Trade in the Ottoman era, c. 1400 - c. 1800[1]

A vast empire with a commercially colossal capital, where 'the buyers and the sellers of the market of the world all come together',[2] the Ottoman empire drew in foreign merchants from all corners of the globe. Such merchants operated within a structure of legal documentation ranging from trade agreements to customs receipts and safe conducts, and a system for appeals and settlement of disputes which incorporated Islamic and consular courts and the direct involvement of the imperial government.

I The *ahidname* between Theory and Practice

In Islamic legal theory the world was divided between the Islamic world (Arabic *dār al-Islām*, Ottoman *darülislam*) and the non-Islamic world (Arabic *dār al-ḥarb*, Ottoman *darülharb*). This division was reflected in the legal status of foreign merchants, those coming into the *darülislam* from the *darülharb* requiring a legal status to enable them to trade within the *darülislam*. The status of the merchants here was not related specifically to their being Muslim or non-Muslim, though this was in effect the case with merchants from Europe, but to their status as subjects of states within either the *darülislam* or the *darülharb*. Merchants from the *darülharb* required the legal status of *müstemin*, a (usually non-Muslim) foreigner from the *darülharb*, a status accorded by the jurists because without it 'the door of trade [would be] blocked'.[3] Trade between the Ottoman empire, part of the *darülislam*, and the ruler of a state in the *darülharb* required a separate legal instrument, the *ahidname*, and the protection of *aman*, the safe conduct, one of the 'main concepts of the Islamic 'international' law'.[4]

A '*sine qua non* for international trade',[5] the *ahidname*s, called *muahede* from the nineteenth century,[6] were the political/commercial treaties or agreements which 'formed the main diplomatic base of the relationship between Western representatives and Ottoman authorities'.[7] An overarching framework to which additional legal instruments could be added, the *ahidname* represented a general sultanic *aman* and, in terms of trade, set out the specifics of commercial relations between the Ottoman empire

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[1] Chapter x, from *The Cambridge History of International Law*, Vol. VIII, Part II, *International Law in the Islamic World during the Ottoman Era (1453–1923)*.

[2] Latifi, *Evsâf-ı İstanbul*, ed. Nermin Suner (Pekin) (Istanbul: Baha Matbaası 1977) 42.

[3] Colin Imber, *Ebu's-Suʿud. The Islamic Legal Tradition* (Stanford: Stanford University Press 2009) 69 (quote from al-Marghinani, *al-Hidaya*).

[4] Viorel Panaite, *The Ottoman Law of War and Peace. The Ottoman Empire and its Tributary-Payers from the North of the Danube* (Leiden: Brill 2019) 165.

[5] Maurits H. van den Boogert, *The Capitulations and the Ottoman Legal System. Qadis, Consuls and* Beratlı*s in the 18th Century* (Leiden: Brill 2005) 24.

[6] For discussion of the form of the *ahidname*, see Mübahat S. Kütükoğlu, *Osmanlı Belgelerinin Dili (Diplomatik*) (Istanbul: Kubbealtı Akademisi Kültür ve Sanat Vakfı 1994) 263-72.

[7] Viorel Panaite, 'French capitulations and consular jurisdiction in Egypt and Aleppo in the late sixteenth and early seventeenth centuries' in Pascal W. Firges, Tobias P. Graf, Christian Roth and Gülay Tılasoğlu (eds.) *Well-Connected Domains. Towards an Entangled Ottoman History* (Leiden: Brill 2014) 71-87, at 72.

and the state to whom the *ahidname* had been granted or with whom it had been accorded. It was the *ahidname* which, as Gilles Veinstein noted, 'created the juridical conditions' for western commerce in the Ottoman empire. It was in this sense, he argued, that 'the capitulations before the nineteenth century were essential for "Levantine commerce", and not, as is generally claimed, because they were treaties of commerce properly speaking'.[8]

