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Canal Istanbul: Turkey's Controversial Megaproject

Its Likely Impacts on the Montreux Convention and Regional Stability

Tuba Eldem

On June 26, the Turkish government began constructing the first bridge over Canal Istanbul, the huge waterway project designed to run parallel to the Bosphorus Strait. Ankara has presented the megaproject as a strategic move that will turn Turkey into a logistics base and grant it geo-political leverage over both regional and international trade and transportation routes. However, Turkey's political opposition considers Canal Istanbul to be a rent-seeking project designed to attract international – probably Chinese and Arab – investment in the hope of reviving Turkey's deteriorating economy. The Canal may also affect the Montreux Convention, the decades old treaty that governs the Turkish Straits. Given the rivalry between the US and Russia, questions around the Montreux Convention will add another point of contention, increase tensions and may also present serious consequences for Turkey.

On April 5, Turkish police detained 10, and summoned four, of the 104 retired admirals who, in an open letter, expressed their concerns that Canal Istanbul would jeopardise Ankara's existing rights over the Turkish Straits as granted by the Montreux Convention. The detention of the admirals coincided with Washington's notification that it would deploy two warships to the Black Sea amid Russia's military build-up along Ukraine's borders. On April 9, Turkey's Foreign Ministry announced that the two US warships would pass to the Black Sea and remain there until May 4. Washington's notice adhered to the Montreux Convention, which requires 15 days' advance notice to be given and limits the

presence of non-littoral states' warships in the Black Sea to 21 days. The announcement triggered an immediate reaction from Moscow, which labelled the move a "provocative measure". Although the US ultimately cancelled the deployment of these warships amid rising tensions, this series of events nevertheless reminded those watching of both the geo-strategic importance of the Turkish Straits and the critical role of the Montreux Convention in Black Sea regional security.

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The Turkish Straits as a Critical Maritime Chokepoint

The Bosphorus and the Dardanelles, collectively known as the Turkish Straits, connect the Black Sea to the Mediterranean. They are among the most critical maritime chokepoints worldwide. As major strategic waterways, the channels are home to natural maritime traffic congestion and carry significant geo-economic and geo-strategic importance. Given that 90 percent of world trade is carried out via the sea, blocking such chokepoints, even temporarily, could lead to substantial spikes in the costs of traded goods as distances, sailing periods and shipping costs increase, the impacts of which would be felt by exporting and importing economies alike. Controlling and securing maritime chokepoints, thus, represents an objective for every major geo-strategic player.

As noted in a 2017 US Energy Information Administration report, the Turkish Straits, seeing 4 percent of global maritime oil pass through their waters, are one of the seven critical chokepoints for the maritime transit of oil. They also occupy an important geo-political role in the EU's oil supply from Central Asia and the Caucasus. The construction of pipelines linking Azerbaijan and Kazakhstan to the Black Sea via Georgia and Russia after the end of the Cold War substantially increased the amount of oil shipped through the Straits, reaching its peak in 2004 at more than 3.4 million barrels per day. Although the volume of oil transiting the Turkish Straits fell to 2.4 million barrels per day in 2016 as Russia shifted its crude oil exports toward the Baltic ports, oil traffic through the Straits is expected to increase in step with Kazakhstan's growing production.

The Turkish Straits were also cited as one of the eight critical chokepoints of global food security in a 2017 Chatham House report. One fifth of global wheat exports and one sixth of global maize exports pass through the Turkish Straits, making them the world's most significant transit point for the grains. 77 percent of wheat exports

from Russia, Ukraine and Kazakhstan pass through the Turkish Straits. Rapid and continued growth in exports from the Black Sea region is expected to increase dependence on the Turkish Straits, particularly when it comes to wheat. The Turkish Straits are considered a highly critical waterway not only because of the volume of trade that passes through them each year, but also because no alternative maritime routes exist.

