

Fees Received under the Montreux Convention: An Assessment on the Value of the Golden Frank*

Montrö Sözleşmesi Kapsamında Alınan Ücretlerin Dayandığı
Altın Frank'ın Değeri Üzerine Bir Değerlendirme

Mevlüt Savaş BİLİCAN**
İlkay TÜRKEŞ***

Abstract

Montreux Convention signed in 1936 regulates the cruise and voyage passages through İstanbul Strait, Marmara Sea and Çanakkale Strait, known as the Turkish Straits. Within the framework of this convention, there are mutual rights and obligations concerning the navigation through the Turkish Straits and pertain to both the vessels utilizing the straits for passage and the Republic of Türkiye, which holds sovereignty over these straits. While the ships passing through the Turkish Straits benefit from the freedom of navigation, it is stipulated that they make payments to the Republic of Türkiye for the services (sanitary control, lighthouse, life-saving services) included in Annex-1 of the convention. Articles 1 and 4 of this annex refer to these fees. The article examines these issues. Annex-1 states that the amount to be paid will be determined in terms of net ton, service type, and Gold Francs. Taking into consideration the number of ships passing through the straits and their total tonnage, this study makes a mutual comparison between the Golden Francs application in the Montreux Convention and the current applications in determining the fees charged by Türkiye and discusses which of the methods would provide more gains to the Republic of Türkiye. The result of the study clearly shows that the new pricing policy to be applied can provide more income to Türkiye and can be in line with the spirit of the Montreux Convention.

Keywords: Golden Frank, Bosphorus Passage Fees, Montreux Convention, Turkish Straits, Republic of Türkiye.

Öz

Türk Boğazları olarak bilinen İstanbul Boğazı, Marmara ve Çanakkale Boğazı'ndan seyir ve sefer geçişleri 1936 yılında imzalanan Montrö Sözleşmesi ile düzenlenmiştir. Bu sözleşme kapsamında, Boğazlardan yararlanacak gemiler ile bu boğazların egemenliğine haiz Türkiye Cumhuriyeti'nin tasarrufları kapsamında karşılıklı hak ve yükümlülükler bulunmaktadır. Türk Boğazlarından geçiş yapan gemiler seyir serbestisinden istifade

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**Rear Admiral, Turkish National Defence University, İstanbul, Türkiye. ORCID: 0000-0002-0440-5289, e-mail: mbilican@msu.edu.tr.

***Res. Assist., Turkish National Defence University, Atatürk Strategic Studies and Graduate Institute (AISS), Department of Strategy and Security Studies, İstanbul, Türkiye. ORCID: 0000-0002-8183-698X, e-mail: iturkes@msu.edu.tr

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ederken, Türkiye Cumhuriyeti devletine sözleşmenin Ek-1’inde bulunan hizmetlere (Sihhi kontrol, Fener, Tahlisiye hizmeti) yönelik ödeme yapımları hükme bağlanmıştır. Özellikle ekin altında yer alan 1. ve 4. maddeler geçiş ücretine atıf yapmaktadır. Makalede de bu hususlar incelenmiştir. Söz konusu ekte ödenecek miktarın net ton başına ve hizmet türü itibarıyla Altın Frank üzerinden tespit edileceği belirtilmektedir. Bu çalışmada, Boğazlardan geçen gemi sayısı ve toplam tonaj dikkate alınarak, ülkemiz tarafından alınacak ücretin belirlenmesinde Montrö Sözleşmesi’ndeki Altın Frank uygulaması ile mevcut uygulamaların karşılıklı mukayesesi yapılmış ve yöntemlerden hangisinin Türkiye Cumhuriyeti’ne daha fazla kazanım sağlayacağı tartışılmıştır. Çalışmanın sonucunda, uygulanabilecek yeni fiyatlandırmanın Türkiye’ye daha fazla gelir sağlayabileceği ve bu güncellenmenin, Montrö Sözleşmesi’nin ruhuna uygun şekilde gerçekleştirilebileceği sonucuna varılmıştır.

Anahtar Kelimeler: Altın Frank, Boğaz Geçiş Ücreti, Montrö Sözleşmesi, Türk Boğazları, Türkiye Cumhuriyeti.

Introduction

The agreement regarding the Turkish Straits was regulated by the Lausanne Straits Convention before the Montreux Convention. However, the regulations in Lausanne were not successful and permanent. Today, the Turkish Straits receive their legal regime from the Montreux Convention signed on July 20, 1936. The convention in question was signed by representatives of Türkiye, Bulgaria, France, Greece, Japan, Romania, the Soviet Union, Yugoslavia, Great Britain, and Australia, which is a member of the Commonwealth of Nations. This convention was signed on July 20 and entered into force on November 9, 1936. Italy became a party to the agreement in 1938, while Japan withdrew from the agreement in 1951 because of its peace treaty.¹

The Montreux Convention is an agreement consisting of 29 articles, 4 annexes, and 1 protocol. “The Straits” mentioned in the main text refer to the İstanbul Strait, Marmara Sea, and Çanakkale Strait.

The Lausanne Straits Convention, an addendum to the Treaty of Lausanne about the Turkish straits, failed to adequately address the exigencies of its time due to factors such as the impending World War II, security concerns over the straits, the absence of regulations for neutral parties, and Türkiye’s own security interests. In response to these concerns, Türkiye submitted a note to the governments of Great Britain, Bulgaria, France, Greece, Italia, Japan, Romania, Soviet Union and Yugoslavia on April 10, 1936, urging a new conference to address straits-related matters.²

As mentioned above, the Montreux Convention became necessary due to the failure of Lausanne to achieve its purpose in the context of the security of the Turkish Straits. This issue was also emphasized in the introduction at the beginning

1 Selami Kuran, *Uluslararası Deniz Hukuku*, İstanbul, 2020, p. 126.

2 “Conference at Montreux for revision of the regime of the Straits, June 22–July 20, 1936. Assurance by Türkiye of American participation in benefits of the convention signed July 20, 1936”, Foreign Relations of the United States Diplomatic Papers, Volume III, 1936, pp. 503-529.

of the Convention's text.³ Afterwards, the first article states that the parties will be bound by these provisions for the freedom of passage and navigation through the Turkish Straits.