Known by various terms in Ottoman, resulting in what Hans Theunissen has called a 'confusion of terminology', but most commonly referred to as *ahidname-i hümayun* or *ahidname-i şerif*,[9] in the West they were called capitulations, from the headings (*caput*) into which they were divided. While the meaning of capitulate in English originally was to agree, Frantz-Murphy has argued that 'twentieth-century translations designating the commercial decree itself as a "capitulation," with its twentieth-century denotation, "to surrender," reflect the imposition of a present-day conceptual framework onto historical analysis'.[10] Frantz-Murphy makes the same point about the translation of the term *şart* (stipulation) as privilege.[11]

In the first centuries of the Ottoman empire's existence, commercial treaties were reciprocal and sworn to reciprocally.[12] The reciprocal nature of commercial relations is evident in the first extant agreement with Genoa, concluded in 1387, where 'both parties' promised and swore 'mutually' to abide by the agreement.[13] A level of reciprocity is also indicated much later. In the dispute over the *kassabiye* (tax on slaughtered sheep) between the foreign ambassadors and the grand *vezir* in 1613, the Venetian *bailo* (ambassador) noted that the Doge of Venice 'might easily have taxed Turkish merchants in Venice, and so might every other Sovereign, but as this would have been a breach of the covenant they had abstained to their own great disadvantage'.[14] Elements of reciprocity continued even into the next century, for a Dutch memorandum sent to the sultan in 1766 stated that 'our capitulations [are] reciprocal in all their articles'.[15]

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[8] Gilles Veinstein, 'Les fondements juridiques de la diplomatie ottoman en Europe', *Oriente Moderno*, 88/2 (2008) 509-22, at 517-18.

[9] In discussing this 'confusion of terminology', Theunissen notes that in the Venetian case, although the most common term used is *ahidname-i hümayun* or *ahidname-i şerif*, they can also be referred to as *nişan-ı şerif*, *nişan-ı hümayun*, *muahede-i hümayun*, *ahid-i hümayun*, *hatt-ı hümayun* or *ferman-ı alişan*, Hans Theunissen, *Ottoman-Venetian Diplomatics: the 'Ahd-names. The Historical Background and the Development of a Category of Political-Commercial Instruments together with an Annotated Edition of a Corpus of Relevant Documents*, Ph.D. Dissertation, University of Utrecht, 1991, Part 2, 181. For a discussion of the forms of the *ahidname*, see Theunissen, *Ottoman-Venetian Diplomatics*, 1, 179-84.

[10] Gladys Frantz-Murphy, 'Negotiation the last Mamluk-Venetian commercial decree (922-3/1516-7): commercial liability from the sixth/twelfth to the early tenth/sixteenth century', in Frédéric Bauden and Malika Dekkiche (eds.), *Mamluk Cairo, a Crosroads for Embassies. Studies on Diplomacy and Diplomatics* (Leiden: Brill, 2019) 743-81, at 748.

[11] Frantz-Murphy, 'Negotiation', 748.

[12] Victor Ménage, 'The English capitulation of 1580: a review article', *International Journal of Middle East Studies*, 12 (1980), 373-83, at 376; Alexander H. de Groot, 'The historical development of the capitulatory regime in the Ottoman Middle East from the fifteenth to the nineteenth centuries', in Maurits H. van den Boogert and Kate Fleet (eds.), *The Ottoman Capitulations*, *Oriente Moderno*, 22/3 (2003), 575-604, at 578.

[13] Kate Fleet, "The treaty of 1387 between Murad I and the Genoese", *Bulletin of the School of Oriental and African Studies*, 56/1 (1993), 13-33, at 15 and 17.

[14] Cristoforo Valier, Venetian ambassador in Constantinople, to the Doge and Senate, Pera, 11 January 1613, in Horatio. F. Brown (ed.), *Calendar of State Papers Relating to English Affairs in the Archives of Venice*, *Volume 12 1610-1613* (London: Her Majesty's Stationary Office 1905), 476, no. 735.

[15] Tijl Vanneste, *Intra-European Litigation in Eighteenth-Century Izmir* (Leiden: Brill 2022), 322 and n. 228.

