

THE UNITED STATES OF AMERICA'S POLICIES TOWARDS TURKISH STRAITS

YILMAZ ALTUĞ

I – INTRODUCTION

One of the oldest, most persistent and important problems in European History and International Law is the "Question of the Straits".

More than twenty treaties in modern times mention the Turkish Straits. Five of these treaties were made exclusively to regulate passage through these waters: The London Agreement, 1841; Paris Straits Convention, 1856; London Convention, 1871; Lausanne Straits Convention, 1923; and the Treaty of Montreux, 1936. Phillipson and Buxton affirm that one of the causes of the First World War was the Straits problem.

"There is no doubt that this chronic malady of the Near East, which has lingered so long and has wrought such incalculable havoc in the past, has been the most potent factor in the chain of cause and effect that has brought the nations into armed conflict. And this complex and comprehensive question is itself made up of a number of closely allied problems, the most important of which is that of the Straits of the Bosphorus and Dardanelles"¹.

The Straits Problem dates from the dimmest Antiquity. Greek mythology gives the story of Jason and the Golden Fleece².

According Greek myth one generation before the Trojan War, "The prince Jason accompanied by his heroic fellows, the Argonauts, has sailed a way to the wild Caucasian country of Georgia, called Colchis in order to fetch from there the Golden Fleece from the back of the Golden Ram on which Phryxos and Helle, children of Athamas, King of Boetia, had once fled through the air pursued by their grandmother Ino. Starting their long, adventurous voyage from the Aegean sea, the Argonauts

¹ Coleman Phillipson and Noel Buxton- *The Question of Bosphorus and Dardanelles*. London, Stevens and Haynes, 1917. p. 1.

² James T. Shotwell and K. Deak, *Turkey at the Straits*. (London) 1940.1.

crossed the Straits of Dardanelles and Bosphorus and sailed through the Black sea to Colchis³. The myth tells us that at Colchis Jason recovered the fleece with the aid of the King's daughter Medea and not venturing to put to sea again returned along the sea coasts.

After this dangerous and perilous voyage the Greeks called the Black Sea the "Unfriendly sea-Pontus Axeinos), later when greek settlements increase along its coasts the name was transformed into the "Friendly sea-Pontos Euxeinos).

In Middles Ages it was renamed the Black Sea because of its black storm clouds.

Dardanos, son of Zeus and Electra and founder of Troy gave his name to the Dardanelles.

The Greeks called to straits Hellespontos after Hello, who fleeing to Colchis had fallen there from the Golden Ram and had been drowned.

The same fate had also overtaken Leander, a youth of Abydos, "He had fallen in love with Hero, a priestess of Aphrodite at Sestos they met clandestinely, Leander swimming the Hellospontos nightly guided by a lamp which Hero had hang out on the top of a tower. The light being blown out one wild night, Leander lost his way and was drowned. Discovering this Heros threw herself into the sea⁴. Leander's fate filled Lord Byron with so much enthusiasm that on May 9, 1810, he swam the Dardanelles.

The myth tells us that the goddess Io, the sweetheart of Zeus swam across the Bosphorus after being transformed into a cow by the jealous Hera. So the strait is called Bosphorus which means in greek "the cow's wading place".

The Turks call it (Boğaziçi) meaning the Inner Strait. Both Straits are in Turkish territory. The Bosphorus is twentyseven kilometers long and varies in width from 550 to 1500 meters. It is much more beautiful than the Dardanelles. Golden Horn is the most picturesque and largest bay on Bosphorus. Its length is seven kilometers, its width is one kilometer and its depth is 40 metres at its deepest point. Golden Horn is one of the best

³ Joseph de Somogyi, "The question of Turkish Straits", in *Journal of Central European Affairs*. (Washington D.C.) XI. October 1981. No: 3.278.

⁴ *Ibid.* 279.

natural harbors of the world with an anchorage so safe that even the largest ships playing those seas can enter it.

The Dardanelles are sixty four kilometers long with a width varying from 1800 to 7000 meters. The Turks crossed the Straits to Europe in 1356, thus occupying both banks of the Dardanelles.

Very few places are as much as important geografically in the world as Bosphorus. Istanbul which is situated on Bosphorus and at the cross roads has developed into one of the most important cities of the world. "Only a few cities in the world have such a favorable situation and consequently such an historical significance as Istanbul"⁵.

In old times it was easy to defend Istanbul from sea and from land this is way the caliphs were defeated twice: Muawiya in 655 and Suleyman in 715. These two Umayyads tried to gain access to Istanbul from Egypt, that is from sea.

The Abbasids tried twice to take the city from the land. The Ottoman Turks succeeded to take Istanbul. They worked methodically, instead of attacking Byzantium directly, they passed the Dardanelles in 1356 thus occupying both banks of the Dardanelles, gradually took hold of Balkan peninsula in the course of fourteenth and fifteenth centuries when they had finally surrounded Byzantium. The first treaty on the Dardanelles concluded by the Turks dates from 1416⁶ A sea battle between Turkish and Venetian forces had ended in Turkish defeat. In the treaty which followed, the Turks were prohibited from entering the Aegean Sea, In 1430, Venice tried to stop the Turkish advance in Europe, In the battle fought before Galipoli, the Venetian fleet lost, but the prohibition of the Turkish navy's right to sail in the Aegean Sea was renewed nevertheless⁷. In the Treaty of Segedin, July 12, 1444, the same prohibition was confirmed. During the war of Murat II with Hungary, the Byzantine Empire tried unsuccessfully to bar the passage of the Turkish navy through the Bosphorus. The Turks, determined that this should not happen again, decided to get control over the two Straits. After coming to power Mehmet II ordered the construction of. Rumelihisari (Fortress of Europe) in

⁵ *ibid.* 281.

⁶ Neculai Dascovici, *La question du Bosphore et des Dardanelles.* (Geneve, Geogea Cie, Libraires de l'Universite, 1915) p. 44.

⁷ *ibid.* p. 44.

front of Anadoluhisari (Fortress of Anatolia). After the construction of the fortress, Mehmet II ordered the garrison to stop all ships and to exact a fee for passage. In this way the Straits became Turkish. When the Turkish Empire was strong, its ownership over the Straits did not cause too much concern, but when it began to decline, concern over Turkish control increased.

The Black Sea became a Turkish lake with the capture of the last two fortresses left (Kilia and Akkerman)⁸. After that, no ship could enter and leave without the permission of the Sultan. In this way the principle of interdiction of the Black Sea to foreign navigation became a fundamental principle of Turkish public law. It is generally agreed in international law that lakes and land-locked seas which do not communicate directly with the ocean, and which are entirely surrounded by the land territory of a single state, are territorial. Consequently, as long as Turkey controlled all the shores of the Black Sea it had an absolute right to regulate the passage of shipping through the Straits in any way it thought conformed to its interest. The Straits problem in spite of its importance "has been assigned a minor place in the more general surveys of diplomatic and commercial history in the nineteenth century, "for the reason that access to authoritative information necessary to write an unbiased account of one of the most insistent problems of world politics has been difficult"⁹. The Sultan Mehmed II, attacked Istanbul from Europe with his strong artillery and took it on May 29, 1453.