Today, the Turkish Straits are a great military, economic, and political gain for Türkiye. For this reason, it is, of course, necessary to get the most efficiency from the Turkish Straits. Since the economic aspect of the Montreux Convention and Straits' passage fees are discussed in the article, the part of the Convention's text that interests us most is Annex-1 of the Convention.

According to the Montreux Convention, the fees to be collected from the ships that will pass through the straits are determined by the value of Gold Francs (GF) (Germinal Francs). After the Second World War and with the introduction of the Bretton Woods system, in which gold was only convertible to the American Dollar, GF could be calculated in Dollar terms until the abolition of the system. Nevertheless, following the end of the Bretton Woods system and the declaration that the American Dollar would no longer be linked to gold, certain mistakes and uncertainties emerged in establishing the GF (Germinal Francs) and, consequently, the associated tariffs. Due to this flawed implementation, there has been continuous undercharging for years, leading to profits that are significantly lower than the actual amount that should have been collected. Nevertheless, Turkish authorities made declarations in August 2022, indicating that the charges for crossing the straits will now be recalibrated by the Republic of Türkiye and that the GF value will be adjusted annually starting from 1 July. The updated pricing was introduced on 7 October 2022 in line with these changes. Through these developments, it is anticipated that the disparity between the present GF value and the prevailing practices will progressively diminish in the coming years. This adjustment is expected to allow Türkiye to generate more appropriate revenue from the ships transiting the Turkish straits. Convention's Annex-1 refers to the GF practice and offers tariffs. Also, Article 4 of the same Annex explains briefly that payments can be done as GF or Turkish Lira.

Türkiye has regulated the Gold Franc application discussed in Annex-1 of the Montreux Convention differently in different periods. This periodization can be classified as follows:

- 1) Application Until the end of 1981 (can also be defined as Gold Franc Based Application),
- 2) Application Between 1981 - 1982 (can also be defined as US Dollar Indexed Application),
- 3) Application Between 16 November 1982 - 1983 (can also be defined as Application Based on the Real Value of the Gold Franc),
- 4) 1983 – 2022,⁴
- 5) 2022 – Present (with the latest regulations).

³ Kuran, *Ibid.*, p. 513.

⁴ İsmail Demir, "Montrö Sözleşmesine Göre Alınan Geçiş Ücretleri", VIII. Symposium of the History of Turkish Sea Trading 2017, p. 69.

As can be seen from the chronological order above, although various regulations were made regarding the Gold Franc application, especially in the 1980s, the desired gains and benefits were never achieved. Besides, there are only a few studies on this subject to date. This article attempts to discuss and analyse each period more broadly. Also, as seen below, this study's citations mostly come from the research of Tahir Çağa and İsmail Demir.

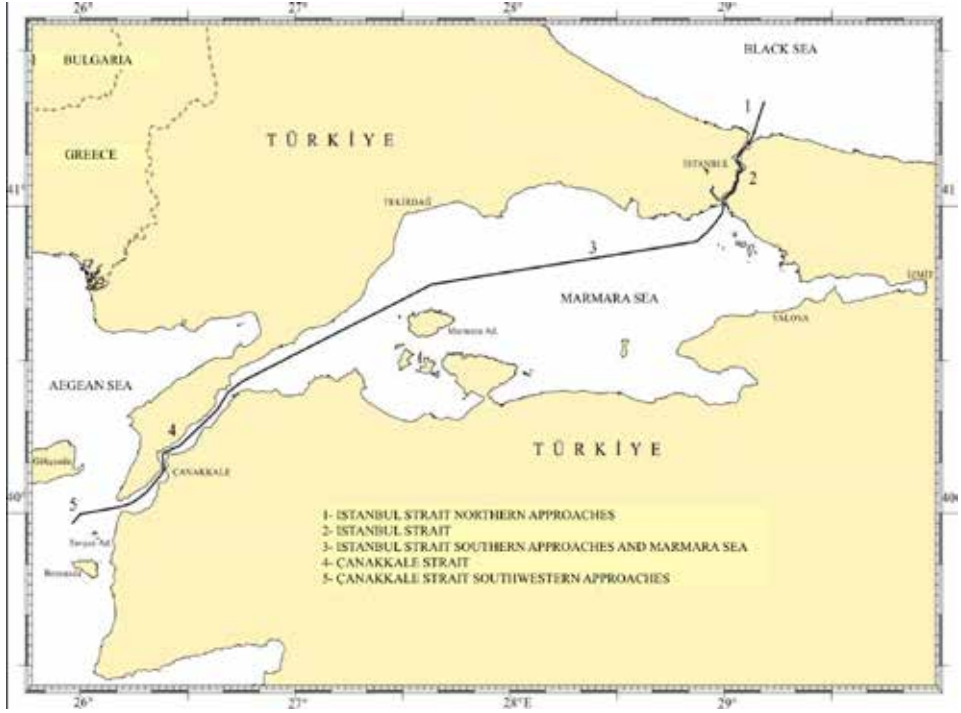
The main purpose of the study is to find a solution on how the Golden Franc application, on which the Turkish straits passage fees are based, can be updated to the benefit of the Republic of Türkiye since the amounts and values specified in the annexes of the Montreux Convention are quite low today as they have not been updated. The research investigates how Türkiye can adapt the Gold Franc practice to the current fees. In addition to this question, this study also seeks an answer for a methodology to update the tariffs. The main hypothesis in the article is that the Gold Franc practice has lost its value today and Türkiye receives less income than it should have. Although it is an important issue, this field has received little attention in the literature. In our research on the Montreux Convention and the Golden Franc practice, we see mostly the works and research of Tahir Çağa and İsmail Demir. Their articles are basically about the calculation of duties and taxes to be collected from merchant ships transiting through the Turkish Straits under the Montreux Convention.