In general, however, from the later sixteenth century, the *ahidname*s ceased to be reciprocal and became instead unilateral grants. For Viorel Panaite, this shift occurred earlier, for he argues that *ahidname*s containing commercial privileges were unilateral 'both in their form and content', and those concluded in the fifteenth and sixteenth centuries with Hungary, Poland, Venice and the Habsburgs 'had an unmistakably unilateral character',[16] although he points out that the Ottoman-Polish *ahidname*s of the sixteenth and seventeenth centuries were considered bilateral by the Polish kings.[17] Victor Ménage noted the 'haughtier tone' of the 1540 Venetian *ahidname* in comparison with the preceding one issued in 1521, which 'epitomizes the transition from the "bilateral agreements" of the fifteenth century to the "unilateral concessions" granted by Süleyman's successors'.[18] The English ambassador James Porter, in Istanbul in the mid eighteenth century, commented that 'as the trading powers remote from the Turks have no reciprocal advantages to grant them, their ambassadors in Turkey must submit to such terms as the government pleases to grant'.[19]

Times were, however, changing and the slow march from reciprocal agreement through unilateral concession towards exploitative document was beginning. The 1740 *ahidname* granted by Mahmud I to France has been taken as 'a radical innovation'.[20] Granted in perpetuity, it was no longer to be renewed on the accession of a new sultan, thus removing any power of negotiation from the incoming Ottoman ruler.[21] Further, the *ahidname* stated that, due to the long-standing friendship between the Ottoman empire and France, older, it noted, than that other states, any privilege granted to other non-Muslim (*müstemin*) states would apply too to French subjects ('França padişahının reayası').[22] The *ahidname* also introduced a clause concerning the adjudication of cases involving disputes among Europeans from different *nation*s, 'embedding' the principle of *forum rei* in the Ottoman context, according to Venneste.[23]

For de Groot the 1740 *ahidname* represented the culmination of the capitulatory system. 'From now on the various capitulations granted by the Porte to western powers grew into one corpus of texts whose contents could be exploited by all foreign powers, large or small. Ancient privilege was turned into acquired right'.[24] However, the *ahidname* itself was perhaps not so radical. Based on the *ahidname*s of 1604 and 1673, much of what it granted was not new and, Eldem notes, there was nothing 'radically

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[16] Panaite, *Ottoman Law*, 177.
[17] Panaite, *Ottoman Law*, 177. For the Polish *ahidname*s, see Dariusz Kołodziejczyk, *Ottoman-Polish Diplomatic Relations (15th-18th century): an Annotated Edition of 'Ahdnames and Other Documents* (Leiden: Brill, 2000).
[18] Ménage, 'English capitulation', 375-6.
[19] James Porter, *Observations on the Religion, Law, Government, and Manners, of the Turks* (London: J. Nourse, 1768), Vol. II, 22.
[20] Edhem Eldem, "Captulations and western trade", in Suraiya Faroqhi (ed.), *The Cambridge History of Turkey. Volume 3 the Later Ottoman Empire, 1603-1839* (Cambridge: Cambridge University Press, 2006), 320.
[21] Ali İhsan Bağış, *Osmanlı Ticaretinde Gayri Müslimler* (Ankara: Turhan Kitabevi, 1983), 12.
[22] *Muâhedât Mecmûası*, vol. I (Ankara: Türk Tarih Kurumu Yayınları, 2008), 35; *Treaties between Turkey and Foreign Powers, 1535-1855* (London: Harrison and Sons, 1855), 223, clause lxxxiii; Noradounghian, Gabriel Effendi, *Recueil d'actes internationaux de l'empire ottoman*, vol. 1 (Paris: Cotillon, 1897), 299, clause 83.
[23] Vanneste, *Intra-European*, 199; van den Boogert, *Capitulations*, 36. *Forum rei* stipulated that adjudication was to according to the jurisdiction of the defendant.
[24] de Groot, 'Historical development', 599.

new' in its commercial clauses.[25] The introduction of *forum rei* merely 'formalized a long tradition'.[26] What was new, however, was the acknowledgement of French assistance in the conclusion of the Treaty of Belgrade, in which the Marquis de Villeneuve had played a considerable role, and the linking of this to the privileges contained in the *ahidname*, for the text explicitly referred to the efforts of the French king and his state in obtaining the recently concluded peace.[27] It was this changing political climate which in turn saw the shift in the nature of the *ahidname* from grant to binding obligation. While the 1740 *ahidname* did not 'change the conditions of trade overnight', and 'nothing had really changed in the essence of the process', what had changed was the position of the empire vis-à-vis the European states and 'the growing dependence of the Ottoman state on Western diplomatic support and approval no longer allowed it to disregard some of the provisions of the capitulations, or to treat their implementation by local authorities lightly'.[28]