It is worthy to note here that the rise of the Ottoman Empire in the fifteenth and sixteenth centuries is one of the major events of history. "The significance of the rise of the Ottoman empire is yet not fully appreciated by those who supply the school histories for western European or American readers. The period which seems to the average student to be fully given up to Renaissance, Reformation and religious wars was also the period of the advent of an empire which was perhaps the greatest the world has seen since Roman or at least since Saracen days"¹⁰ The American Ambassador to Turkey George C. Mc Ghee who spoke at the inaugural meeting of the Turkish-American University Association in Is-

⁸ *ibid.* pp. 60-61.

⁹ Vernon John Puryear, *England Russia and the Straits Question, 1844-1856* (Berkeley California, University of California Press, 1931) preface, xi.

¹⁰ Shotwell and Deak, *Turkey*, 9-10.

tanbul on April 11, 1952 has stressed the fact⁹ that Turkey and the Turks were misrepresented by certain romantic conceptions based on judgments by Western historians who lacked a real knowledge of the country and its people¹¹.

In practically all treatises on international law there is a section on the Turkish Straits¹². In the race for expansion between Slavic and Teutonic races toward southeastern Europe, The Turkish Straits, since they controlled the only ice free waterway of Russia were of the utmost importance. England was concerned at the prospect on any other power threatening the sea lanes to India. France's interest in the Strait, made apparent by the attention paid to them by Napoleon and other French statesmen, is well known. Another cause of concern to the Great Powers was that the Turkish Straits were in the hands of a declining empire.

The Straits are important strategically but even more important economically. According to Chicherin, during the first decade of 1900, more than 70 per cent of all Russian grain exported was sent through the Straits. Through the Straits passed 88 per cent of Russian exported oil, 93 per cent of its manganese, 61 per cent of its iron and 54 per cent of its total exports by sea, according to the White Russian memorandum submitted to the Paris Peace Conference in 1919¹³, Roumania and Bulgaria transported the overwhelming part of their exports through the Straits. A large majority of Russian, Roumanian and Bulgarian imports were received through the Straits. The interest of Russia in the Straits is well known since the Russian government has repeatedly asserted it. At the Conference of Lausanne, the Soviet diplomat Chicherin and during the negotiations of the Montreux Convention, Litvinoff, called them the

¹¹ George C. Mc.Ghee, The speech given by American Ambassador at The Inauguration of the Turkish-American University Association, in *News from Turkey*, (New York, 1948) V. No: 16.

¹² Brierly, op. cit. p. 171; Ernest nys, *Le Droit International*, (Bruxelles: Alfred Castaigne, 1904) pp. 459-460; L. Oppenheim, *International Law* (London: Longmans, Green and Co. 1937) pp. 403-406; Robert Phillimore, *Commentaries on International Law* (Philadelphia: T. and J.W. Johson, Law Book Sellers, 1854). I. pp. 172-178 John Westlake, *International Law, Part I, Peace* (Cambridge The University Press, 1904), pp. 193-196; Henry Wheaton, *Elements of International Law*, 6 th. English ed. (London: Stevens and Sons. Ltd, 1929) pp. 377-380.

¹³ Cemil Bilsel, The Turkish Straits in the light of Recent Turkish-Soviet Correspondence *American Journal of International Law*, XLI (1947) p. 727.

vital lifeline of Russia¹⁴. The geographical position of the Straits made them politically, economically and strategically important and of permanent interest in world politics.

II — A LIST OF SELECTIONS OF ARTICLES CONCERNING THE PROBLEM OF THE STRAITS FROM PRINCIPAL TREATIES AND CONVENTIONS

When The Black Sea ceased to be a Turkish sea after the Treaty of Kuchuck-Kainardji between Ottoman Empire and Russia the Modern history of the Problem of the straits begun.

According this treaty which was concluded on July 10, 1774, the Russian commercial vessels received the right to pass through the straits to and from the Black Sea¹⁵ So the Statement by David H. Miller which reads "The freedom of passage of the Straits to Russian merchant ships had been provided by the Convention of Ackerman of October 7, 1826"¹⁶ seems erroneous. The article eleventh of this Kuchuck-Kainardji treaty gave an explicite right to passage for Russian commercial vessels. The Tenth article of the Treaty of Defensive Alliance between Russia and the Ottoman Empire was dealing again with the right of passage for Russian merchant vessels. This treaty was concluded on December 23, 1798¹⁷.

The treaty of defensive Alliance between Russia and the Ottoman Empire concluded on September 23, 1805 provided by its seventh article the freedom of passage for Russian merchant ships¹⁸.

The right to pass through the straits for merchant ships was granted in the following years to the commercial vessels of the other countries. The Great Britain is the first nation after Russia to get this right. The articles V and XI of the treaty between Great Britain and the Ottoman Empire concluded at the Dardanelles on January 5, 1809 provided for British merchant navy the free passage through the straits.

¹⁴ Ibid.

¹⁵ *The Problem of Turkish Straits*, Department of State Publication 2752, Near Eastern Series 5, (Washington 1947) 13.

¹⁶ David H. Miller, *Treaties and other International Acts of the United States of America* (Washington US. Government Printing Office 1933) III. 573.

¹⁷ *Turkish Straits*. 14.

¹⁸ *Ibid.* 14.

The convention of Ackerman or exactly Convention between Russia and the Ottoman Porte explanatory of the Treaty of Bucharest signed at Ackerman the 25 th of September (7th October) 1826 has affirmed again freedom of passage for Russian vessels.

The article 7, no:3 of this convention provides this freedom¹⁹. First article of the Treaty of Commerce between Russia and the Ottoman Empire signed at Istanbul the 10/21 June 1783 gives to all citizens of Russian Empire the freedom of navigation and trade in all states and on all seas. The exact copy of the article in french reads: (La Sublime Porte promet entierement à tous les Sujets Russes en general, de naviguer librement, et d'exercer leur commerce dans tous ses Etates, sur les Mers, Eaux et sur le Danube, et partout ou la Navigation et le Commerce pourront convenir aux sujets Russes. C'est pourquoi il sera libre à tout commerçant Russe de voyager, demeurer et rester dans les Etats de la porte, sous la protection particulière de son gouvernement aussi longtemps que l'avantage de son commerce pourra exiger)²⁰.

A treaty between Spain and Turkey was signed at Istanbul on October 16, 1827 for permitting Spanish Merchant vessels to navigate and trade in the Black sea²¹.

In article seventh of the treaty of Adrinople of September 14, 1829 there is a declaration of freedom of passage to merchant ships of all nations at peace with the Sublime Porte, but this article prohibited passage of warships through the Straits²².

The article 7 of the American Turkish treaty of May 7, 1830 gave to american merchant vessels freedom of passage according to the most favored nation principle, but there was not any mention of the right of passage for warships.

This article declares:

Merchant vessels of the United States, in like manner as vessels of the most favored nations, shall have liberty to pass the canal of the

¹⁹ *British and Foreign State Papers, 1825-26* Foreign Office Publication (London) 1827, XIII, 903.

²⁰ *Ibid*, 903.

²¹ *British and Foreign State Papers, 1827-28*, Office publication, (London, 1829) XV, 762.