Conducting various calculations and proposing new tariffs compatible with new conditions constitute the core of this study. This study uses the Montreux Convention as the primary source and utilises the previous studies. Statistics and numbers of passages through the Turkish Straits were obtained from the website of the General Directorate of Coastal Safety. As a result, the study finds out that the new pricing to be applied can provide more income to Türkiye. This study also aims to underline the appropriateness of new applications to the Montreux Convention and its spirit.

1. Physical Characteristics of Straits and Official Statistics

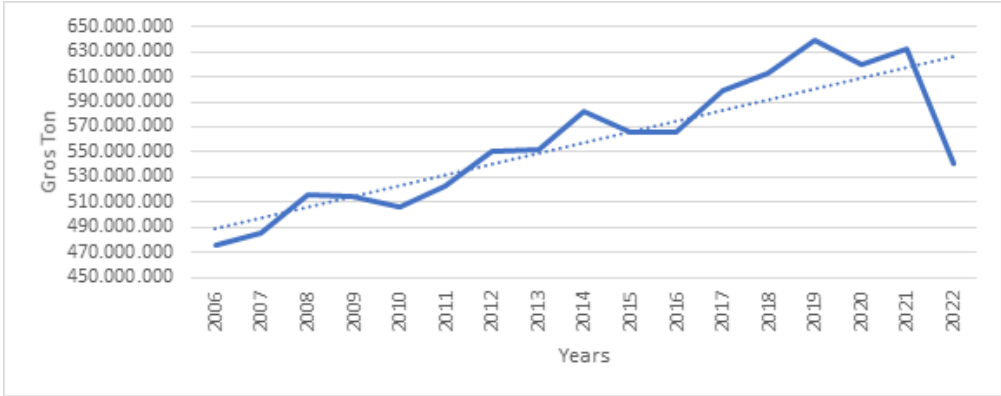
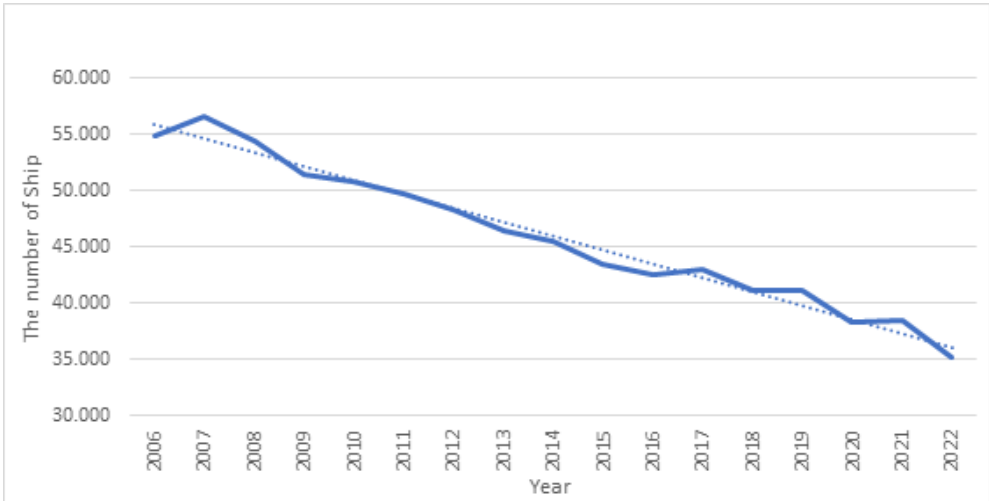
In brief, the Turkish Straits encompass a waterway spanning a total of 164 miles, which includes the İstanbul Strait, Çanakkale Strait, and the Sea of Marmara. The İstanbul Strait measures 17 nautical miles, whereas the Çanakkale Strait extends over 37 nautical miles, and the Sea of Marmara covers a length of 110 nautical miles. İstanbul Strait is 700 meters at its narrowest point, while the Çanakkale Strait is 1200 meters at its narrowest point.

Map 1. Turkish Straits⁵



When the statistical data published by the Directorate General of Coastal Safety is examined, we see that 54,880 vessels (31,880 non-stop) crossed İstanbul Strait in 2006 with 476 million gross tons, while this figure was 541 million tons with 35,146 vessels (20,670 non-stop) in 2022. As seen from the data, although there has been a decrease in the number of ships, the total gross tonnage has increased by more than 65 million tons from 2006 to 2022. The detailed graph of the data over the years is presented below.

⁵“Türk Boğazları Deniz Trafik Düzeni Yönetmeliği”, <https://www.mevzuat.gov.tr/MevzuatMetin/21.5.1426.pdf>, accessed 06.12.2022.

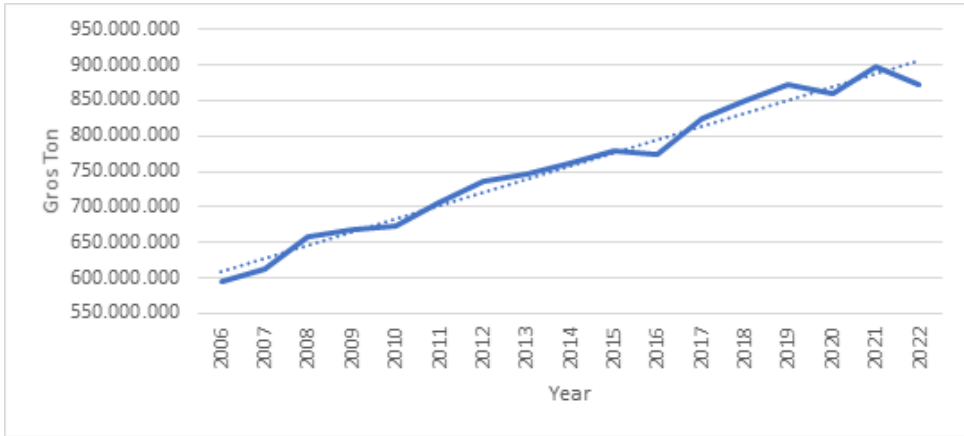
Graph 1. Distribution of Ships Passing through İstanbul Strait and their Tonnages by Years⁶**Graph 2.** Distribution of Ships Passing through İstanbul Strait⁷