Canal Istanbul: A Controversial Megaproject Dividing the Nation

Canal Istanbul, announced in 2011 by Turkey's then-Prime Minister Recep Tayyip Erdogan, will be a 45-kilometre-long, 275-metre-wide and 20.75-metre-deep artificial waterway running in parallel to the Bosphorus, connecting the Black Sea to the Sea of Marmara. The Turkish government argues that the estimated \$10–20 billion project will reduce oil tanker traffic through the Bosphorus Strait and minimise the risks and dangers associated with maritime congestion. Around 43,000 vessels transit the Turkish Straits each year (more than the Suez Canal and the Panama Canal combined) and they are less than 700 metres wide at their narrowest point. The Bosphorus is the world's narrowest strait for international navigation purposes and it is also one of the busiest. Since the 1950s more than 461 maritime incidents have occurred here, including more serious ones in 1979 and 1994. The government expects that the relatively straight route of the artificial Canal Istanbul, compared to the sharp bends of the Bosphorus, will help to prevent accidents and relieve congestion as tanker traffic would be diverted to the new canal. Turkey's Minister of Transport estimates that revenue from tolls would be at least one billion dollars annually and could grow to five billion dollars when maximum capacity is reached.

However, critics of the project cast doubt on these claims on several grounds. Environmentalists and the Chamber of Environmental Engineers argue that the Canal

would imperil Istanbul's tenuous water supply and devastate the surrounding ecosystem, including the natural equilibrium between the Black Sea and the Sea of Marmara. The Chamber of Geological Engineers warns that the Canal will exacerbate expected damage from the next major earthquake in the coming decades. Maritime authorities and marine scientists underline that 66 percent of the accidents in the Bosphorus in the last 15 years occurred due to technical failures, not due the sinuous geography. They also note that the number of accidents has decreased by 39 percent thanks to a series of measures undertaken by successive Turkish governments since 1994. These include the adoption of a traffic separation scheme in 1994, the Maritime Traffic Regulations for the Turkish Straits of 1994 (revised in 1998), the radar-based vessel traffic services system of 2003, and more recently, the Instructions for the Implementation of the Rules Regulating the Turkish Straits Maritime Traffic Scheme of 2018. Captains of freight ships point out that the risk of accidents is expected to be even higher in the new canal with its depth of only 20.75 metres, especially for tankers with a draft of more than 17 metres. They go on to note that rescue operations will be more complicated in the Canal as its width is only 275 metres. Retired generals and admirals fear that the Canal will negatively impact the defence of the European part of Istanbul, as it will effectively transform the city into an island while also isolating Thrace from the rest of Turkey. Economists object to the Canal by arguing that the Turkish economy is not strong enough to bear the burden of a project of such scale. They also find the government's revenue estimates to be overly optimistic considering that the number of vessels passing through the Bosphorus has fallen by 43 percent between 2006 and 2020, from 54,880 to 38,404 per year. This diminishing traffic can be attributed to decreased oil reserves, Russia's shift to exporting oil via the Baltic Sea ports, the formation of new passage-ways in the Arctic Sea, pipelines that allow transit to bypass the Bosphorus (such as the

Druzhba and the Baku – Tbilisi – Ceyhan pipelines) and the use of larger ships that can carry more cargo. The Union of Chambers of Turkish Engineers and Architects, and the Istanbul Metropolitan Municipality argue that the true driver of the project is the economic rent that will be generated by new zoning plans and licensing of real-estate developments on the 36,453 hectares of land around the Canal.

A Real Estate Development Project?

The feasibility report prepared by the Ministry of Infrastructure and Transport supports the above claims that real estate zoning would result in significant revenue, to the sum of an estimated \$10.5 billion. This is because Canal Istanbul involves the construction of two new "smart cities" along its banks that would host at least half a million residents and various amenities like a marina, container port, logistics centre, six bridge crossings, two deep subway crossings and a conventional railroad crossing that would run to Istanbul's new airport. The government expects that the associated construction activity alone would provide a welcome boost to Turkey's ailing economy and help to mitigate unemployment, which reached 13.4 percent in February 2021 according to the Turkish Statistical Institute. The project is also expected to bring in fresh foreign direct investment (FDI), especially from Gulf Arab nations, led by Qatar. While FDI to Turkey has declined significantly in recent years, the share of revenue from real estate sales to foreigners has increased rapidly. The share of real estate in net FDI, which was 13 percent in 2007, increased to 54 percent in 2019 and 57 percent in 2020. With foreign currency reserves in Turkey dwindling and the Turkish lira falling against the US dollar and euro, investment in the real estate sector has, thus, become the principal way to bring in foreign cash and strengthen the economic parameters ahead of future elections.