²² Miller, *Treaties*, III, 573.

Imperial Residence and go and come in the Black Sea, either laden or in ballast; and they may be laden with the produce, manufactures and effects of the Ottoman Empire excepting such as are prohibited, as well as of their own country²³.

Another treaty in which freedom of passage to merchant vessels is granted is Treaty of Hunkar İskelesi, between Russia and Ottoman Empire of July 8, 1833²⁴.

The Convention for the Pacification of the Levant signed at London July 15, 1840 between Great Britain, Austria, Prussia, Russia and Turkey provided with its third and fourth articles the freedom of passage to the merchant vessels of the signatories powers²⁵.

The Convention of London which was signed one year later with the addition of France to the signatory powers on July 13, 1841 provided the same right to the signatories with its first and second articles²⁶.

The General Treaty between Great Britain, Austria, France, Prussia, Russia, Sardinia and the Turkey signed at Paris March 30, 1856 dealt with its articles 10, 11, 12, 13, 14 (they were later abrogated by the treaty of March 13, 1871) 19 and additional and Transitory Article the freedom of passage through the Straits²⁷.

The same day Russia and Ottoman Empire signed a convention limiting their naval forces in the Black Sea. The first and second article of this convention regulated the freedom of passage.

The same day another convention respecting the Straits of the Dardanelles and of the Bosphorus was signed at Paris between Great Britain, Austria, France, Prussia, Russia, Sardinia and Turkey First, second and third articles of this convention regulated the liberty of passage through the straits²⁸.

The principles stated in first Turko-American treaty of commerce and navigation were reaffirmed in the second treaty of February 25, 1882.

²³ Miller, *Ibid.* 543.

²⁴ *Turkish Straits*, 15.

²⁵ Muahedelerimiz-Milli Eğitim Bakanlığı (Ankara 1940) 240.

²⁶ *Ibid.*, 244.

²⁷ *Turkish Straits*, 17.

²⁸ *Ibid.*

First article of the treaty of commerce and navigation confirms the right of free passage of american merchant ships:

"All rights, privileege and immunitie which have been conferred on the citizens or vessels of the United States of America and the Ottoman Empire, are confirmed now and forever"²⁹.

The Convention between Great Britain, Austria, France, Germany (Prussia), Italy Russia and the Ottoman Empire for the revision of certain Stipulations of the treaty of March 30, 1856, signed at London March 13, 1871, granted by its articles 1,2,3 the freedom³⁰.

The treaty of San Stefano or Preliminary Treaty as it is called between Russia and the Ottoman Empire with its 24th article managed the freedom of passage³¹.

The treaty between Great Britain, Austria-Hungary, France, Germany, Italy and the Ottoman Empire for the settlement of the affairs of the East signed at Berlin 13th July 1878 in its 63th article regulated the freedom of passage through the Straits³².

The treaty of Peace between the Allied Powers and the Ottoman Empire signed at Sèvres August 10, 1920 in its second section from article 37 to 61 deals with the Straits. The title of this second chapter is the Straits. This treaty which never entered in force was nullified by Treaty of Lausanne. of 24 July 1923.

Article 5 in the treaty of friendship between Soviet Russia and Turkey of March 16, 1921 grante the freedom of passage to Russian ships. This article is equivalent to article of the Treaty of Kars, October 13, 1921 and to article 9 of the Turco-Ukranian Treaty of January 2, 1922³³.

The Convention relating to the regime of the Straits signed at Lausanne, July 24, 1923 in his article I and 2 and Annex makes provision for the right of passage through the Straits. The Convention on Montreux of

²⁹ William M. Malloy, *Treaties, Conventions, International Acts Protocols and Agreements between the United States of America and Other Powers 1776-1909* Washington: U.S. Government Printing Office 1910. II. 1321.

³⁰ *Turkish Straits*, 18.

³¹ *Our Treaties*, 308.

³² *Ibid*, 312.

³³ *Turkish Straits*, 21.

July. 20, 1936 changed the status of the Straits giving to Turkey right to fortify the shores of the Straits and making other provisions toward right of passage.

Two other American-Turkish conventions are: Commerce and Navigation Treaty between the United States of America and the Turkish republic of October I, 1929 which is proclaimed on April 25, 1930. Article 3 makes the provision³⁴.

The Reciprocal Trade Agreement and Supplementary Exchange of Notes between the USA and Turkey of, April I, 1936 which was effective definitively on November 20, 1936, in its article 6 gives the right of passage³⁵.

III – EARLY TURCO-AMERICAN RELATIONS AND POLICIES TOWARD THE STRAITS

Before the first World War the United States were not too much concerned with the problem of the Turkish Straits. However American policy was in favor of freedom of passage for both commercial and war vessels.

The American - Turkish Treaty of May 7, 1830 made provision American commercial vessels to free passage through the Straits on the basis of the most favored nation principle, but there was not any mention of the right of passage for warships.

In 1859 The United States obtained a firman admitting a light warship for legation service and sent promptly the fifty gun frigate Wabash to Istanbul. So for the first time the problem of the passage of American Warships through the Straits arose, British, French and Russian government protested and Wabash was soon withdrawn

The American Turkish Treaty of Commerce and Navigation of February 35, 1862 reaffirmed the freedom of passage to American commercial vessels but the freedom of passage for the warships was not mentioned. In 1868 The U.S.S. Franklin was sent to the Bosphorus, again the interested powers protested and an Turkish note was sent to American government declaring that in the future only the passage of the light vessels through the Straite would be allowed.

³⁴ *Ibid*, 28.

³⁵ *Ibid*.

The note of Safvet Pasha September 28, 1868 declared that "hence forward there will positively be no exception but for vessels of war which may have on board a sovereign or the chief of a foreign state"³⁶.

On the occasion of the Conclusion of the Convention of London March 13, 1871 The United States Government made a statement of principle.

Some weeks before to the Conclusion of the Convention of London, Hamilton Fish Secretary of State had declared that "The United States not having been a party to the Treaty of Paris, may have more or less reason to complain of any curtailment of their rights under the law of nations which it may have effected. No formal complaint on the subject however, has yet been addressed to either of the parties to that instrument though the restriction which it imposes on the right of our men of war to the passage of the Dardanelles and the Bosphorus is under serious consideration"³⁷. Several weeks after the convention of London had been signed on May 5, 1871 Fish advised Wayne Mac Veagh. The American Minister in Istanbul as follows

This government is not disposed to prematurely raise any question to disturb the existing control which Turkey claim over the Straits leading into the Euxine, It has observed the acquiescence of other powers whose greater propinquity would suggest more intimate interests in the usage wherey the Porte claims the right to exclude the national vessels of other powers from the passage of the Straits. But while this government does not deny the existence of the usage and has had no occasion to question the propriety of its observance, the President deems it important to avoid recognizing it as a right under the law of nations... If this right has been claimed by Turkey in respect to the Black Sea, it must have originated at a time when she was positively and comparatively in a much more advantageous position to enforce than she is now the Blac Sea, like the Baltic Sea is a vast expanse of vaters which wash the shores not along of Turkish territory but those of another great power who may in time of peace, at least, expect vi-

³⁶ Harry N. Howard, "The United States and the Problem of the Turkish Straits" in *Middle East Journal* (Washington, 1948) I, 59-60.