When a similar situation is analysed for Çanakkale Strait, it is observed that a total of 48,915 ships (32,061 non-stop) passed through carrying 596 million tons in 2006. These numbers had risen to 42,340 ships (20,584 non-stop) transporting 872 million tons by 2022. During the period from 2006 to 2022, the volume of cargo transported through Çanakkale Strait increased by approximately 300 million tons. The decrease in tonnage in the Turkish Straits in 2022 is attributed to the Russia-Ukraine crisis.

6 “İstatistikler”, <https://www.kiyiemniyeti.gov.tr/istatistikler>, accessed 06.12.2022.

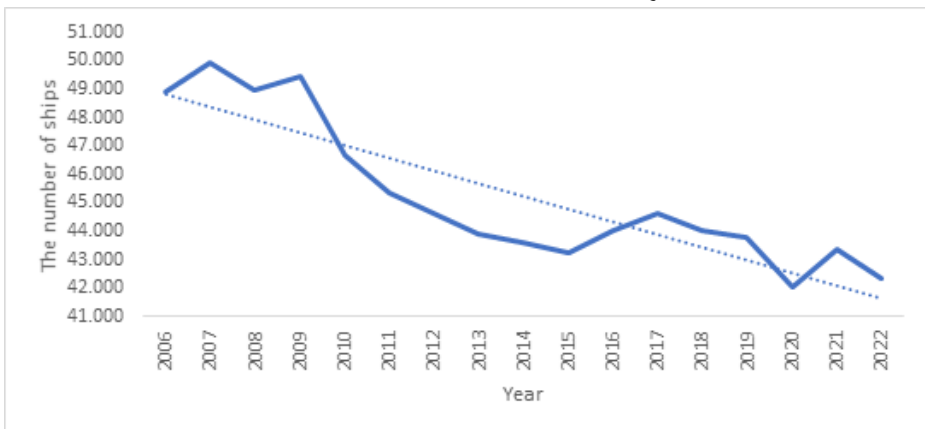
7 “İstatistikler”, <https://www.kiyiemniyeti.gov.tr/istatistikler>, accessed 06.12.2022.

Graph 3. Distribution of Ships Passing through Çanakkale Strait and their Tonnages by Years⁸



According to statistical data released by the Directorate General of Coastal Safety, an average of 9,000 ships carrying dangerous goods pass through İstanbul Strait annually. Out of the 35,146 ships that transited the İstanbul Strait in 2022, 23,380 were assisted by pilotage, whereas 11,776 vessels sailed without pilotage support. Similarly, an average of 9,200 ships carrying dangerous cargo pass Çanakkale Strait each year. Among the 42,340 ships that navigated Çanakkale Strait in 2022, 23,969 ships had pilotage assistance, while 18,371 vessels did not. Additionally, when the passenger traffic within the region operating on opposite sides of both straits is included in these ship counts, a notable increase in the overall number of ships transiting through the straits becomes apparent.

Graph 4. Distribution of Ships Passing through Çanakkale Strait⁹



8 “İstatistikler”, <https://www.kiyiemniyeti.gov.tr/istatistikler>, accessed n06.12.2022.

9 “İstatistikler”, <https://www.kiyiemniyeti.gov.tr/istatistikler>, accessed 06.12.2022.

2. Transit Regime of Straits Under the Montreux Convention

In the first article of the Montreux Convention, the principle of “freedom of transit and navigation” was accepted for non-stop passages through the İstanbul and Çanakkale Straits. The second article stipulates that the taxes and charges delineated in Annex 1 of the treaty will be levied by the pertinent Turkish authorities on the commercial vessels that intend to traverse these waterways.

In Annex-1, the charges for services during transit are specified in terms of Golden Franks per net ton and categorized based on the type of service. The applicable tariff in this regard is presented below:

Table 1. The Taxes and Charges to be Levied¹⁰

Sanitary Control	Gold Frank (GF)
Each ton of net register tonnage	0.075
Lighthouses, Light, and Channel Buoys:	
Up to 800 tons	0.42
Above 800 tons	0.21
Life Saving Services	
Each ton of net register tonnage	0.10

Although the Montreux Convention itself does not provide a direct definition of GF, its reference is explicitly clarified through a footnote in Annex 1. The footnote states “At present, 100 Turkish penny is worth approximately 2 GF 50 centimes.” This footnote holds significance for two reasons.

Firstly, when one considers the prevailing market valuation during the period in which the convention was signed, it becomes apparent that the GF in question is the French GF, specifically the Germinal Frank. This currency was introduced by Napoleon in 1805 and was adopted as the unit of account by the League of Nations in 1920. It contained 10/31 grams of gold on a scale of 900/1000. This equated to 0.290323 grams of pure gold. It is crucial to note that there was another GF known as the Poincaré Franc concurrently in circulation, containing 65.5 milligrams of gold on the 900/1000 carat scale. However, the exchange value mentioned in the footnote (100 Turkish penny is equivalent to approximately 2 GF 50 centimes) points towards the GF referred to in the convention being the Germinal Frank. In summary, the GF cited in the article is the Golden Frank, specifically the Germinal Frank, rather than the Poincaré Frank.

