel navigating within the Straits, shall ensure that there is no person other than authorised crew members on the bridge, in the chart room or at the bridge wings in order not to endanger the safe command of the vessel and as well as to maintain a proper look-out.

Also only authorised crew members shall stand by in the engine room whether the engines are controlled from the engine control room or not.

Steering shall always be by hand, while navigating in the Straits automatic steering devices shall never be used and the emergency steering gear must be in the readiness at all times with standby authorised crew.

Steering light

ARTICLE 12- All vessels having a distance from bridge to bow over 150 meters and vessels whose bridge is so located that observing the vessel's turning severely difficult, shall have installed at or near the stem, a steering range equipped with a fixed blue light which shall be clearly visible from the bridge along the centerline.

Speed

ARTICLE 13 -Within the Straits the vessels may not proceed at a speed more than 10 knots over the ground. However if more speed is needed to maintain a good steerage the nearest Traffic Control Station shall be notified and the Master shall proceed with care and caution at a speed which will not create any danger of collision or cause damages by wave making to the banks or properties and other vessels in motion or tied up.

Overtaking

ARTICLE 14- Within the Straits the vessels may not overtake vessels except in necessary cases.

- a) Vessels proceeding within the Straits shall maintain at least 8 cables distance between each other. This distance may be increased by the Traffic Control Center regarding type of the vessels.
- b) While proceeding within the Straits the Master of a vessel which is going to slacken speed for any reason must warn the vessels astern of his intention.
- c) Vessels proceeding within the Straits under low speed shall keep as near as to outer limit of the traffic separation lane which lies on her starboard side as is safe and practicable and if necessary shall take action to permit safe passing for the faster vessels.
- d) Any vessel which is intending to overtake a vessel that is proceeding under low speed within the Straits, shall inform the Traffic Control Station and obtain information regarding the density of traffic and shall indicate her intention to the vessel to be overtaken. If there is sufficient room in the fairway and there is no risk of collision with the oncoming traffic, the overtaking can take place and preferably on one course.
- e) No overtaking may take place between the Vanikoy and Kanlica points in Istanbul and between Nara and Kilitbahir points in Canakkale Straits.

Accidents and equipment / machinery failures while navigating within Straits

ARTICLE 15- Vessels which involved in an accident, having equipment / machinery failures or dropped anchor in an emergency, shall immediately notify the Traffic Control Center and request instruction. After the safety measures for the vessel and the environment are taken by the relevant port authority such vessel may resume passage with a pilot on board and in compliance with other necessary requirements of the Administration for the safe passage.

Vessel not under command

ARTICLE 16- Any vessel which is a vessel not under command or any vessel restricted her ability to manoeuvre as prescribed in Colregs 72 shall be subject to special permission of the Administration for passing through the Straits.

If a vessel while navigating in the Straits becomes not under command for any reason the Master shall immediately notify the Traffic Control Station and comply with the instructions given.

Towing

ARTICLE 17- For the navigational safety in the Straits towing of a vessel or any other floating objects can only be made by a tug or tugs which have sufficient engine power and towage equipment for handling the tow through the Straits. Said tug or tugs must be classed for towing service and to be certified in compliance with the IMO rules.

- a) Prior to entering the Straits, the towing hawser shall be shortened as much as necessary.
- b) Whenever the total towing length is more than 150 meters the Administration may require additional measures to improve the ability of manoeuvring and to keep both vessels on safe course.
- c) Vessel or floating object are being towed shall keep a spare towing lines of adequate strength in readiness with sufficient number of standby crew for use in accidental breaking of the towing lines.
- d) If possible, the tow shall keep her engines and steering gears in readiness.

Vessels leaving a port / berth / anchorage within the Straits

ARTICLE 18- Before getting underway from a port, berth or anchorage area within the Straits, Master of this vessel shall notify his intention to the Traffic Control Station and obtain necessary information regarding the traffic density. Such vessels shall wait until the navigation is safe for joining to the appropriate lane.

Leaving the traffic separation scheme

ARTICLE 19- Vessels which shall leave the traffic separation scheme for berthing, mooring to buoys, for dropping anchor, turning back due to any reason or in emergency cases, shall notify the Traffic Control Station and warn the vessels in sight.

Suspending the traffic temporally for Turkish Straits

ARTICLE 20- Traffic in the Straits may temporally be suspended by the Administration in the following cases;

- a) In force majeure situations,
- b) Collision, grounding, fire, public security, pollution and similar occasions.
- c) Surface or underwater construction works such as building bridges - tunnels or drilling works etc. for the common wealth of the public.
- d) The existence of navigational dangers within the Straits.