³⁷ *Papers relating to the Foreign Relations of the United States, Department of State 1871*, 902-903.

site from men of war of friendly states. It seems unfair that any such claim as that of Turkey should be set up as a bar to such an intercourse, or that the privilege should in any way be subject to her sufferance.

There is no practical question making it necessary at present to discuss the subject, but should occasion arise when you are called upon to refer to it, you will bear in mind the distinction taken above, and be cautious to go no further than to recognize the exclusion of the vessels as a usage³⁸.

Two years later, on January 3, 1873 Fish reasserted the American policy. The abstract right of the Turkish government to obstruct the navigation of the Dardanelles even to vessels of war in time of peace is a serious question. The right, however, has for a long time been claimed and has been sanctioned by treaties between Turkey and certain European States. A proper occasion may arise for us to dispute the applicability of the claim to United States men-of-war. Meanwhile it is deemed expedient to acquiesce in the exclusion³⁹.

Twenty years passed without incident on the principle of closure of the straits to warships. In November 1895 the 2,000 ton American cruiser *Marblehead* asked the permission to pass through the Dardanelles which was denied. Sultan Abdulhamid II, expressed the fear "that other powers would seek to follow the example" and especially requested that the American warships not come to the Dardanelles⁴⁰.

The U.S.S. *Bancroft* had been authorized to remain at the disposal of the American legation at Istanbul so American minister to the Ottoman Empire, Terrel asked its passage through the Dardanelles. This request was denied because the United States was not a party of the Treaty of Paris 1856 which gave the right of signatory to have war vessels permanently stationed at Istanbul for the service of the legations.

³⁸ *Ibid.*

³⁹ John B. Moore, *A. Digest of International Law*. Washington: Government Printing Office 1906) I. 667.

⁴⁰ Papers of the USA, (1895) II, 1344.

IV – THE UNITED STATES POLICY BETWEEN TWO WORLD WARS.

With the entrance of the United States into World War I, the problem of the Straits became a significant point of American policy. In April, 1917 the Balfour Mission came to Washington. Colonel Edward. M. House had with Arthur J. Balfour a conference on April 28, 1917. The discussion was on the peace terms to be imposed in the event of a decisive defeat of Germany. House says

Constantinople was our next point. We agreed that it should be internationalized. Crossing the Bosphorus we came to Anatolia. It is here that the secret treaties between the Allies come in most prominently. They have agreed to give Russia a sphere of influence in Armenia and the northern part. The British take in Mesopotamia (and the region) which is contiguous to Egypt. France and Italy each have their spheres embracing the balance of Anatolia up to the Straits⁴¹.

Charles Seymour has a comment on internalization of Istanbul.

This does not tally with the promises made by Great Britain and France to Russia in March, 1915, according to which Constantinople should belong to Russia but should be a free port for goods not entering Russia. House must have misunderstood Balfour, perhaps interpreting 'free port' as meaning free city"⁴². On April 30, in the evening a conference took place at the White House preceded by the family dinner which the President insisted upon and which proved conducive to the sort of informal discussion of war aims that was desired⁴³.

President Wilson, Balfour and Colonel House discussed the problem of the postwar internalization of the region of Istanbul and the Straits. Colonel House pointed out the difficulty to confront.

When we touched upon the internalization of Constantinople I suggested that it might lead to trouble. It was with some difficulty that I made them understand that I thoroughly agreed with the general idea, but desired to point out that it would be inevitably lead to an attempt to internationalize the Straits between Sweden and Norway

⁴¹ Charles Seymour *The Intimate Papers of Colonel House* (Boston 1926-28) III. 48-49.

⁴² *Ibid*, 45, Footnote No: 1.

⁴³ *Ibid* 48-49.

and Continental Europe, and the Suez and Panama Canals. They did not agree with me that the two questions had much in common⁴⁴.

President Wilson in his Fourteen Points address of January 8, 1918 declared that "the Dardanelles should be permanently opened as a free passage to the ships and commerce of all nations under international guarantees". Somewhat later Secretary of State Robert Lansing outlined a project for placing Istanbul under an international protectorate or a government which would act as mandatory. The Commission or mandatory was to be charged with "the regulations of the Dardanelles and Bosphorus as international waterways"⁴⁵. In the official commentary of October 1918 on the Fourteen Points, it is proposed that Istanbul and the Straits be internationalized, either collectively or under a mandate of League of Nations⁴⁶.

On December 3, 1918 Lord Eustace Percy of British Foreign Office and David H. Miller, legal adviser to President Wilson discussed in Paris, the Problem of internalization of the Straits. Lord Eustace's suggestion was to put the region of Straits and Istanbul under the League of Nations and the United States should assume the mandate both for that region and for Macedonia but he "went so far as to suggest that, if the formulation of general principles were attempted, the Panama Canal would come in the same class as the straits. To this Miller replied that such a grouping seemed hardly among the possibilities" and thought that Lord Eustace's "Panama Canal suggestion was an attempt to show difficulties in the way of idealistic principles of the United States"⁴⁷.

The Intelligence Section of the American Commission to Negotiate Peace, in its statement of January 21, 1919 recommended the establishment of an international state in the region of Istanbul with a power appointed as mandatory under the League of Nations. It also recommended "that the Bosphorus, Sea of Marmara and Dardanelles be permanently opened as a free passage way to the ships of commerce of all nations, under international guarantees."⁴⁸

⁴⁴ *Ibid.*

⁴⁵ Ray S. Baker and William E. Dodd, *The Public Papers of Woodrow Wilson* (New York, 1927) III, 160.

⁴⁶ Seymour, *The Intimate papers of Colonel House*, IV. 198.

⁴⁷ David H. Miller, *My Diary at the conference of Paris with Documents* (New York 1928) Doc. 85. II. 428.

⁴⁸ Howard, *The USA and the problem of The Turkish Straits*, 67.

Another plan to solve the general problem of Turkish empire and particularly the region of Istanbul and the Straits was to put Istanbul and the straits under American mandate as well as the three Turkish provinces where the majority of the population is overwhelmingly Turk and called wrongly Armenia by some historians of the West because Armenians had their kingdom there in 20th century B.C.

There reference to the Antiquity as in the Armenia case was obvious when Great Britain permitted and helped to land Greek troops on the western Turkey which is the richest and most fertile part of the country. The permission was accorded to Greece on the basis that the ancient Greeks had lived on this lands and had had their city-states from 20th to 5th century B.C.

President Wilson was not opposed to presenting the project of American mandate to the United States Senate, although he had serious doubt as to its acceptance.

The King-Crane Commission sent to Ottoman Empire to investigate conditions on its return late in August 1919, proposed a general American mandate for the whole of Turkey, including the Region of Istanbul and the Straits, the plateau of Anatolia.

Any of these proposals was applied and the American delegation at Paris took no real part in the drafting the Treaty of Sevres, August 10, 1920 which had a new regime for the Straits. Anyhow neither Turkey nor the United States of America had declared war upon each other during the First World War.