Project Finance: China's Trojan Horse?

Nonetheless, project financing remains in limbo. Citing the UN-backed Principles for Responsible Banking, some of Turkey's biggest banks are reluctant to finance the project due to environmental concerns while also contemplating the inherent risks in financing such a large project that could be thwarted at a later stage. The reluctance of some Turkish lenders makes it more likely that state and foreign financing will take centre stage.

On April 30, Minister of Infrastructure and Transport Adil Karaismailoglu declared that financial institutions from the Netherlands, Belgium, China and Russia were interested in the project. As part of its Maritime Silk Road Initiative, China is reportedly showing greatest interest in the tender. China seeks to control "maritime choke-points" and has undertaken port-related cooperation with countries along the Mediterranean and Black Sea. Turkey's estrangement from the West following the abortive military coup of July 15, 2016 provided an opportunity for China to improve cooperative relations with Turkey that had begun back in 2010. In November 2016, Turkey and China signed an agreement on Turkey's inclusion in China's Belt and Road Initiative (BRI), through which Beijing promised to invest \$750 million in Turkish infrastructure. Since then, the volume of China's FDI in Turkey has increased more than three-fold.

Back in 2018, the press reported that China was willing to invest \$65 billion in total into the project and could immediately transfer \$30 billion as a deposit. More recently, the Industrial and Commercial Bank of China (ICBC), the Bank of China, and the Hong Kong-based British bank HSBC are cited as potential financiers of the project. The ICBC and the Bank of China are significant sources of BRI financing in Turkey and in other parts of the world. The ICBC acquired a 75.5 percent stake of the Turkey's Tekstilbank in 2014 and provided a \$2.7 billion loan for Marmaray (the sub-

Bosporus railway tunnel) and for the Yavuz Sultan Selim Bridge over the Bosporus in 2018. Later in 2019, this time together with the Bank of China and the China Development Bank, the ICBC offered \$1.7 billion to the Hunutlu coal-based thermal power plant project in Adana province, which was cited by the Xinhua News Agency in September 2019 as a "flagship project" linking China's BRI with Turkey's pre-planned "Middle Corridor". In 2015, a Chinese state-owned consortium acquired a 65 percent share of Istanbul's Kumport terminal in the Ambarli port complex near the Bosporus. Kumport terminal, the third largest port in Turkey, handles 16 percent of the country's container traffic. This investment suggests that China might indeed be interested in financing Canal Istanbul and maritime ports in Turkey. According to the Turkish TV channel TGRT, the financing of Canal Istanbul was one of the priority items on the agenda during the visit of Chinese Foreign Minister Wang Yi to Ankara on March 25.

A Geo-strategic Pivot?

Maybe more than the environmental and economic costs, the geo-political implications of Canal Istanbul have rung alarm bells both at home and abroad considering that Ankara has been presenting mixed messages with regards to the Montreux Convention. On the one hand, President Erdogan seems to consider the Montreux Convention as disadvantageous to Turkey's regional power aspirations. On December 18, 2019, he stated that "there is no right given to us in Montreux. Ships come and go through the Straits as they wish [...] Canal Istanbul will not be like that. We will have a new legal regime when we make this investment, just as the Suez Canal and others". Erdogan reiterated in Istanbul on December 23, 2019 that Canal Istanbul would reveal what Turkey had gained and lost due to the Convention. These statements triggered 126 retired ambassadors to release a joint statement on January 31,

2020, calling for the abandonment of this project that “could lead to Turkey losing its absolute sovereignty over the Bosphorus and Dardanelles and the Sea of Marmara” by opening the Montreux Convention up to discussion. Reminding their audience of Russia’s enduring claims to the Straits as well as the US’s long-time interest in revising the Convention, the former ambassadors underlined that Canal Istanbul may end up serving the interests of those states. Foreign Minister Mevlut Cavusoglu criticised the joint declaration on February 2, 2020, decrying it as “a purely politically motivated statement” while arguing that Canal Istanbul would not put the Montreux Convention at risk as Turkey would not force any vessel to use the waterway.