Second, this footnote signifies that Türkiye has the prerogative to impose charges by utilizing the GF at its present market exchange rate. The point of contention does not lie within the clauses of the Montreux Convention itself but

¹⁰ “Montrö Sözleşmesi”, Deniz Kuvvetleri Komutanlığı Hidrografi Yayını, İstanbul, 2000, p. 18.

rather revolves around the application of fees based on the prevailing market valuation of the currency stipulated therein.

Another important consideration pertains to the fact that these charges are designed for dual transits across the Straits. In summary, the fees include a transit from the Aegean Sea to the Black Sea and a return trip to the Aegean Sea or a transit from the Black Sea to the Aegean Sea through the Straits and subsequently a return trip to the Black Sea. However, if a merchant ship surpasses six months from the date, it entered the Straits for its outbound voyage and crosses the Straits again to return to the Aegean Sea or the Black Sea, as it may be the case, the above-mentioned fees are re-charged from this ship regardless of its flag at the stated Gold Franc value. In addition, in cases where a merchant vessel declares that it will not return after crossing the Straits, half of the said fees are collected. Moreover, Türkiye has the right to make changes in the tariffs at any time, provided that they do not exceed the specified amount of Gold Francs. However, charging a fee surpassing the tariff value specified in the Montreux Convention requires the revision of the Convention.¹¹

3. On the Value of Gold Franc

The profound economic downturn of the 1930s, the nations grappling with severe economic decline during the Second World War, the international currency exchange grinding to a halt, and the suspension of international trade due to the war were the events which all underscored the necessity for devising a new international system to guarantee economic stability. Responding to this necessity, the Bretton Woods System was established in 1944. Under this novel framework, the United States (US) Dollar was pegged to gold and the currencies of other countries were tied to the Dollar. This arrangement aimed to facilitate the restoration of the monetary cycle and foster economic recovery on a global scale.¹²

As a consequence of the link established between the US Dollar (\$) and gold, the value of 1 ounce of gold was fixed at approximately \$35, and the currencies of other countries were also linked to the US dollar. Within this framework, the US dollar was established as the sole currency convertible to gold.

However, the system began to weaken as of 1955, and the situation in which all currencies were linked to the Dollar progressively generated strain within the markets over time. Ultimately, the Bretton Woods system collapsed in 1971, when the US announced that it had stopped its Dollar's association with gold. To be more precise, the US has declared that 1 ounce of gold would not stand at \$35. Subsequently, the US devalued its currency twice, declaring that 1 ounce of gold was \$38 in 1972 and \$42,222 in 1973. However, with the Dollar losing its convertibility to gold, these rates remained theoretical, and gold began to be traded in the free market.¹³

11 İsmail Demir, "Montrö Sözleşmesine Göre Alınan Geçiş Ücretleri", VIII. Symposium of the History of Turkish Sea Trading 2017, p. 61.

12 "Bretton Woods Sistemi", <https://www.britannica.com/topic/Bretton-Woods-system>, accessed 04.12.2022.

13 Tahir Çağa, "Çanakkale ve İstanbul Boğazlarından Transit Geçen Ticaret Gemilerden Alınacak Resimlere Dair", *Journal of Istanbul University Law Faculty*, 1994, No. 1-4, Vol. 54, p. 223.

Table 2. Year-End Prices of 1 Ounce Gold¹⁴

Year	Market Value of 1 Ons Gold (\$)	Year	Market Value of 1 Ons Gold (\$)
1973	115	1980	620
1974	190	1981	410
1975	144	1982	480
1976	138	1983	390
1977	170	1984	315
1978	235	1985	315
1979	560	1986	390
1 Ounce Gold Market Value (\$)			1825

Until 1981, Türkiye calculated the Dollar equivalent of 1 gram of gold by utilizing the relationship that 1 GF is equivalent to 0.290323 grams of pure gold and that 1 ounce of gold (which amounts to 31.10 grams) is valued at \$35. Consequently, the GF value was determined by extracting 0.290323 from this calculation:

$$\text{The value of 31.10 gr. gold} = 35\$$$

$$\text{The value of 1 gr. gold} = (35\$/31.1 \text{ gr.}) = 1.125\$$$

$$1 \text{ GF} = 1,125\$ \times 0.290323 = 0.326\$$$

Nevertheless, as previously highlighted, this calculation lost its applicability in 1971 when the Bretton Woods System collapsed. Subsequently, in 1973, the Dollar underwent devaluation and the equivalence of 1 ounce of gold was adjusted to \$42,222. This equivalency remained theoretical, and gold commenced trading within the open market. Despite these evolving circumstances, Türkiye continued to adhere to the previous pricing system until 1981, that is for over ten years.¹⁵ Within the changes in conditions over the years, the General Directorate of Border and Coastal Health of the said era formally asked the Central Bank of the Republic of Türkiye in 1981 to clarify how the Turkish currency equivalent of the GF, as specified in the Montreux Convention, should be calculated. In reply to this question, the Central Bank provided guidance that the calculation in question should be executed according to the subsequent formula:¹⁶

$$1 \text{ GF} = \frac{\text{Value of US Dollar} \times 0.290323 \text{ gr (Gold quantity in Franc)}}{0.736662 \text{ gr (Gold quantity in Dollar)}}$$

14 "Gold Price", <https://goldprice.org/>, accessed 09.01.2023.

15 Çağa (1994), *Ibid.*, p. 37

16 Çağa (1986), *Ibid.*, p. 225.

In this context, in 1981, the Central Bank employed a rate that had been acknowledged in 1973 but was not actively circulating when performing the calculation. Specifically, 1 ounce of gold was accepted as \$42,222. However, 1 ounce of gold was being traded at \$410 in the open markets during that period.