The Administration shall take necessary measures to keep suspending time as short as possible.

The suspending and resuming of the traffic shall be announced to the vessels and concerned parties by the Port Authority and the Traffic Control Stations.

Before the traffic resumes the vessel entrance turn shall be announced in accordance with the vessels' TUBRAP reports evaluation and their types.

Using the traffic separation schemes

ARTICLE 21- Vessels passing through the Turkish Straits,

- a) When is a direct passing, or a vessel joining or leaving the traffic separation scheme shall proceed in the appropriate traffic lane in the general direction of traffic flow.
- b) The Administration shall take necessary measures for the maintenance of safety of navigation for a vessel which is restricted in her ability to manoeuvre in the separation scheme.
- c) Vessels which do not proceed in the appropriate traffic lane (except para. b) shall be reported to IMO and their Flag Administration.

Deep Draft vessels

ARTICLE 22- In addition to Rule 23 of Colregs 72, Deep Draft vessels shall exhibit three all-round red lights in a vertical line, or a cylinder.

Other vessels while navigating in the Straits;

ANNEXES

Shall avoid impeding the passage and take early action to allow sufficient sea-room for the safe passage of a Deep Draft Vessel,

When nearing a bend, or a crossing point shall keep out of the way of a Deep Draft Vessel,

Anchorage areas

ARTICLE 23- The following areas are designated as authorised anchorage for managing the traffic flow and for the vessels intending to wait at the anchor.

- a) Istanbul Straits northern entrance anchorage areas see Annex 2.
- b) Istanbul Straits southern entrance anchorage areas see Annex 3.
- c) Canakkale Straits northern entrance anchorage areas see Annex 4.
- d) Canakkale Straits Karanlik Liman anchorage area see Annex 5.
- e) Canakkale Straits southern entrance anchorage areas see Annex 6

Pilotage is compulsory for areas a,b,c and d.

Anchor of all vessels must be placed well within the anchorage areas, so that no portion of the hull or rigging shall any time extend outside the boundaries of the anchorage area. No vessel shall anchor within a distance less than 2,5 cables from the shore line.

Reserved Rules and Regulations

ARTICLE 24- The Regulations described in this section shall apply both Straits, reserving the jurisdiction of the "Rules and Regulations for the Istanbul and Canakkale Ports" in force.

PART 4

COMMON RULES FOR THE STRAITS

Vessels restricted ability to manoeuvre in the traffic separation scheme

ARTICLE 25-

- a) Vessels with a length over all in between 150-200 meters and/or having a draught in between 10-15 meters shall submit SP 1 report in writing 24 hours before entering the Straits,
- b) Vessels with a length over all in between 200-300 meters and/or having a draught more than 15 meters will submit SP 1 report in writing at least 48 hours before entering to the Straits, to the Traffic Control Center.
- c) The owner or the operator of a large vessel with a length over all of 300 meters and upwards, before fixing a voyage through the Straits must contact with the Administration and advise all necessary particulars, characteristics and the type of cargo planned to carry.
- d) The Traffic Control Center and the Administration will make a study for the safe passage of the vessel with the information received by taking into consideration the safety of life, property and the environment, the physical, morphological and seasonal condition of the Straits and will inform the owner, operator or the Master about the requirements and safety measures to be taken during this passage. Such vessels in compliance with the requirements and necessary safety measures of the Administration, shall submit SP 1 report in writing at least 72 hours before their arrival to the entrance of the Straits.
- e) Traffic Control Center shall take necessary measures for the maintenance of safe passage for the vessels with dangerous cargo as prescribed in this Regulation and may exempt these vessels from complying Reg.21. a.
- f) When a southbound vessel with dangerous cargo as prescribed in this Regulation enters from the north of Istanbul Strait, no northbound vessel is permitted with the same particulars until the southbound reaches to Istanbul Bogazi Bridge,

When a northbound vessel with dangerous cargo as prescribed in this Regulation enters from the south of Istanbul Strait no southbound vessel is permitted with the same particulars, until the southbound reaches to the line joining Hamsi Burnu and Fil Burnu points.

In Canakkale Strait; no vessel is permitted in the same direction with the same particulars until the vessel ahead with dangerous cargo as prescribed in this Regulation, clears the Nara Burnu area.