Discussions on the Montreux Convention have, however, resurged with the publication of an open letter signed by 104 retired admirals on April 3, 2021. The letter called on the government to “refrain from any kind of action that could make the Montreux Convention a matter of international controversy” and was released shortly after Turkey’s withdrawal from the Istanbul Convention on March 20. Turkey’s withdrawal from the Istanbul Convention was pushed through by presidential decree, triggering a debate on presidential powers and parliamentary oversight. Speaker of the Parliament Mustafa Sentop suggested on March 24 that, in technical terms, it could be possible in principle to withdraw from other international conventions, including the Montreux Convention, by presidential decree. Ankara lambasted the admirals’ letter as a tacit “coup threat” and launched legal proceedings against the retired admirals. Commenting on the letter on April 5, Erdogan sought to cool the controversy but held his ground: “We have neither an ongoing work nor an intention to pull out of the Montreux Convention at present, but we’ll not hesitate to review any agreement with a view of securing a better one for our country if such a need arises in the future”.

How Would the Montreux Convention be Affected by the Construction of a New Canal?

The Montreux Convention of 1936 is a multilateral treaty regulating maritime transit through the Bosphorus, the Dardanelles and the Sea of Marmara. The construction of a manmade canal would not directly affect the rules of Montreux as international law on the sea separates the regime of straits and those of manmade canals. The implementation of new regulations governing the Canal may, nevertheless, raise controversy and thereby open provisions of the Convention to discussion. One possible point of contention could arise from the definition of the Turkish Straits in the preamble of the Montreux Convention as a single unit that comprises the Dardanelles, the Sea of Marmara and the Bosphorus. The proposed canal, however, would only connect the Black Sea and the Sea of Marmara, and ships would still need to traverse the Sea of Marmara and the Dardanelles to access the Aegean Sea. This may prompt the following controversies.

Regarding merchant vessels, Turkey has no right to ban the passage of merchant vessels traversing the Bosphorus as the Convention affirms the principle of freedom of transit and navigation in the Straits *without any time limit* (Article 1) and guarantees all merchant ships free passage during peacetime (Article 2). However, it also enables Turkey to issue “taxes and charges” for sanitary control, service of lighthouses, etc. (Article 2 and Annex I). Currently, Turkey collects around \$25 thousand for ships carrying a capacity of 100 thousand net tons. Under the Convention, tax and charges cover round trip passage (valid for six months) through the entire waterway from the Bosphorus, the Sea of Marmara and the Dardanelles. It may stir controversy if charges would be levied by a new canal, especially given that pilotage and tug service fees that were made compulsory by Turkey in 1994 were again made optional in 1998. This reversion is the result of Russia and other states’ objections to the

fees at the International Maritime Organization; they saw them as contrary to “universally recognized provisions of the Law of the Sea by which no regulations issued by a coastal State may deny, hamper or impair the rights of freedom of passage through international straits” and also as contrary to “the terms of the Montreux Convention”.

Regarding the passage of warships, the Environmental Impact Assessment report published by the Ministry of Environment and Urbanization in 2020, recommends Turkey either to ban the passage of warships through the new canal or to apply the terms of the Convention to it. If Turkey follows the first option, then no problems will arise. However, if it opts for the second, then such a regulation is likely to be contested as the Convention imposes several restrictions on the passage of warships, in terms of their mode of entry, the duration of their stay, their tonnage and their class. Article 13 requests Black Sea littoral states to provide the relevant Turkish authorities with at least 8 days’ notice and non-littoral states 15 days’ notice of an intended transit. Article 14 limits the number of non-littoral naval vessels that can pass through the Straits at any one time to nine. The maximum aggregate tonnage of all foreign naval forces which may be in the course of transit through the Straits at any one time should also not exceed 15,000 tons. Yet, Article 11 grants littoral naval ships a greater tonnage allowance on the condition that these vessels pass through the Straits individually, escorted by no more than two destroyers. Article 18 limits the duration of non-littoral naval warships’ stay in the Black Sea to 21 days, and the aggregate tonnage of warships belonging to all non-littoral states present in the Black Sea at any one time cannot exceed 45,000 tons. Annex II of the Convention prohibits the passage of aircraft carriers. If Turkey allows warships to pass via the Canal, questions may arise about passage permissions as well as tonnage and class restrictions.