By the nineteenth century, therefore, the political position of the empire had changed, a transformation reflected in the nature of the *ahidname*s. As Theunissen has observed, 'there can be no doubt that in practice the Ottoman capitulation of the sixteenth century was a completely different instrument than the Ottoman capitulation of the nineteenth century'.[29] Rather than imperial grants bestowed on states desirous of trade, they had become instruments to be used and abused by the western powers to whom they were granted, and by the late nineteenth century they 'had come to be understood as tools of Western imperialism'.[30]

By the early twentieth century, they were regarded as a right, not a privilege, as Lord Hardinge, the British permanent under-secretary at the Foreign Office, noted in his communication with the British chargé d'affaires at Istanbul in 1908.[31] They were a constant source of friction with the Ottoman government which heartily wished to be rid of them and bitterly resented the controls they imposed, a resentment which Andrew Ryan, dragoman at the British embassy in Istanbul from 1907 to 1914, noted was not to be wondered at.[32]

The capitulations, described by Hüseyin Cahid (Yalçın) as 'an outrage and a humiliation',[33] were finally unilaterally abolished in 1914. In the announcement of the abrogation of the capitulations dated 9 September 1914, they were described as 'in complete opposition to the juridical rules of the century and to the principle of national sovereignty'.[34] 'The fact that foreigners trading in the Ottoman

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[25] Eldem, "Captulations and western trade", 320.
[26] van den Boogert, *Capitulations*, p. 36.
[27] *Muâhedât Mecmûası*, I, 25; *Treaties between Turkey and Foreign Powers,* 215, clause lv; Noradounghian, *Recueil d'actes*, 291, clause 55.
[28] Eldem, "Captulations and western trade", 320.
[29] Theunissen, *Ottoman-Venetian Diplomatics*, 1, 9.
[30] Umut Özsu, 'Ottoman Empire' in Bardo Fassbender and Anne Peters (eds.), *The Oxford Handbook of the History of International Law* (Oxford: Oxford University Press 2012) 429-48, at 446.
[31] Feroz Ahmad, 'Ottoman perceptions of the capitulation 1800-1914', *Journal of Islamic Studies*, 11/1 (2000) 1-20, at 1-2.
[32] Andrew Ryan, *The Last of the Dragomans* (London: G. Bles 1951), 34-5.
[33] Ahmad, 'Ottoman perceptions', 18.
[34] Hurewitz, J.C. (ed.), *Diplomacy in the Near and Middle East. Volume II A Documentary Record 1814-1956* (Princeton: D. van Nostrand Company, 1956), no. 2, p. 2.

Empire and enjoying there all sorts of immunities and privileges are less heavily taxed than Ottomans constitutes at the same time a manifest injustice and an infringement of the independence and dignity of the state'.[35] The capitulations were finally abolished under the Treaty of Lausanne in 1923.[36]

The *ahidname* in Ottoman legal practice

In the Ottoman context, the line between legal requirement and on-the-ground reality was often blurred or elastic, and Ottoman law, in Daniel Goffman's words, 'constituted of an uneasy amalgam between Islamic and sultanic sources'.[37] The co-existence of the *sharia*, the Islamic law, and the *kanun*, the sultanic law, allowed for a flexible legal system, permitting, for example, the smooth incorporation of non-Islamic taxes into the Ottoman legal system in the early days of the Ottoman conquest. Commercial relations were thus conducted 'in a spirit of flexibility and pragmatism',[38] and the *ahidname*s themselves represented, as Alexander de Groot put it, 'a splendid product of the pragmatic legal thinking of the Ottomans'.[39]

Such pragmatic legal thinking allowed for a fuzzy interpretation, for example, of the permissible length of time a *müstemin* could remain in the empire without losing that status, a period which under Hanafi law was not more than one year. The discrepancy between the length a *müstemin* might stay in the empire and the actual time that such a *müstemin* did so is clearly demonstrated by the term of office of the Venetian *bailo* (ambassador). Under the 1503 *ahidname* with Venice, the *bailo* was to stay for one year, a situation that applied also to Venetian merchants.[40] In the same year, Bayezid II increased this to three years, for both the *bailo* and the merchants who came to trade.[41] The period in office for the *bailo* is stipulated as three years in subsequent treaties: in the 1517,[42] 1521,[43] 1540,[44]

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[35] Hurewitz (ed.), *Diplomacy*, no. 2, p. 3.