Nonetheless, if we revert to the calculation based on the stipulated rate, the Central Bank of the period employed the subsequent value and computation:

$$1 \text{ Ounce Gold} = 31.10 \text{ gr Gold} = 42.222\$$$

$$1 \text{ gr Gold} = (42.222\$/31.10 \text{ gr}) = 1.3574\$$$

$$1 \text{ GF} = 1.3574\$ \times 0.290323 = 0.394\$$$

$$1 \$ \Rightarrow (31.10 \text{ gr} / 42.222 \$) = 0.736 \text{ gr Gold}$$

It is important to reiterate that, during the time of this calculation, the market value of an ounce of gold stood at \$410 and \$13.18 per gram. However, the Central Bank adopted a value of \$1.3574 for 1 gram of gold instead of \$13.18, leading to an outcome that was one-tenth of what it should have been. In essence, the Central Bank calculated the cost of 1 gram of gold required for the calculation of 1 GF based on the 1973 data by utilizing parameters from a system that was no longer active. This value was approximated at \$1.35. However, this calculation failed to account for the actual market value of 1 gram of gold in the same period (\$13.18). Consequently, the resulting tariff was established to be 10 times lower than it should have been.

The General Directorate of Border and Coastal Health embraced the formula provided by the Central Bank and aligned its actions with this formula. This alignment was formalized through a General Communiqué with Serial Number 24, issued on 20 November 1981.

This practice of pegging the GF to the Dollar contradicts the essence and objectives of the Montreux Convention. Moreover, this practice has led to an unfavourable situation for Türkiye's national interests, because it caused for the collection of fees that were roughly one-tenth of what was actually due (1.3574\$/13.18\$).

Regarding this pricing framework, the assessments put forth by Prof. Dr. Tahir Çağa, which remain relevant, were succinctly summarized by İsmail Demir as follows:¹⁷

“1. The GF principle is designed to safeguard Türkiye from currency fluctuations and to ascertain the relevant charges in terms that reflect real value.

2. It is against Türkiye's interests to make calculations through an obsolete method proposed by the Central Bank of the Republic of Türkiye.

17 Demir, *Ibid.*, pp. 61-70.

3. Following the dissolution of the Bretton Woods System, which brought an end to the convertibility of the Dollar into gold, the link between gold and the Dollar was severed, and the value of gold began to be determined through open market mechanisms. Consequently, Türkiye is required to calculate the Turkish Lira (TL) equivalent of 1 GF based on the market value of gold per ounce.

4. In this context, there are many court decisions that the current market value should be considered in the calculation of the GF value specified in the treaties.

5. In conclusion, 1 US dollar cannot be said to equal 0.736 g of gold and cannot be used in calculations.

Due to the efforts and assessments of Çağa, the actual value was established by increasing the amount to be considered in 1982 by roughly 10-fold. This adjustment took into consideration the necessary value and the underlying calculation model.”

Regrettably, the implementation based on the genuine value of GF, which was instituted through Çağa’s endeavours, faced swift opposition from several nations, notably the Union of Soviet Socialist Republics, as well as Turkish shipowner companies. Confronted with these objections, Türkiye, bearing in mind the Montreux Convention’s authority, reversed its stance in 1983 and reverted to the erroneous practice of pegging GF to the US Dollar. Unfortunately, this misguided practice continued until 2022. In the period from 1983 to 2022, 1 GF was recognized as \$0.8063, forming the basis of the pricing. However, there is no available data elucidating the rationale behind this specific value of 1 GF equating to \$0.8063.

As indicated at the beginning of the article, Türkiye magnified this price by fivefold in 2022 and set the value of GF at \$4. In addition, the Turkish authorities also declared that this pricing would undergo updates every July.

4. Comparison of 1983-2022 Practice: Current Practice and Required Practice

In the calculations for passage fees made between 1983-2022, GF was fixed to the Dollar’s value, setting 1 GF=0.8063 \$. However, Türkiye increased these fees fivefold in October 2022, establishing 1 GF as equal to 4 \$. Consequently, the comparison of fees is presented in the table below:

Table 3. Previous Tariffs

Implementation between 1983-2022 (1 GF=0.8063 \$)		Implementation between 2022-2023 (1 GF=4 \$)
Sanitary Control		
Per Ton	$0.075 GF \times 0.8063 \$/GF = 0.060 \$$	$0.075 GF \times 4 \$/GF = 0.3 \$$
Lighthouses, Light and Channel Buoys		
Up to 800 tons	$0.42 GF \times 0.8063 \$/GF = 0.338 \$$	$0.42 GF \times 4 \$/GF = 1.68 \$$
Above 800 tons	$0.21 GF \times 0.8063 \$/GF = 0.169 \$$	$0.21 GF \times 4 \$/GF = 0.84 \$$
Life Saving Services		
Per Ton	$0.10 GF \times 0.8063 \$/GF = 0.08063 \$$	$0.10 GF \times 4 \$/GF = 0.4 \$$

As stated above, in line with the spirit of the convention, the free market value of gold must be taken into account in the calculation of GF. Today, an ounce of gold (31.1034768 gr) is traded on the free market for around \$1825. In this context, the

gram value of gold is approximately \$ 59 ($\frac{1825}{31.1034768} = 58.6751125$).

Since 1 GF is equal to 0.290323 grams of gold, the current value of 1 GF is roughly \$17 ($58.6751125 \times 0.290323 = 17.0347347$). The fees to be charged according to this current value are presented in the table below.

Table 4. Current Tariffs

Sanitary Control	
Per Ton	0.075 GF x 17.0347347 \$/GF = 1.277 \$
Lighthouses, Light and Channel Buoys	
Up to 800 tons	0.42 GF x 17.0347347 \$/GF = 7.154 \$
Above 800 tons	0.21 GF x 17.0347347 \$/GF = 3.577 \$
Life Saving Services	
Per Ton	0.10 GF x 17.0347347 \$/GF = 1.703 \$

Below is the comparative table illustrating the remuneration rates since 1983:

Table 5. Comparison of the Previous Fees, Current Fees, and the Required Fees

	1983-2022 (\$)	Current (\$)	Expected (\$)
Sanitary Control			
Per Ton	0.060	0.3	1.2776051
Lighthouses, Light and Channel Buoys			
Up to 800 tons	0.338	1.68	7.15458857
Above 800 tons	0.169	0.84	3.5773
Life Saving Services			
Per Ton	0.08063	0.4	1.70347347

Considering the available information, had the GF value been calculated based on the market value of gold from 1983 to October 2022, the generated income would have been around 21 times greater. However, through the appropriate decision made in October 2022, Türkiye increased the fees fivefold, approximating them to the genuine value of GF. Moreover, the provision that Türkiye will reassess the GF value annually signifies a gradual reduction in the present disparity in the foreseeable future. Within this framework, it is noteworthy that the fees have been elevated from \$4 to \$4.42, effective from July 2023.