If, on the other hand, Turkey uses its statute for foreign warships visiting Turkish ports in the Sea of Marmara, a non-littoral

naval vessel may pass through the Dardanelles and the Sea of Marmara and visit the Port of Istanbul under mutual military relations organised by the Turkish General Staff. As Kurtulus Yucel suggests, such a visit may not be addressed by the Montreux Convention as the warship does not complete the full trip foreseen under Montreux. This prompts the question: can a military vessel coming from the Aegean Sea and visiting the Port of Istanbul (or any Turkish port in the Sea of Marmara) enter the Black Sea without providing advanced notice? If such passage were possible, how would Turkey control whether warships entering or leaving the Black Sea comply with restrictions related to tonnage, class and duration? Thus, it is foreseeable that even if the Canal might not affect the Montreux regime directly, the application of the regulations of the Canal could cause signatory states to argue that Turkey is in violation of the Convention, thereby leading to proposals for the Convention’s denunciation or amendment.

Scenarios of Convention Modification

Article 28 of the Convention allows any one of the signatory states, including Turkey, Great Britain, France, Italy, Greece, Bulgaria, Romania, Russia, Ukraine and Georgia, to request a demand for its denunciation. If this happens, the signatory powers will hold a conference to negotiate a new convention. The Montreux Convention is to continue in force until two years after such notice has been given, although the principle of freedom of transit and navigation shall last “without limit of time”.

Article 29 allows the signatory states to initiate a proposal to amend one or more of the provisions following a period of five years from the date of the entry into force of the Convention in 1936. To be valid, any request for modifications to Articles 14 or 18, which concern aggregate tonnage and the number of war vessels in the Straits and the Black Sea, must be supported by

another signatory state. In the case of modifications to any other article, it must be supported by at least two other signatory states. Notice for any request for revision must be given to all parties three months prior to the end of the five-year period and should contain details of the proposed amendments and the reasoning therefor. If an agreement on these proposals cannot be reached, a conference representing the signatory states will be held in which decisions would be taken by unanimous vote. There is an exception to this rule for proposed amendments to Articles 14 and 18, for which a three-quarter majority of the signatory states must be secured. The said, this majority must include three-quarters of the signatory Black Sea littoral states, one of which must be Turkey. In this context, although Turkey cannot single-handedly force an amendment to the Convention, it has de facto veto power for revisions to Articles 14 and 18. The existing five-year period ends on November 9, 2021, and a proposal for amendments must be put forth on August 9, 2021.

If the Montreux Convention is formally challenged, it is likely that any new treaty would involve a group of countries different from the high contracting parties of 1936. The US would likely want to be represented given its interests and obligations to regional allies. In the face of current and future Russian naval expansion, it is highly likely that Washington would look favourably upon revision of the Convention. As a matter of fact, in 2009, then-US Ambassador to Turkey James Jeffrey proposed breaking the Convention to Retired Vice Admiral Atilla Kiyat, arguing that “nobody can do anything when both Turkey and the US wanted it”. The US could, therefore, arguably look favourably upon revising the following five rules of the Montreux Convention to constrain Russia’s room for manoeuvre. The first is standardisation of the notification period to 15 days for *all* warships, which would send a signal to Moscow that the international community could slow the deployment of Russian naval forces entering the Mediterranean Sea. The

second is the removal of the 21-day duration limit, which would allow NATO vessels to maintain a steady presence in the Black Sea. The third is the tonnage restrictions for warships, which were already a point of contention between US and Turkish diplomats during the Russian-Georgian War of 2008, when Turkey rejected the transit of the US’s 69,552-ton hospital ship as it exceeded tonnage restrictions. The fourth concerns the exclusion of aircraft carriers from accessing the Black Sea. The fifth might be to limit tonnage of commercial ships, which would increase Russia’s oil export costs and slow its access to the market.