[36] Article 28 of the Treaty of Lausanne stated that 'Each of the High Contracting Parties hereby accepts, in so far as it is concerned, the complete abolition of the Capitulations in Turkey in every respect', *The Treaties of Peace 1919-1923, Vol. II* (New York: Carnegie Endowment for International Peace, 1924), https://wwi.lib.byu.edu/index.php/Treaty_of_Lausanne.

[37] Daniel Goffman, 'Negotiating with the Renaissance state: the Ottoman empire and the new diplomacy', in Virginia H. Aksan and Daniel Goffman (eds.), *The Early Modern Ottomans: Remapping the Ottomans* (Cambridge: Cambridge University Press 2007) 61-74, at 64.

[38] Veinstein, 'Fondements juridiques', 522.

[39] de Groot, 'Historical development', p. 603.

[40] Doc. 35, 14 December 1502, in Franz Miklosich and Joseph Müller, *Acta et Diplomata Graeca Medii Aevi Sacra et Profana* (Vindobonae: Carolus Gerold, 1845) Vol. III, 347-8; Theunissen, *Ottoman-Venetian Diplomatics*, 2, 370 (Ottoman text), 377 (Italian text); Mahmut H. Şakiroğlu, '1503 Tarihili Türk-Venedik Andlaşması", *Vİİİ Türk Tarih Kongresi, 11-15 Ekim 1976: Kongreye Sunulan Bildiriler*, Vol. III (Ankara: Türk Tarih Kurumu Basımevi 1983) 1559-69, facsimile 479-84, at 1567.

[41] Doc. 39, 6 October 1503, in Miklosich and Müller, *Acta et Diplomata*, III, 355.

[42] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 389 (Ottoman text), 395 (Italian text); M. Tayyib Gökbilgin, 'Venedik Devlet Arşivindeki Türkçe Belgeler Kolleksiyonu ve Bizimle İlgili Diğer Belgeler', *Belgeler* Vol. 5-8, no. 9-12 (1968-71) 1-151, at 48

[43] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 409; Mahmut H. Şakiroğlu, '1521 Tarihli Osmanlı-Venedik Andlaşmasının Aslî Metni', *Tarih Enstitüsü Dergisi* 12 (1981-2) 387-404, at 396.

[44] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 440; M. Tayyib Gökbilgin, 'Venedik Devlet Arşivindeki Vesikalar Külliyatında Kanunî Sultan Süleyman Devri Belgeleri', *Belgeler*,1/2 (1964) 119-220, at 124.

1567[45] and 1575[46] and 1576,[47] 1595,[48] 1604,[49] 1619, [50] 1625[51] and 1641 *ahidname*s.[52] In Venetian *ahidname*s from the fifteenth century, no mention had been made of the length of stay of the *bailo*, the 1478 *ahidname*, for example, stipulating that 'the most illustrious Signoria will have the right and authority specifically to send a *bailo* to Constantinople, with his household, according to custom'.[53] The 1482 *ahidname* refers to the *bailo* residing (*temekkün*) in Istanbul.[54] That other foreign ambassadors stayed for considerably longer than was legally permissible is clear, for example, from the period in office of the English ambassador Sir James Porter, in Istanbul from 1747 to 1762, and the first Dutch ambassador, Cornelius Haga, who spent 27 years there.