The problem of the Straits was one of the most difficult questions confronting the Lausanne Conference of 1922-23, and one in which the American government was much interested. Secretary of State Charles E. Hughes told the press on September 26, 1922 that he approved unequivocally the proposal to insure the freedom of the Straits⁴⁹. The United States Government refused to be represented officially at the Conference but it agreed to send observers to Lausanne. Their instruction read:

It is distinct interest to this Government... to obtain effective assurances that the Strait would be open in time of peace for both merchant ships and ships of war to proceed to Constantinople and

⁴⁹ *Papers of the USA* (1923) II, 888.

through the Black Sea. This sea is a highway of commerce and should not be under the exclusive control of Turkey and of Russia. The Department of State desires to protect American interests and is ready to throw the full weight of her influence to obtain assurances for the freedom of the Straits⁵⁰.

The most significant statement concerning the American interest in the Straits at this time was made in a memorandum of the General Board of the Navy, dated November 10, 1922, The memorandum pointed out" that solution of the Dardanelles question which will give the greatest prospect of lasting place in the Near East is likely to accord best with American interests"

Since the Straits were a great international highway, they should not belong to a single state. Any attempt to block or impede access to the Black Sea by world commerce would be "subversive of world organization and contrary to world intereste" as it would set up "International pressures and tensions which would lead inevitably to new wars"⁵¹ The problem of freedom of navigation in the Straits for warships was more complicated and less capable of "permanent settlement". All rights granted to the non Black Sea Powers should be granted also to the Black Sea powers.

The British policy in relation to Dardanelles had changed with the destruction of the Russian Black Sea fleet.

The General Board beleived that the natural solution of the question as well as the one most favorable to American interest and influence in world affairs, is complete freedom of navigation of the Straits for all vessels of war". However the Board saw no parallel between the status of the Turkish straits and that of the Panama Canal.

In summary the General Board beleived that American interests demanded:

- a) That if an international commission of control is set up the United States should have representation on the international commission

⁵⁰ *Ibid.* Memorandum of Instructions October 27, 1922, 887, 889.

⁵¹ *Ibid* 893-897, the senior Member Present of the General Board, Department of the Navy (William. L. Rodger to the secretary of the Navy Denby: "American Policy as to freedom of navigation of the Dardanelles.

of control and in all positions subordinate to that commission equal to that of any other foreign power.

- b) That the Straits including the Dardanelles, the Sea of Marmara and the Bosphorus, be open to the free navigation of the merchant ships of all flags without distinction or preference.
- c) That the United States and its nationals have the same rights and privileges within and adjacent to the waters above mentioned as are possessed or may be granted to any other foreign power or to its nationals.
- d) That the Straits, including the Dardanelles, the Sea of Marmara and the Bosphorus, be open to all free navigation of the vessels of war of all flags.
- e) That no belligerent right be exercised and no hostile act committed within the Straits including the Dardanelles, the sea of Marmara and the Bosphorus.
- f) That all fortifications commanding these waters be razed and that no new fortifications be erected⁵².

The head of the American delegation at the Lausanne conference Richard W. Child declared the American position concerning the Straits as follows:

Our position is based upon that policy of our Government which stands for complete and constant freedom, without special privilege, for our commerce and for commerce of other nations... We can not accept the position that the future of commerce in the Black Sea is the exclusive affair of the states bordering upon it⁵³.

During the Lausanne Conference the American Government stood for the principle of freedom of the Straits. But according to Charles E. Hughes instructions of December 3 1922 the American government was unwilling to assume any obligation with the respect to guaranteeing the observance of this principle. On this occasion Hughes rejected any comparisons with the Panama Canal on the ground that it was an'artifi-

⁵² *Ibid.*

⁵³ Howard, *The USA and the problem of The Turkish Straits*, 67.

cial waterway constructed at great cost by the United States and under its control⁵⁴.

The resultant Treaty of Lausanne not only abrogated the "Ancient rule of the Ottoman Empire, "barring the Straits to foreign warships, but demilitarized the Straits and placed them under control of an international commission. The Treaty of Lausanne guaranteed freedom of transit and navigation for foreign warships and military aircraft in time of peace, subject only to a limitation on the total foreign naval tonnage allowed to enter the Black Sea (no greater than that of the largest Black Sea navy, i.e., the Soviet Union's). There were additional restrictions on transit in time of war, depending on whether or not Turkey was a belligerent. The signatories were the British Empire, France, Italy, Bulgaria, Greece, Romania, the Soviet Union, Yugoslavia, and Turkey.

Being not a signatory of the Lausanne Convention of the Straits The United States signed a separate treaty with Turkey on August 6, 1923 Article X of his treaty declared:

The commercial vessels and aircraft and the warvessels and aircraft of the United States shall enjoy complete liberty of navigation and passage in Straits of Dardanelles, the sea of Marmara and the Bosphorus, on a basis of equality with similar vessels and aircraft of the most favored nation upon conforming to the rules relative to such navigation and passage established by the Straits Convention signed at Lausanne, July 24, 1923.

This treaty in turn was rejected by the Senate in 1927, a *modus vivendi*, however was established and in October 1927 diplomatic relations between Turkish Republic and the United States were formally established. The American-Turkish Treaty of Commerce and Navigation, October 1, 1929 finally provided for most favored nation treatment of American vessels in Turkish waters, on a reciprocal basis, a principle which was reiterated in the Reciprocal Trade Agreement of April, 1939.

During the 1930's, Turkey became increasingly restive with international controls. The ostensible reasons were rising tensions in the Mediterranean. The Spanish Civil War, the Abyssinian crisis, Nazi ambitions in the Balkans, the Italian naval threat, and fear of a "general conflagration".

⁵⁴ *Ibid.*

The real reasons were Turkish nationalism and resentment over a perceived infringement of sovereignty by the international regime.

On April 10, 1936 the Turkish government requested revision of the Lausanne Convention in the interest of its sovereignty and security, with a view of rearming the region of the Straits.

Turkey submitted a draft which would have given Turkey substantial if not absolute control over navigation in the Straits. The United Kingdom objected to the Turkish proposal, with the result that the Montreux Convention was essentially a compromise negotiated by British and Soviet representatives over a two-week period. That being the case, it can only be said that the resulting treaty served the interests of both positions—facilitating Black Sea Powers transit to the Mediterranean and securing for non-Black Sea powers a right of navigation through the Straits into the Black Sea, both hedged about with negotiated restrictions.

At that time United States were primarily interested with the preservation of commercial freedom in the Straits, a question which was not raised. So the American government was not represented at the Montreux Conference of June-July 1936, which grew out of Turkey's request. However the American government accepted the Convention of Montreux which reaffirmed the principle of freedom of transit and navigation in the Straits for commercial vessels although it imposed restrictions on the rights of warships⁵⁵.