From the perspective of the EU, preserving the status quo is important for its energy and security interests. The EU, which receives a large bulk of its oil via the Bosphorus, would arguably be concerned about the potential of higher costs of transport due to transit tolls associated with the new canal. The adverse environmental effects of the Canal that could possibly affect the Aegean Sea may also increase tension between Turkey and EU-member Greece. The EU may use the Barcelona and Bucharest Conventions as well as the EU Coastal and Marine Environment Policy as leverage against the project. From a security perspective, the restrictive provisions of the Montreux Convention are not a disadvantage for the EU because Romanian and Bulgarian naval vessels can pass through the Straits without restrictions. Yet, in the case of a threat against their members in the Black Sea, the EU may look favourably upon revising these restrictive terms of the Convention. In such a scenario, Black Sea littoral states including Ukraine, Georgia, Romania and Bulgaria, may also look favourably upon modifying the Convention. The post-Brexit United Kingdom, which is a party to the Convention, would arguably act similarly to the US regarding possible revisions or a denunciation.

Russia, however, would be deeply concerned about any attempt to alter the status quo as the Convention constrains unwelcome Western presence in the Black Sea

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SWP Comment 43
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while also providing Russia an opportunity to develop an anti-access/area denial (A2/AD) capability. Arguably, the importance of the Turkish Straits for Russia has increased with the start of the Syrian Civil War in 2011. The Turkish Straits provide a unique connection between Moscow's naval bases in Tartus, Syria and in the Black Sea. After all, at 134, Russia accounted for 63 percent of the total 214 warship passages through the Turkish Straits in 2019. Russia, therefore, insists on the application of the Convention to Canal Istanbul as expressed by President Putin in a call with Erdogan on April 9. In 2019, Russian Ambassador to Turkey Aleksei Erkhov stated that Moscow considers the project an internal matter so long as it does not change the Montreux regime. Given that Russia is dependent on the Turkish Straits to export its wheat, oil and natural gas, the tolls for using the new canal could make it less economical to transport goods, having negative consequences for the Russian economy. Thus, Turkey's "encouragement" of ships using the Canal to collect tolls may spark a contestation from Russia. In such a scenario, Russians may insist on limiting Turkey's ability to act unilaterally, yet to what degree Russia could succeed will depend on whether it can convince other maritime powers, especially China, to join them.

Prospects and Pitfalls

Given the prevailing uncertainty over the source of financing and Turkey's enduring debt crisis, double-digit inflation and weakening domestic support for the governing party, the chances of realising the project remain low. Unlike previous mega-projects, it does not enjoy strong public backing. A recent survey revealed that 49 percent of the population opposes the project, while only 38 percent were in favour of it. The leaders of Turkey's main opposition parties, Kemal Kilicdaroglu and

Meral Aksener, as well as Istanbul Mayor Ekrem Imamoglu sent strong messages to the international community and possible financiers that the guarantees for loans will be limited to Erdogan's tenure. Still, Erdogan seems to be determined to carry out the project not only to enhance Turkey's geopolitical leverage but also as a matter of personal prestige. If the project is materialised, Erdogan will be able to one-up Ottoman Sultans, such as Suleiman the Magnificent, who had attempted to build such a canal but eventually failed due to construction challenges. He would also challenge the legacy of Mustafa Kemal Ataturk, who attained his greatest diplomatic success with the Montreux Convention. Building a new canal under full Turkish sovereignty would undermine Russia's influence while potentially advancing US and British interests by providing their navies greater presence in the Black Sea.

For the EU, the project represents a strategic dilemma. On the one hand, the EU could benefit strategically from dealing a blow to Russian influence, but on the other hand, Ankara's exclusive control of the Canal may be detrimental to Brussels' long-term interests as it may result in a more assertive and autonomous Turkey that does not consider European interests. Given the geo-strategic implications of the project, the most prudent course of action for European policymakers would be to keep diplomatic channels open with all Turkish stakeholders on this issue, as failing to do so would mean surrendering the initiative to Erdogan's ambitions alone.

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