Although the length of stay of Venetian merchants was stipulated as three years in 1503, any reference to time frame was omitted from 1513 onwards. They were, however, granted exemption from *haraç* (or *cizye*, a poll tax paid by non-Muslims), an exemption to which they would not have been entitled had they lost the status of *müstemin*, which, under Hanafi law, they would have done had they stayed more than one year. This exemption, with no time limit being imposed on merchants' stay, was also granted to English merchants under the 1580 *ahidname*, which made no mention of any length of stay for the ambassador,[55] a similar clause appearing in the Dutch *ahidname* of 1612, which also made no reference to the ambassador's period in office.[56] In both cases the clauses refer to the merchants being resident. The *ahidname* with France from 1673, and again in 1740, also exempted the French who were 'established' or who 'resided' in the empire from paying *haraç*.[57] In this context, Ménage suggested that the most likely explanation for this omission of a time frame was that 'the Ottoman authorities, realizing that a three-year term explicitly exceeded the Hanafi maximum preferred to re-draft the

[45] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 459; Mahmut H. Şakiroğlu, 'II. Selim'in Venedik Cumhuriyeti'ne Verdiği 1567 ve 1573 Tarihli Ahidnâmeler', *Erdem*, 2/5 (1986) 527-53, at 535.
[46] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 489 (Ottoman text), 515 (Italian text); *Muâhedât Mecmûası*, Vol. II (Ankara: Türk Tarih Kurumu Yayınları, 2008) 134.
[47] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 531.
[48] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 545.
[49] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 561.
[50] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 577-8.
[51] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 595.
[52] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 604.
[53] Diana Gilliland Wright and Pierre A. MacKay, 'When the *Serenissima* and the *Gran Turco* made love: the peace treaty of 1478', *Studi Veneziani*, 53 (2007) 261-77, at 275.
[54] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 361 (Ottoman text), Gökbilgin, 'Venedik Devlet Arşivindeki Türkçe Belgele', 41.
[55] Susan A. Skilliter, *William Harborne and the Trade with Turkey 1578-1582. A Documentary Study of the First Anglo-Ottoman Relations* (London: Oxford University Press, 1977) 88 and 235.
[56] Alexander H. de Groot, *The Ottoman Empire and the Dutch Republic. A History of the Earliest Diplomatic Relations 1610-1630* (Leiden and Istanbul: Nederlands Historisch-Archaeologisch Institut, 1978) 241 and 255.
[57] *Muâhedât Mecmûası*, I, 10 (1673 *ahidname*); 19 (1740 *ahidname*); Les *capitulations entre l'empereur de France et Mehemet quatrième empereur des Turcs renouvellées le 5. Juin 1673 par les soins de Monsieur le Marquis de Nointel, ambassadeur pour sa majesté très-Chrestienne à la porte othomane* (Marseille: Charles Brebion, 1675) 23, Clause 31, available online at https://gallica.bnf.fr/ark:/12148/bpt6k95446f#; Thomas-Xavier Bianchi, *Le Nouveau Guide de la conversation en français et en turc* (Paris: Dondey-Dupré, 1852) 267, article 24; *Treaties between Turkey and Foreign Powers*, 198, Clause 34 (1673 *ahidname*); 209, Clause 24 (1740 *ahidname*); See also the 1569 *ahidname*, *Treaties between Turkey and Foreign Powers*, 178, Clause 9.

clause in a vaguer wording based on the presumption – or indeed on the fiction – that merchants were by nature birds of passage'.[58]

The permeability of legal boundaries is also evident in Ottoman-Genoese relations. Commercial relations with Genoa were established in the early days of the Ottoman state, for whom the Genoese were both important commercial partners and political allies.[59] In 1453, with the conquest of Constantinople, the Genoese surrendered their commercial base at Galata to Mehmed II, who in turn granted them an *ahidname*, which was renewed in 1603, 1613,[60] 1617, 1624 and 1652.[61] This *ahidname* was granted to the '*zimmi*s' or 'inhabitants' of Galata (Pera).[62] It stipulated that the Genoese were to pay the *haraç*, something normal as they were *zimmi*s, but were exempt from other taxes, something less normal as there appears to be no service attached to this, exemption from taxation usually being linked to a specific service.