Nuclear Powered vessels or vessels carrying nuclear cargo or nuclear wastes, dangerous and/or hazardous cargo or wastes.

ARTICLE 26- The owner or the operator of the;

- a) Nuclear - powered vessels,
- b) Vessels carrying nuclear cargo or nuclear wastes, and
- c) Vessels carrying dangerous and/or hazardous cargo or wastes,

at least 72 hours before fixing a voyage through the Straits, must contact with the Administration and inform the type of cargo planned to carry with all necessary certificates which confirms the vessel is in compliance with IMO and related International Conventions together with the certificates confirms that the said cargo is carried in compliance with her Flag State Administration Regulations.

For the safety of the passage within the Straits, Nuclear powered vessels shall take all measures informed by the Administration.

All vessels mentioned in this regulation shall load and distribute their cargoes in compliance with the related International Conventions and Codes. While navigating within the Straits, such vessels shall hoist the International Code B flag by day and an all-round red light by night.

Taking Pilot

ARTICLE 27- Traffic Control Center strongly recommends to all "Direct Passing Vessels" to take pilot for the maintenance of safety of life, property, environment and navigation within the Straits.

Unauthorised berthing - anchoring

ARTICLE 28- No vessel shall be moored, anchored, or tied up to any pier, wharf or buoys without permission within the Straits. Such vessels will be moved by tugs and with a pilot provided by the Harbour Master at the vessel's expense, which will be billed to her owner, operator or agent.

Except in cases of emergency to avoid an immediate danger, no vessel shall drop anchor within the Straits. In such cases the Master shall immediately notify the anchorage position to the Traffic Control Station.

For the maintenance of the navigational safety with in the Straits, such vessels will be moved to a safe anchorage area by tugs and with a pilot provided by the Administration at the vessel's expense, which will be billed to her owner, operator or agent.

Pollution Prevention

ARTICLE 29- Vessels navigating within the Straits shall be in compliance with the Annexes in force of Marpol 73/78 Convention, and the Masters shall ensure that all necessary measures are taken to prevent any incidental pollution.

Navigating under sails or oars is prohibited

ARTICLE 30- Navigating under sail or oars and swimming or fishing within the traffic separation schemes is prohibited. Any sports competition, such as sailing, rowing or swimming etc. is subject to permission of the Administration.

Notification and reporting obligation

ARTICLE 31

- a) The Master of the vessel navigating within the Straits, must notify the Traffic Control Station of any infectious and epidemic diseases, injuries, or death occurrence on board.
- b) The Masters, Pilots or other Officials, are required to notify any vessel in apparent violation of any Regulation, to the Traffic Control Station immediately and to submit a detailed report in writing about the case within 24 hours.
- c) The Pilots are required to notify the Traffic Control Station immediately of any accidents involved or, any navigational dangers noticed en route and to submit a detailed report in writing about the case within 24 hours.

PART 5

ISTANBUL STRAIT TRAFFIC SEPARATION SCHEMES REGULATIONS

Boundary lines

ARTICLE 32- Istanbul Strait Traffic Separation Scheme is bounded by the lines connecting the following points. The waters, in between a line drawn from the position 2 miles south of Baba Burnu to Yelkenkaya Light.

Air Draft

ARTICLE 33- Vessels, while navigating within Istanbul Strait, shall pay due attention to the height warning lights exhibited on the bridges. No vessel with an air draft of more than 58 meters may pass through the Istanbul Strait. Vessels with air drafts between 54 and 58 meters shall be escorted by tugs. The number and engine power of the tugs will be determined by the Administration to keep such vessels on the safe course,

Local vessel traffic in Istanbul Strait

ARTICLE 34- Within the waters, between the line drawn from Turkeli Light to Anadolu Light on the North and the line drawn from Kadikoy, Inciburnu Breakwater Light on the South, all local vessels and passenger / ferry boats shall cross the traffic lanes on a heading as nearly as practicable at right angles to the general direction of the traffic flow and not impede the safe passage of the southbound and northbound vessels. However, if risk of collision exists, when taking action to avoid collision, both vessels shall regard to the related rules of Colregs 72.

Currents

ARTICLE 35-

- a) When the main surface current exceeds 4 knots or when southern winds reverses the main current in Istanbul Straits, all vessels with dangerous cargo, large vessels and deep draught vessels with a speed of 10 knots or less shall not enter the Straits.