In the present scenario (\$4), a comparison between the existing GF value and the necessary GF value for a 1500 net-ton ship reveals the values outlined in the table below:

Table 6. Fees to be Obtained from a 1500 Ton Ship according to the Existing and Required Fees Schedule

	Existing Fees (\$)	Required Fes
Sanitary Control	0.3 x 1500 = 450	1.277 x 1500 = 1916
Lighthouses, Light and Channel Buoys	0.84 x 1500 = 1260	3.577 x 1500 = 5366
Life Saving Services	0.4 x 1500 = 600	1.703 x 1500 = 2555
Total	2310	9837
Difference Ratio		4.25

As evident from the illustrative table above, the fee charged now is 4.25 times lower than the actual passage rate.

Finally, the press states that the fees have been increased by approximately five times and 1 GF has been determined as 4 \$ and it has been revised to 4,42 \$ as of July 2023¹⁸ and the GF value will be updated on 1 July every year. This is an important step for Türkiye to get more income from the passage fees.¹⁹

Conclusion

As stated above, The Lausanne Straits Convention had failed to address the security of the Turkish straits and, a new convention about these straits had become compulsory. Under the provisions of the Montreux Convention signed on July 20, 1936, Türkiye has the authority to levy taxes and charges following the actual value of the GF. It is important to note that Türkiye has not relinquished its right to assess fees under the authentic GF value. This right remains intact and only the authorities of the Republic of Türkiye are vested with the prerogative to establish regulations in this context. Furthermore, the implementation of charges aligned with the actual GF value does not signify an alteration to the convention or in any manner indicate a shift in Türkiye's intent to modify the treaty. The provision clearly provides for the execution of procedures for the modification of the contract at the point of changing these rates. In this context and considering that the annual amount of tonnage increases, it is important for Türkiye's interests to return to the original calculation method, which was previously pointed out by Çağa and which remained in force for a short time. Within this framework, the Republic of Türkiye has taken some steps regarding the issue recently.

In summary, it would be accurate to state that "The Gold Franc is the currency equivalent to the Germinal Franc, which is commonly used in the majority of international transportation agreements." Updates in value have been periodically carried out in line with prevailing circumstances in numerous commercial international contracts where the gold franc serves as a unit of account.

18 "Uluslararası gemilerin boğazlarda geçişine yeni düzenleme", <https://www.trthaber.com/haber/gundem/uluslararasi-gemilerin-bogazlardan-gecisine-yeni-duzenleme-774019.html>, accessed 12.06.2023.

19 "Boğaz Geçiş Ücreti 5 Kat Artıyor", https://www.ntv.com.tr/turkiye/bogaz-gecis-ucreti-5-kat-artiyor,1bLlbiRL4EeSvt7-rc_5AQ, accessed 04.12.2023.

In this context, considering the increasing numbers of transits through the Turkish Straits, the variable volume of ships traversing the straits, and the economic responsibilities, it becomes evident that the adjustment of fees is an inherent and reasonable practice.

Geniş Özet

Türk Boğazları olarak bilinen İstanbul Boğazı, Marmara ve Çanakkale Boğazı'ndan seyir ve sefer geçişleri 1936 yılında imzalanan Montrö Sözleşmesi ile düzenlenmiştir. Bu sözleşme kapsamında, boğazlardan yararlanacak gemiler ile bu boğazların egemenliğine haiz Türkiye Cumhuriyeti'nin tasarrufları kapsamında karşılıklı hak ve yükümlülükler bulunmaktadır. Türk Boğazlarından geçiş yapan gemiler seyir serbestisinden istifade ederken, Türkiye Cumhuriyeti devletine sözleşmenin Ek-1'inde bulunan hizmetlere (Sıhhi kontrol, Fener, Tahlisiye hizmeti) yönelik ödeme yapmaları hükme bağlanmıştır. Söz konusu ekte ödenecek miktarın net ton başına ve hizmet türü itibariyle Altın Frank üzerinden tespit edileceği belirtilmektedir. Bu çalışmada, Boğazlardan geçen gemi sayısı ve toplam tonaj dikkate alınarak, Türkiye tarafından alınacak ücretin belirlenmesinde Montrö Sözleşmesi'ndeki Altın Frank uygulaması ile mevcut uygulamaların karşılıklı mukayesesi yapılmış ve yöntemlerden hangisinin Türkiye Cumhuriyeti'ne daha fazla kazanım sağlayacağı tartışılmıştır.