The Convention that emerged was a compromise. Its 29 articles, four annexes, and protocol terminated international control of the Straits, restored Turkey's right to militarize and control them, and reaffirmed the time-honored right of free transit for merchant shipping. At the urging of the Soviet Union, Montreux substantially restricted the Lausanne provisions covering passage by warships, but with certain exceptions. "Light surface vessels. "Capital ships" (generally accepted as battleships and cruisers) of non-Black Sea powers were denied access to the Straits, but capital ships of Black Sea powers could exceed the 15,000 ton limitation provided they passed through singly and were accompanied by not more than two escort vessels. Submarines were barred completely, except for Black Sea submarines purchased or constructed abroad, or which needed

⁵⁵ Green H. Hackworth, *Digest of International Law*. Washington U.S. Government Printing Office 1940), 613.

to exit the Black Sea for repairs; these were accorded rights of transit for this purpose only. All transit of foreign warships through the Straits were made subject to advance notification and pilotage requirements.

An American assessment of the Montreux Convention in the following: "The Montreux Convention, which restored Turkish sovereignty over the Straits, was highly favorable to Turkey and reasonably satisfactory to the defensive needs of the Soviet Union; Britain, France, and the other powers acquiesced to relinquishment of international control, militarization of the Straits, and sever limitations on the movement of their own vessels through the Straits out of fear of alienating Turkey and in hopes of Turkish neutrality in any future war. The fact that Turkey did indeed remain neutral during World War II and that the Montreux Convention was able to survive nearly a half-century of cold war and military conflict seems to vindicate this judgment⁵⁶.

V – THE UNITED STATES POLICY SINCE THE SECOND WORLD WAR

Since 1936 the American relations with Turkey are satisfactory. After the outbreak of the Second world War, the American government's concern was to build a strong Turkey to face German armies which were early in 1941 close to Turkish frontiers. President Roosevelt pointed out the importance of the defence of Turkey to the United States when he declared that he had "found the defense of Turkey vital to the defence of the United States. Under the title "U.S. formalizes its aid to Ankara-President terms defense of Turkey vital to ours and spura supplies". New York Times of December 4, 1941 gives the following information.

President Roosevelt formalized today the shipment of the lease-lend supplies to neutral Turkey which has been going on secretly and indirectly since last May by issuing an announcement that "the defense of Turkey is vital to the defense of the United States".

Such a formal declaration was made neccessary by the fact that while President Roosevelt could approve indirect shipment of war supplies to the Turks under the Lease Lend act, Edward P. Stetti-

⁵⁶ For Turkish-Allied relations during and after World War II, see *Survey of International Affairs The Middle East 1945-1950 (1954)*.

nus Jr. recently placed in charge of the Lease Lend program could do so only with regard to countries whose defense had been publicly declared assential to this country. ...The following statement therefore was issued at the White House late to day" the President annoned that he had found the defense of Turkey vital to the defense of the Us and and directed Lease-Lend. Administra-tor E.R. Stettinius Jr. to see that the defense needs of the govern-ment of Turkey were filled as fast as possible... This marked the first time as far as is publicly known, that American Lease Lend Aid has been supplied to a non-belligerent outside Latin Ameri-ca... Turkey lies geographically in a key position with regard to the Mediterranean and the Middle East... Through a non opposing or allied Turkey Germany conceivably could drive from the rear upon Egypt, the Russian Caucaus or the rich oil fields of Iraq and Iran⁵⁷.

In the same paper under the title "News welcomed in London" there is the following comment from London:

"Authoritative British source received with much satisfaction to night the news that Turkey had become United States Lease Lend beneficiary⁵⁸.

Until 1945 Turkey remained a non-belligerent ally of Great Britain. Great Britain and Soviet Union in a note reiterated their fidelity to the Montreux Convention and assured Turkey that they had no designs upon Turkish territory. So The Soviet Union fighting her battle of life or death seemed forgotten her claims of the common defense of the Straits made during Turkish Foreign Minister" visit to Moscow in the summer of 1939.

Turkish Government interrupted diplomatic and economic relations with Germany on August 3, 1944. During the following months Great Britain and the United Stated negotiated with the Turkish Government on the right of the passage to merchant vessels through the Straits into the Black Sea in accordance of the provisions of the Montreux Con-vention. The American point of view was that since the Montreux Con-vention provided for passage of merchant vessels under any flag and with any cargo the above mentionned right was not in question and no special agreement was therefore necessary. It was publicly announced by the

⁵⁷ *New York Times* December 4, 1941, p.1. and 14.

⁵⁸ *Ibid* p. 14.

middle of the January 1945 that supplies to the Soviet Union were passing Turkish Straits⁵⁹.

President Truman in his report of August 9, 1945 on Postdam Conference remarked that one of the persistent causes for wars in Europe during the last two centuries had been "the selfish control of the waterways of Europe. "Among these waterways the President included Turkish Straits with the Danube River, the Rhine River, and Kiel Canal. The President Truman had proposed at Postdam that there be "free and unrestricted navigation by international authorities..." Truman indicated for membership in the projected agency the United States, Great Britain, the Soviet Union and France together with the riparian States⁶⁰.

President Truman in his address of October 27, 1945 expressed his belief "that all nations should have the freedom of the seas and equal rights to the navigation of boundary rivers and waterways and all rivers and waterways which pass through more than one country"⁶¹.

The United States Government presented to the Turkish Government a note in line with the general principles which Truman enunciated, on November 2, 1945. In this note the American Government suggested the revision of the Montreux convention and the calling of a conference on the Straits in 1948.

The first move to modify the spirit of the Montreux Convention was made by the USSR in September 1939. During Turkish Foreign Minister Saracoğlu's visit to Moscow at that time Soviet Foreign Minister Molotov proposed a pact of mutual assistance. One of the stipulations of which would be that Turkey agreed to close the Straits to all warships of non Black Sea powers. Turkey rejected the proposal signing instead a pact of mutual assistance with Great Britain and France. This pact specifically exempted Turkey from taking any action which might lead to hostilities with the USSR. A year later the Soviet Union apparently requested Hitler's consent to its acquiring a base for land and naval forces in Straits⁶².

⁵⁹ Department of State, Press Release No: 6 January 10, 1945.

⁶⁰ Louis B. Wehle, "International Administration of European Inland Waterways" in *American Journal of International Law*, January 1946, 111.

⁶¹ *Department of State Bulletin*, October 28, 1945, 654-55 James F. Byrnes, *Speaking frankly* (New York 1947), 288.

⁶² *Department of State Bulletin*, November 11, 1945, 766.

Moscow was rebuffed again for Germany then entertained long range plans for the Middle East.

The American Government in his note of November 2, 1945 stated that, if invited, it would be willing to send representatives to a conference on the Straits. The American note was carrying the following principles:

- 1) The Straits to be open to the commercial vessels of all nations at all times,
- 2) The Straits to be open to the transit of the warship of the Black Sea powers at all times,
- 3) Except for an agreed limited tonnage in time of peace, passage through the Straits to be denied to the warships of non-Black Sea Powers at all times except with the specific consent of the Black Sea Powers or except when acting on the authority of the United Nations.
- 4) Certain changes to modernize the Montreux system such as the substitution of the United Nations Organizations for that of League of Nations elimination of Japan as signatory⁶³.