Such vessels shall wait, until speed of the current drops to 4 knots or less or the reverse currents disappear.

However, vessels other than above may pass through the Straits by taking tugs as advised by the Traffic Control Center.

- b) When the main surface current exceeds 6 knots or strong northerly currents and eddies are caused by southerly winds, all vessels with dangerous cargo, large and deep draught regardless of their speed shall

I not enter the Istanbul Strait and wait until the current speed is less than 6 knots or strong reverse currents disappear.

- c) The Administration reports the condition of the currents to the vessels and concerned parties.
- d) When current speed and direction becomes normal, the entrance turn of the waiting vessels will be announced by the Traffic Control Center, in accordance with the vessels' TUBRAP reports evaluation and their types.

Restricted visibility

ARTICLE 36- The Administration reports the visibility changes within the Istanbul Strait to all vessels and concerned parties.

- a) When visibility in an area within the Istanbul Strait drops to 2 miles or less, all vessels shall keep their radar continuously running with a clear picture. Vessels equipped with two radar shall leave one radar for the pilot's use.
- b) When visibility in an area within the Istanbul Strait drops to 1 mile or less, vessel traffic shall be permitted in one direction only. During this time, vessels with dangerous / hazardous cargo, large vessels and deep draft vessels shall not enter to the Istanbul Strait,
- c) When visibility in an area within the Istanbul Strait drops to less than 0.5 mile, the vessel traffic shall be suspended for both directions.
- d) When the visibility improves, to ensure smooth resumption of traffic, the Traffic Control Center will determine the order with which waiting vessels enter the Straits on basis of vessels' TUBRAP reports and vessel types, and inform all vessels and concerned parties accordingly.

Pilotage services

ARTICLE 37- Pilotage services for Istanbul Strait shall be given as follows:

- a) Vessels passing through Istanbul Strait;
 - 1) Black Sea side :

The pilot boarding area is in position at Lat. 41 15 15 N., Long. 029 07, 94 E. Due to weather conditions, pilot boarding may take place in between this position and the line connecting Hamsi Limani Light to Fil Burnu Light, as near to the outer limit of the Southbound traffic lane which lies on starboard side of the vessel as is safe and practicable.

The pilot disembarking area is in position Lat. 41 14 48 N., Long. 029 09, 52 E. Due to weather conditions, pilot disembarking may take place in between this position and the line connecting Hamsi Limani Light to Fil Burnu Light, as near to the outer limit of the Northbound traffic lane which lies on starboard side of the vessel as is safe and practicable.

2) Marmara Sea side:

The pilot boarding area is in position Lat. 40 55 28N., Long. 028 58, 75 E. Due to the weather conditions, pilot boarding may take place in between this position and the latitude passing through the Fenerbahce Light, as near to the outer limit of the Precautionary Area and Northbound traffic lane which lies on starboard of the vessel as is safe and practicable.

The pilot disembarking area is in position Lat. 40 56 52 N., Long. 028 54, 70 E. Due to the weather conditions, pilot disembarkation may take place in between this position and the latitude passing through the Fenerbahce Light, as near to the outer limit of the Precautionary Area and Southbound traffic lane which lies on starboard of the vessel as is safe and practicable.

b) Vessels arriving to a berth and unberthing

- 1) Vessels arriving to a berth from Black Sea, shall drop the Strait pilots and take Port pilots at a distance allowing necessary time for docking manoeuvres.
- 2) Vessels arriving to a berth from Marmara Sea shall take port pilots at the same area as set out above in Para. a) 2).
- 3) Vessels arriving to a berth in outside limits of Istanbul Strait shall take the port pilots at a distance allowing necessary time for docking manoeuvres.
- 4) When the above mentioned vessels are at anchor, the port pilots shall board at the anchorage area.

c) For the navigational safety or due to the traffic density, the Administration may temporally change the pilot boarding /

disembarking areas. New positions shall be reported to the vessels and the concerned parties.

Police and Customs control of vessels arriving to or has called at a Turkish port

ARTICLE 38- Police and Customs controls may not take place within the limits of Istanbul Strait TSSs. If deemed so necessary, such controls shall be made at pilot boarding areas, during underway to the next port, at berth or at an anchorage area which will be designated for this purpose.

Quarantine Controls

ARTICLE 39- Quarantine controls shall be affected before the pilot boarding area or in areas which will not endanger the navigational safety within the Istanbul Strait. These areas shall be determined by the Traffic Control center and reported to the vessels.