What is particularly interesting here is the inclusion in the *ahidname* of a clause stipulating that Genoese merchants could come and go by land and sea and trade but were to pay customs dues according to custom. This seems to refer to Genoese merchants, that is subjects of Genoa as opposed to subjects of the Ottoman empire. This is how it is interpreted by both Camillo Manfroni who states that the 1453 *ahidname* stipulated that 'both the Perots and the Genoese merchants would be free to come and go by sea and land',[63] and de Groot who states that this *ahidname* was granted both to 'the "people and nobility" of Pera as well as to the residing foreign merchants from Genoa'.[64] Thus, he states, the 'non-Muslim subjects (*zimmi*) formed with foreign non-Muslims (*müstemin*) a joint common group (*taife* or *millet*)'.[65] For Borromeo, by granting this *ahidname* in 1453 Mehmed II 'recognised the continuity of the Christian and "foreign" character' of Galata.[66]

While the Genoese of Galata received an *ahidname*, which seems to have covered also Genoese merchants of Genoa, there was apparently no *ahidname* with Genoa itself until the middle of the seventeenth century. This would presumably not have been a particular impediment to the Genoese initially

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[58] Ménage, 'The English capitulation of 1580', 379.
[59] Kate Fleet, *European and Islamic Trade in the Early Ottoman State* (Cambridge: Cambridge University Press,1999).
[60] Mahmut H. Şakiroğlu, 'Fatih Sultan Mehmet'in Galatalılara Verdiği Fermanın Türkçe Metinleri', *Ankara Üniversitesi Dil, Tarih ve Coğrafya Fakültesi Araştırma Dergisi*, 14 (1981) 217-19. Archivio di Stato di Genova (ASG), Archivio Segreto, 2737 D. This can be seen on http://www.archiviodistatogenova.beniculturali.it/index.php?it/202/1613-impero-ottomano.
[61] de Groot, 'Historical development', 582; K: İlker Bulunur, 'II. Mehmed Tarafından Galatalılara Verilen 1453 Ahidnâmesi, *Tarih Dergisi*, 50 (2009) 59-85, at 61; Şakiroğlu, 'Fatih Sultan', 213.
[62] Nicoră Beldiceanu, *Recherche sur la ville ottoman au XVe siècle. Études et actes* (Paris: Maisonneuve, 1973) 153-4, doc. II, 423-4, facsimile; Bulunur, "II. Mehmed', 76 and 81, ek. I; İskender Hoçı, 'Galata'nın Osmanlılara Teslimi', *Tarih-i Osmani Encümeni Mecmuası*, 5/25 (1330) 49-53, at 52-3; Franz Miklosch and Joseph Müller (eds.), *Acta et Diplomatat Graeca Medii evi Sacra et Profana* (Vindobonae: Carolus Gerold, 1865), Vol. 3, 287-8, no. V; L.T. Belgrano, 'Prima serie di documenti riguardanti la colonia di Pera', *Atti della Società Ligure di Storia Patria*, 13 (1877-84), 99-317, at 226-8, no. CLXVII; L.T. Belgrano, 'Seconde serie di documenti riguardanti la colonia di Pera', *Atti della Società Ligure di Storia Patria*, 13 (1877-1884), 931-1004, at 986-7, no. XIX. Mitler also refers to a renewal in 1617, Louis Mitler, 'The Genoese in Galata: 1453-1682', *International Journal of Middle East Studies*, 10/1 (1979) 71-91, at 74
[63] Camillo Manfroni, 'Le relazioni fra Genova, l'impero bizantino e i Turchi', *Atti della Società Ligure di Storia Patria*, 28 (1896) 577-856, at 745.
[64] de Groot, 'Historical development', 583.
[65] de Groot, 'Historical development', 583.
[66] Elizabetta Borromeo, 'Les catholiques à Costantinople Galata et les église de rite Latin au XVIIe siècle', *Revue des mondes musulmans et de la Méditerranée*, 107-110 (2005), 227-43, at 227.