The Turkish government welcomed the American note, indicating that it was entirely willing to participate in an international conference and to accept any international decisions regarding the Straits provided "Turkish independence, sovereignty and territorial integrity, were not infringed"⁶⁴. The British government was receptive to the American note. On February 21, 1946 the British Foreign Minister Ernest Bevin in an address before the House of Commons declared that the United Kingdom was ready for the Soviet Union and Turkey either themselves or with Great Britain as an ally to discuss the problem of revising the Montreux Convention. He stated that the British Government was anxious to keep the international aspect of these waterways in view". Bevin was not "too sure" that it contributed to world peace "that one particular power as against another should have bases in one particular spot". Noting that Great Britain had an alliance with Turkey since October 19, 1939, Bevin stated that he did "not want Turkey converted into a satellite state". But

⁶³ Turkish embassy, *Press Release. No. 1.* (Washington D.C.) February 1, 1946.

⁶⁴ Howard, *the USA and the problem of the Turkish Straits*, 70.

wanted her to be "really independent"⁶⁵. Similar views were expressed in March and June 1946.

The United States Government took no further steps on the problem of the Straits after its note of November 2, 1945. However President Truman in his Army Day Adress April 6, 1946 insisted on the intention of the American Government to "press for elimination of artificial barriers to international navigation, in order that no nation by accident of geografic location, shall be denied unrestricted access to seaports and international waterways. He also made particular remarks on the significance of the Near and Middle East:

Turning to the Near and Middle East we find an area which presents grave problems. This area contains vast natural resouroes. It lies across the most convenient routes of land, air and water communications. It is consequently an area of great economic and strategic importance, the nations of which are not strong enough individually or collectively to withstand powerfull agression.

It is easy to see therefore, how the Near and Middle East might become an area of intense rivalry between outside powers, and how such rivalry might suddenly erupt into conflict ... No country, great or small has legitimate interests in the Near and Middle East which cannot be reconciled with the interests of other nations through the United Nations. The United Nations have a right to insiat that the sovereignty and the integrity of the Near and Middle East not be threatened by coercion or penetration⁶⁶.

On August 7, 1948 the Soviet Government sent a note to the Turkish Government and wanted the application of the following principles:

- 1) The Straits should be always open to the passage of merchant ships of all countries.
- 2) The Straits should be always open to the passage of warships of the Black Sea Powers.
- 3) Passage through the Straits for warships not belonging to the Black Sea Powers shall not be permitted except in cases specially provided for;

⁶⁵ *Department of State Bulletin*, April 21, 1946, 622-24.

⁶⁶ *Department of State Bulletin*, September 1, 1946.

- 4) The establishment of a regime of the Strait as the sole sea passage leading from the Black Sea and into the Black Sea, should come under the competence of Turkey and other Black Sea Powers.
- 5) Turkey and the Soviet Union as the Powers most interested and capable of guaranteeing freedom to commercial navigation and security in the Straits, shall organize joint means of defense of the Straits for the prevention of the utilization of the Straits by other countries for aims hostile to the Black Sea Powers⁶⁷.

The first three of these principle were in general accord with the first three principles of the American note of November 2, 1945. Points 4 and 5, however were threatening the security and territorial integrity of Turkey. The comment of an american writer on these two points is the following:

A chain of Soviet bases in Turkish territory together with a predominant influence at Ankara, might well lead to still other result in turn the USSR would be in a position to forestall any Turkish action at the Straits inconsistent with Moscow's desires... The movements of all vessels in the Aegean could be brought under surveillance. İstanbul could be screened off from the life-giving seas and thereby increased pressure be brought upon the Turkish Government. Added political and military pressure could be brought to bear upon Greece. With bases in the Straits area, or in the Izmir region which might be demanded for protecting "the approaches" to the Straits, Soviet forces, could readily be projected into the Mediterranean... The Suez Canal would be only 370 miles away⁶⁸.

The United States Government replied the Soviet Note on August 19, 1946 and reiterated its Position in the note to the Turkish Government of November 3, 1945. The American note insisted on the fact that the establishment of a regime of the Straits was not exclusive concern of the Black Sea Powers. This view was strongly defended at the conference of Lausanne in December 1922. The American note declared that the United States was for the opinion that Turkey should remain primarily responsible for the defense of the Straits and stated that if this region be-

⁶⁷ *Ibid.*

⁶⁸ Norman J. Padelford, "Solutions to the Problem of the Turkish Straits: A brief appraisal" in the *Middle East Journal*, II, 185.

came the object of a threat or an attack on the part of an aggressor the resulting situation would clearly be a matter for action on the part of the Security Council of the United Nations. The United States also expressed the view that the regime of the Straits should be brought into appropriate relationship with the principles and aims of the United Nations, and function in a manner entirely consistent with the principles and aims of the United Nations". On August 23, 1946 the Turkish Government replied the Soviet note, it rejected the Soviet proposals concerning the establishment of a regime of the Straits by Turkey and other Black Sea Powers and a joint Turco-Soviet defence system for the Straits, meanwhile Turkish note added that the Turkish Government was ready to revise the Montreux Convention under condition of respect toward the Turkish independence and the integrity of the Turkish territory.

The Soviet Russia replied to this note on September 24, 1946. It reiterated the USSR's basic position, cited historical precedents for its proposals and insisted that they were in harmony with the principles and purposes of the United Nations. The Soviet Note also indicated that direct pourparlers between the three governments, Russian, Roumanian and Bulgarian and Turkey should precede the calling of a conference on the Straits. Although the Soviet note of September 24 was not addressed to the United States, the American Government again expressed its views in a note of October 9, reiterating its earlier position and emphasizing that the Postdam Agreement contemplated only an exchange of views with Turkey as a useful preliminary to a conference of all the interested powers including the United States. The exchange of notes during 1945 and 1946 clearly reveals that the Western powers and Turkey were not thinking in any thing like the same terms as the Soviet Union.

The Western powers and Turkey had in mind an international arrangement generally resembling the Montreux regime which would guarantee free passage to the merchant vessels of all nations but limit the passage of war vessels in such a way as to safeguard Turkish Independence and the security of the Black Sea Powers. The Western Powers wanted to leave the administration and the defense of the Straits to a Turkey free to exercise its own sovereignty, but responsible to the United Nations in such a way as to protect the peace and security of all.

This situation between Turkey and the Soviet Union lasted until the death of Stalin on March 5, 1953. The new Soviet government with a

statement on May 30, 1953, within the framework of the "peaceful coexistence" principle it had started to pursue, withdrew its demands from Turkey. In 1954 and 1955 Soviet government officially recognized that they had committed errors towards Turkey.

VI – RECENT DEVELOPMENTS

The Soviet naval vessel Kiev-I passed through the Turkish Straits into the Mediterranean first time on July, 18. 1976.

The vessel is defined by the Soviets as an "anti-submarine cruiser". The Soviet Union gave advance notice for its passage as required by the Montreux Convention and the Turkish authorities issued the usual notification as foreseen by the Convention regarding the passage of the ship.

The Soviet Union has four Kiev type vessels which time to time pass through the Turkish Straits. They are Kiev-I, Minsk, Novorissiysk and Baku. The newly built Baku, the fourth unit of the Kiev class made its⁶⁹ first passage through the Straits into the Mediterranean on 8 June 1988.

There are conflicting views on the passage of Kiev-I and her sisters ships, through the Turkish Straits.