Agent contact areas

ARTICLE 40- Vessels navigating within the Istanbul Straits may not make agent contacts except in anchorage areas. In cases of necessity, after obtaining permission from the Traffic Control Stations, agent contacts can be made while proceeding, as near to the outer limit of the traffic lane which is on the starboard of the vessel and without endangering the navigational safety;

a) In the South, at the west of the longitude passing through the Kumkapi Bannak Light, not exceeding 1 hour.

b) In the North, on the north of the line connecting Hamsi Limani and Fil Burnu, not exceeding 15 minutes.

PART 6

CANAKKALE STRAIT, TRAFFIC SEPARATION SCHEMES REGULATIONS

Boundary lines

ARTICLE 41- The Canakkale Strait Traffic Separation Schemes is bounded by the lines connecting the following points

In the North,

ANNEXES

Lat. Long.

(1) 4037N 027 11 E

(2) 40 27 N 027 09 E

In the South,

(1)4005N 02611 E

(2) 40 02 N 02555 E

(3) 39 50 N 02553 E

(4) 39 44 N 02555 E

(5) 39 44 N 02609 E

Local vessel traffic in the Canakkale Straits

ARTICLE 42- Within the Canakkale Strait, all local vessels and passenger / ferry boats shall cross the traffic lanes on a heading as nearly a practicable at right angles to the general direction of the flow and shall not impede the safe passage of southbound and northbound vessels. However, if risk of collision exists, when taking action to avoid collision, both vessels shall act in accordingly to the related rules of Colreg 72.

Currents

ARTICLE 43-

- a) When the main surface current exceeds 4 knots within the Canakkale Strait, all vessels carrying hazardous cargo with a manoeuvring speed of less than 10 knots, large vessels and deep draft vessels shall not enter to the Strait. Such vessels shall wait until the speed of the current drops to 4 knots or less.

All other vessels may pass through the Strait if they use the tug/s recommended for their vessel type by the Traffic Control Center.

- b) When the main current exceeds 6 knots, all vessels which are carrying hazardous cargo, large and deep draft, regardless of their speed, shall wait until the current speed drops less than 6 knots.

- c) The Administration will report the condition of currents to the vessels and concerned parties.
- d) When the current speed or direction return to normal, to ensure the smooth resumption of traffic, the Traffic Control Center will determine the order with which waiting vessels enter the Straits on the basis of vessels' TUBRAB reports and vessel type, and will inform all vessels accordingly.

Restricted visibility

ARTICLE 44 The Administration reports the visibility changes within the Istanbul Strait to all vessels and concerned parties.

- a) When visibility in an area within the Canakkale Strait drops to 2 miles or less, all vessels shall keep their radar continuously running with a clear picture. Vessels equipped with two radar shall leave one radar for the pilot's use.
- b) When visibility in an area within the Canakkale Strait drops to 1 mile or less, vessel traffic shall be permitted in one direction only. During this time, vessels with dangerous / hazardous cargo, large vessels and deep draft vessels shall not enter to the Istanbul Strait.
- c) When visibility in an area within the Canakkale Strait drops to less than 0.5 mile, the vessel traffic shall be suspended for both directions.
- d) When the visibility improves, to ensure smooth resumption of traffic, the Traffic Control Center will determine the order with which waiting vessels enter the Straits on basis of vessels' TUBRAP reports and vessel types, and inform all vessels and concerned parties accordingly.

Pilotage services

ARTICLE 45- Pilotage services for Canakkale Strait shall be given as follows:

- a) Vessels passing through Canakkale Strait;
- 1) Aegean Sea side :

The pilot boarding area is in position at Lat. 40 00, 45 N., Long. 026 08, 154 E. Due to weather conditions, pilot boarding may take place in

between this position and the latitude passing through Kumkale light, as near to the outer limit of the Northbound traffic lane which lies on starboard side of the vessel as is safe and practicable.

The pilot disembarking area is in position Lat. 40 01, 55 N., Long. 026 08, 20 E. Due to weather conditions, pilot disembarking may take place in between this position and the latitude passing through Kumkale Light, as near to the outer limit of the Southbound traffic lane which lies on starboard side of the vessel as is safe and practicable.

2) Marmara Sea side:

The pilot boarding area is in position Lat. 40 25, 70 N., Long. 026 44, 15 E. Due to the weather conditions, pilot boarding may take place in between this position and the latitude passing through the Gelibolu Light, as near to the outer limit of the Precautionary Area and Southbound traffic lane which lies on starboard of the vessel as is safe and practicable.