Montrö Sözleşmesi'ne göre boğazlardan geçecek gemilerden alınacak harçlar Altın Frank (AF) (*Germinal Frank*) değeri üzerinden belirlenmektedir. İkinci Dünya Savaşı sonrasında altının sadece Amerikan Doları ile dönüştürülebilir olduğu Bretton Woods sisteminin yürürlüğe girmesi ile AF dolara bağlı olarak hesaplanabilmektedir. Ancak Bretton Woods sisteminin kaldırılması ve doların artık altına bağlı olmayacağını ilanı ile AF'nin, dolayısıyla söz konusu geçiş ücretlerinin belirlenmesinde bazı hatalar ve tereddütler ortaya çıkmıştır. Bu hatalı uygulama sonucu yıllarca eksik ücretlendirme yapılmış ve esasen alınabilecek miktarın çok altında kazanç elde edilmiştir. Ancak Ağustos 2022'de Türkiye Cumhuriyeti tarafından boğaz geçişlerinde alınacak ücretlerin yeniden belirleneceğine ve AF değerinin her yıl 1 Temmuz'da yeniden tespit edileceğine yönelik yapılan açıklamalar ile bu gelişmeleri müteakip 7 Ekim 2022 yılında uygulamaya konulan yeni fiyatlandırma sayesinde, gerçek AF değeri ile mevcut uygulamalar arasındaki farkın yıllara sari olarak tedricen azalacağı ve bu vesile ile de Türkiye'nin Boğazlardan geçen gemilerden daha fazla gelir elde edebileceği kıymetlendirilmektedir.

Boğazlara yönelik olarak Lozan Antlaşması'nın eki olan Lozan Boğazlar Sözleşmesi; yaklaşan İkinci Dünya Savaşı, Boğazların güvenliği, Türkiye'nin tarafsız olduğu hallerin düzenlenmemiş olması ve Türkiye'nin yaşadığı güvenlik endişeleri nedeni ile dönemin ihtiyaçlarına cevap vermemekteydi. Bu maksatla Türkiye, 10 Nisan 1936'da sözleşmenin taraflarına bir nota vererek belirtilen endişeler çerçevesinde Boğazlara yönelik yeni bir konferans yapılmasını talep etmiştir.

Bu çerçevede 20 Temmuz 1936 yılında imzalanan Montrö Sözleşmesi hükümlerine göre, Türkiye'nin geçiş ücretlerini AF'nin gerçek değeri üzerinden tahsil etmeye hakkı bulunmaktadır. Türkiye'nin bu haktan yani gerçek AF değeri

üzerinden ücretlendirme yapması hakkında vazgeçtiği düşünülemez. Bu konuda düzenleme yapma yetkisi sadece Türkiye Cumhuriyeti makamlarına aittir. Ayrıca, AF'ın gerçek değeri üzerinden ücretlendirme, Sözleşme'nin değişmesi ya da herhangi bir şekilde Türkiye'nin Sözleşme'nin değiştirilmesine yönelik bir irade beyanına işaret etmemektedir.

Sonuç olarak, “Altın Frank, uluslararası ulaştırma sözleşmelerinin birçoğunda hesap birimi olarak kabul edilmiş Germinal Frank'a eşdeğer para birimidir” şeklinde bir ifade yanlış olmayacaktır. Altın Frank'ın birim olarak kabul edildiği pek çok ticari uluslararası sözleşmede zaman içinde ve günün koşullarına uygun olarak değer güncellemeleri yapılmıştır.²⁰ Bu bağlamda, Türk Boğazlarından geçen gemilerin sayısında artış ve geçiş yapan gemilerin değişen tonajlarının Türkiye'ye etkileri ile ekonomik yükümlülük dikkate alındığında, Boğazlardan geçiş ücretinin güncellenmesinin tabii bir uygulamadan ibaret olduğu açıkça görülmektedir.

Conflict of Interest Statement:

The authors declare that there is no conflict of interest.

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20 Akten, Ibid., p.45.

References

Published Works

- AKTEN Necmettin (2012). “Taşıyan Sorumluluğunda Ölçü: Koli, Parça veya Yükçün Başına Sorumluluk”, *Journal of İstanbul Bar*, 86:1, 31-51.
- “Conference at Montreux for revision of the regime of the Straits, June 22–July 20, 1936. Assurance by Türkiye of American participation in benefits of the convention signed July 20, 1936”. Foreign Relations of the United States Diplomatic Papers, Volume III, 1936, 503-529.
- ÇAĞA Tahir (1994). “Çanakkale ve İstanbul Boğazlarından Transit Geçen Ticaret Gemilerden Alınacak Resimlere Dair”, *Journal of İstanbul University Law Faculty*, 54:1-4, 221-236.
- ÇAĞA Tahir (1986). “Gemilerden Altın Frank Esası Üzerinden Alınacak Resimlere Dair”, *İdare Hukuku ve İlimleri Dergisi*, 3:1-3, 35-45.
- DEMİR İsmail (2017). “Montrö Sözleşmesine Göre Alınan Geçiş Ücretleri”, VIII. Symposium of the History of Turkish Sea Trading, 61-70.
- KURAN, Selami (2020). *Uluslararası Deniz Hukuku*, Beta Yayınları, İstanbul.
- Montrö Sözleşmesi (2000). Deniz Kuvvetleri Komutanlığı Hidrografi Yayınları, İstanbul.

Internet Sources

- Britannica Site. “Bretton Woods Sistemi”, <https://www.britannica.com/topic/Bretton-Woods-system>, accessed 04.12.2022.
- General Directorate of Coastal Safety Site. “İstatistikler”, <https://www.kiyiemniyeti.gov.tr/istatistikler>, accessed 06.12.2022.
- Gold Price Site. “Gold Price”, <http://goldprice.org>, accessed 09.01.2023.
- Legislation Information Site. “Türk Boğazları Deniz Trafik Düzeni Yönetmeliği”, <https://www.mevzuat.gov.tr/MevzuatMetin/21.5.1426.pdf>, accessed 06.12.2022.
- NTV Site. “Boğaz Geçiş Ücreti 5 Kat Artıyor”. https://www.ntv.com.tr/turkiye/bogaz-gecis-ucreti-5-kat-artiyor,1bLIbiRL4EeSvt7-rc_5AQ, accessed 04.12.2023.
- TRT Site. “Uluslararası Gemilerin Boğazlarda Geçişine Yeni Düzenleme”, <https://www.trthaber.com/haber/gundem/uluslararasi-gemilerin-bogazlardan-gecisine-yeni-duzenleme-774019.html>, accessed 12.06.2023.