The NATO countries reacted to the passage of the vessel by claiming that Kiev I is classified as an aircraft.

The American view is as the follows:

"Since the mid-1970's, U.S. officials have claimed that passage through the Straits of the Soviet's 37000 ton Kiev-class vertical/short take off and landing (V/STDL) and helicopter carriers violates a specific prohibition of the Convention"⁷⁰.

Thus, in spite of the general statement in Article I that the parties to the Convention "recognize and affirm the principle of freedom of transit and navigation by sea in the Straits, "the history of the negotiations makes it clear that some restrictions were intended to be placed on navigation both by Black Sea powers and by other nations. It is therefore not

⁶⁹ *Jane's fighting Ships*, 1985-86 p. 551 quoted in *Proceedings*, August, 1988 Vol. 114/8/1026.U.S.Naval Institute p. 64.

⁷⁰ H. Gary Knight-"The Kiev and the Turkish straits". *American Journal of International Law*. Vol. 71 January 1977. No: 1. p. 128.

inconsistent with this intent to conclude that transit of aircraft carriers of the Black Sea powers forbidden by the Convention.

Is the Kiev an aircraft carrier? The Montreux Convention (Annex II) defines aircraft carriers as:

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 has forms a substantial part of traffic through them should participate the agreement regulating their use.

The Soviet Union prefers a regime which will exclude all western states from any participation in Straits affairs, which will give the USSR domination of the administration and defense of the Straits and which will place that vital part of Turkey as completely under Soviet Control as Dairen in China. This is again the traditional Russian imperialism in full swing.

The United States taking into consideration that any change in the Montreux Regime would influence the regimes of Panama and Suez Channels strongly rejected all soviet proposals. The United States had some rights and priorities in Panama Channel as the United Kingdom had the same in Suez Channel.

According to Jane's Fighting Ships 1975-76, helicopter carriers and helicopter-carrying cruisers, including the Kiev by name, are classified as aircraft carriers. Jane's classifies antisubmarine cruisers, the Soviet designation of the Kiev, as major surface ships, not aircraft carriers⁷¹.

This is an interesting designation for a ship of this size, suggesting a bias towards (antisubmarine warfare) in her future employment but more probably aimed at circumventing the restrictions on aircraft carriers in the Montreux Convention regulating the use of the Turkish Straits⁷².

In analyzing the significance of the Kiev to naval strategy, the editors of Jane's note further that her construction reflected the views of Admiral

⁷¹ Jane's fighting ships 1985-86 op. cit.

⁷² Charles Maeching Jr. "Crisis at the Turkish Straits" *Proceedings*, V.S. Naval Institute August 1988 Vol. 114/8/1026.p.68.

Corshkov, who urged seabased tactical air units as a necessity for navies employed in extending political influence abroad⁷³.

Perhaps the most telling argument in favor of her classification as a carrier lies in the Kiev's armament. A single ASW twin missile launcher and limited conventional launchers are the only nonaircraft ASW weapons on the 40,000 ton vessel. It would hardly be necessary to construct a vessel of the size and configuration of the Kiev to carry this limited amount of ASW weaponry. Only by adding fixed or rotary wing aircraft could the Kiev become an effective ASW platform. The Soviet helicopter carriers Moskva and Leningrad, which were already deployed, did add rotary wing aircraft to establish themselves as effective ASW vessels. The addition of helicopters, with attendant landing and takeoff platforms, was called for to convert the Kiev into a usable and cost-beneficial ASW vessel. The addition of a large, angled flight deck and 25-30 VTOL fighter aircraft designed to provide air cover make it clear that the vessel was designed primarily for carrying and operating both the helicopters and the VTOL aircraft and not as a platform for ASW missiles. Without her airborne complement, a significant portion of which could not be accommodated without the large flight deck, the vessel has little fire power and no effective ASW purpose. Thus, the definition of aircraft carriers in the Convention—"designed... primarily for the purpose of carrying and operating at sea"—appears to be satisfied by the design and probable mission of the Kiev.

The foregoing analysis points to the conclusion that the Kiev is an aircraft carrier and that the Montreux Convention prohibits transit of the Turkish Straits by aircraft carriers. Even if this analysis be accepted, however, political realities probably dictate that little if anything can be done as a matter of law about this or future transits⁷⁴.

The Soviet Russian view is as follows: "An authoritative Soviet writer states that as a thorough analysis of the Montreux Convention shows, one can consider from a legal point of view that passage through the straits by

⁷³ *Jane's Fighting Ships*, 1985-86 p. 551. quoted in *Proceedings*, August, 1988. Vol. 114/8/1026 U.S. Naval Institute p. 64.

⁷⁴ H. Gary Knight- "The Kiev and the Turkish straits". *American Journal of International Law*. Vol 71. January 1977 No: 1. p. 128.

any ships of states on the Black Sea does not contradict the letter and spirit of the Convention”⁷⁵.

The Turkish view is as follows: “Nowhere in The Montreux Convention the transit passage of aircraft carriers through the Straits per se is explicitly prohibited.

Turkey believes that it is imperative to preserve the Montreux Convention as it stands and that any attempt to make the Convention an east-west issue would not serve any purpose, The Convention has retained its validity over the past fifty-five years despite fundamental changes in the international scene due to Turkey’s scrupulous adherence to its letter and spirit.

Political realities and changes in technology both support Turkish view; also as ably put by an international lawyer condition to some extent rendered obsolete the above classification of warships”.

VII – CONCLUSION

While the Convention contains no provision that expressly prohibits aircraft carriers from transiting the Straits, the definitional language would imply such a prohibition, but only if the reader confined his scrutiny to the Convention’s text alone. Political instruments like the Montreux Convention must, however, be construed within a historical context.

When the Montreux Convention replaced the Treaty of Lausanne, it transferred control over the Straits from an international commission to the Turkish government. This carried with it the right to implement the Convention. As a result, only Turkey is responsible for its day-to-day interpretation

In addition to the Soviet Union and Turkey, the other signatories of the Montreux Convention are Bulgaria, France, Great Britain, Greece, Japan, Rumania and Yugoslavia. Neither collectively nor singly have any of these nations protested the classification of the Kiev and the two helicopter carriers as cruisers, or challenged their right to transit the Straits either at the time of first passage or since. The subject has apparently been

⁷⁵ Ferenc A. Vali *The Turkish Straits and NATO*. 1972. p. 44. note 8. Serkov, Legal Regulations for the Black Sea Straits, *Morskoj Sbornik*, No: 7. (July, 1976). Quoted in “Gary Knight, “The Kiev and the Turkish Straits” *The American Journal of International Law*. Vol. 71. January No: 1. p. 129. footnote 12.

on the agenda of the NATO Council and its committees, but NATO as a body has never taken formal action to make known its concerns, much less to raise the issue to level of diplomatic protest.

In short, over the last 30 years, the inaction of Turkey and the other Montreux signatories has set a precedent that constitutes de facto amendment of the Convention either through waiver of an express provision or, given the absence of an express prohibition, by giving repeated permissions to Black Sea aircraft carriers to transit. Either way, the time to protest the transits of the Kiev and the two helicopter carriers seems to have passed.

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