The pilot disembarking area is in position Lat. 40 25, 05 N., Long. 026 44, 10 E. Due to the weather conditions, pilot disembarkation may take place in between this position and the latitude passing through the Gelibolu Light, as near to the outer limit of the Precautionary Area and Northbound traffic lane which lies on starboard of the vessel as is safe and practicable.

b) Vessels proceeding to a berth or unberthing within the Strait

- 1) Vessels proceeding from sea, to a berth within the Strait, shall take the Strait pilots at the same areas as set out above in Para. a) 1 and 2) and shall drop the Strait pilots and take Port pilots at a distance allowing necessary time for docking manoeuvres.
 - 2) Vessels proceeding to a berth in outside limits of the Straits Sea shall take port pilots at a distance allowing necessary time for docking manoeuvres.
 - 3) When the above mentioned vessels are at anchor, the port pilots shall board at the anchorage area.
- c) For the navigational safety or due to the traffic density, the Administration may temporally change the pilot boarding / disembarking areas. New positions shall be reported to the vessels and the concerned parties.

Police and Customs control of vessels arriving to or has called at a Turkish port

ARTICLE 46- Police and Customs controls may not take place within the limits of Canakkale Strait TSSs. If deemed so necessary, such controls shall be made at pilot boarding areas, during underway to the next port, at berth or at an anchorage area which will be determined for this purpose.

Quarantine Controls

ARTICLE 47- Quarantine controls for the vessels approaching from Aegean Sea, shall be affected before the pilot boarding area or in areas which will not endanger the navigational safety within the Canakkale Strait. These areas shall be determined by the Traffic Control center and reported to the vessels.

Agent contact areas

ARTICLE 48- Vessels navigating within the Canakkale Straits may not make agent contacts except in anchorage areas. In the cases of necessity, subject to permission of the Traffic Control Stations agent contacts can be made during proceeding in the Strait as near to the outer limit of the traffic lane which is on the starboard of the vessel without endangering the navigational safety, in the south of the line connecting Kanlidere Light to Karanfil Light not exceeding 1 hour.

PART 7

MISCELLANEOUS PROVISIONS

Vessels exempted from certain Regulations

ARTICLE 49- Articles 5, 9, 10, 11, 12, 15, 21, 25, 26, 27, 31, 38, 39, 46, 47, 51 and Para. a) of Reg. 6 shall not apply to the vessels of war, auxiliary vessels and state owned vessels which are not in use for trading.

**ARTICLE 50 CANCELLED BY OFFICIAL GAZETTE NO: 99/12660
DATED 05/05/1999**

Violations

ARTICLE 51- If any Master or any member of the crew of any such vessels fails to comply with any requirements of these regulations, shall be subject to the related provisions of the Turkish Law.

Abrogation

ARTICLE 52- The "Maritime Traffic Regulations For The Turkish Straits and The Marmara Region" which put into force by the decision of the Council of Ministers, dated 23.11.1993 with number 1993 / 5061 is not in force any longer.

Entry into force

ARTICLE 53- The provisions of these Regulations are drafted in accordance; with the Law number 115 of the Constitution of the Republic of Turkey, with the Article 37 of the Establishment and Duties of Ministries Law number 3406 and with the Article 2 of Ports Law number 618 and reviewed by the Council of State, shall enter into force on the publication date in the Official Gazette.

Execution

ARTICLE 54- The Council of Ministers executes the provisions of these Regulations.

THE TURKISH STRAITS

TREATIES AND CONVENTIONS

The Turkish Straits are one of the most significant waterways in the world. The straits serve as a link between the Black Sea and the Mediterranean, connecting Europe and Asia. The Straits have been a crucial passage for trade and commerce for centuries. However, their strategic location also makes them a potential chokepoint in times of war or conflict. The legal and political status of the Turkish Straits has been a subject of concern for many countries, especially those that rely on these waterways for their trade and security. In an attempt to regulate the legal and political status of the Turkish Straits, which has been a topic of discussion and debate for many years, international treaties and agreements have been used to establish an agreed regime among states. The aim of this book is to provide an overview of the legal and political status of the Turkish Straits. The book analyzes the various international treaties and conventions that regulate the use of the straits and their implications for the parties involved.

ZEYNEP YÜCEL

THE TURKISH STRAITS TREATIES AND CONVENTIONS