as they would have been able to operate under the *ahidname* granted to the Genoese of Galata, or to trade through Chios, a Genoese island which had a tributary relationship with the Ottomans until it fell to Piyale Paşa, the *kapudan paşa*, in 1566. It should be noted, however, that there was apparently some form of agreement with Genoese merchants earlier, for in 1524 Süleyman granted an *ahidname* to Ancona. What prompted him to do so was that 'at present merchants of Spain, France, England, Portugal and other *harbi* places wish to come and go to Ottoman territories to trade but because there is no treaty or agreement with the bey [of Ancona] they are frightened to come'. The sultan in consequence sent the *ahidname-i hümayun* and ordered that when merchants from Spain, France, England, Portugal and 'other *harbi* places' came to the empire to trade, they were to be free and safe to do so. The document concluded 'Let them send news to the beys of the afore-mentioned *vilayet*s that they send their *bailo*s and that like other *bailo*s they come and live here and let them attend to their business in safety, and let the merchants come and go safely'.[67] A further document from 1587, which is largely the same as the earlier document, ends by stating that an *ahidname* had been granted in the time of Süleyman and merchants from these various places had been coming and going and trading in accordance with the *ahidname*. Subsequently, the document stated, other *ahidname*s had been given to the French and the English, while 'other *harbi* Frank groups' continued to trade under the *ahidname* granted to the ruler of Ancona. Now they, too, wanted an *ahidname* 'like those given to the French and English subjects'. The sultan therefore ordered that 'from now, apart from France and England, those from Ancona, the Sicilians and the Genoese and merchants from other *harbi vilayet*s should come in safety and trade'.[68]

Genoese merchants were thus, it would appear, covered by an *ahidname* that had been granted by Süleyman I and renewed by his successors Selim II and Murad III. Regardless of any such arrangement, however, Genoa initiated negotiations for an *ahidname* in the mid sixteenth century which were unsuccessful,[69] due in part, according to Onorato Pàstine, to implacable French hostility.[70] A century later, an embassy was despatched from Genoa under Giovanni Augustino Durazzo, who successfully negotiated an *ahidname*, granted in 1665.[71] After a period of difficulties between the two states, a further *ahidname* was granted to Genoa in 1712.

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[67] Archivio di stato di Ancona (ASA), Comune di Ancona, Pergamena 74 bis, evail-i Safer 931 (28 November-7 December 1524). I should like to thank Veronica Prestini very much for providing me with a copy of the documents from Ancona.

[68] ASA, Comune di Ancona, Pergamena 74 bis, evahır-ı Recep 995 (26 June-6 July 1587). Jean Delumeau, 'Un ponte fra oriente e occidente: Ancona nel cinquecento', *Quaderni Storici*, 5/13 (1970) 26-47, at 28, refers to the reference in a letter from Paolo Mariani, the consul of France and of Ancona in Egypt, sent from Pera and dated April 1558 to Süleyman granting capitulations to Ancona in 1523.

[69] F. Özden Mercan, 'In the shadow of rivalry and intrigues: diplomatic relations of Genoa and Florence with the Ottoman empire during the sixteenth century', unpublished PhD thesis, European University Institute (2017) 143-84; F. Özden Mercan, 'A struggle for survival: Genoese diplomacy with the Sublime Porte in the face of Spanish and French opposition', *Journal of Early Modern History*, 23 (2019) 542-65; Manfroni, 'Le relazioni', 753-82.

[70] Onorato Pàstine, 'Genova et l'impero ottomano nel secolo XVII', *Atti della Società Ligure di Storia Patria*, 73 (1952) 1-185, at 6.

[71] ASG, Archivio Segreto, Trattati e negoziazioni, 2737 D., doc. viii, http://www.archiviodistatogenova.beniculturali.it/index.php?it/203/1665-impero-ottomano. See also facsimile no. 1 in *Turcherie. Suggestioni dell'arte ottomana a Genova* (Genova: Sagep Editori, 2014) 58 and 76.

In the context of the fluidity between the status of *zimmi* and that of *müstemin*, the 1712 *ahidname* with Genoa contains a very interesting clause. The clause states that there was to be no molesting of Genoese merchants and ships which come to the empire 'under the Genoese flag and with a license [patenta] from the Genoese Doge and his deputies/agents [vekil]', and that they should be obedient to the consuls and the deputies/agents 'of the aforementioned *taife*', i.e. to the group/community of the Genoese of Genoa. It ends with the phrase 'and let them be like the Genoese *taife*', presumably referring to the Genoese of Galata.[72] That the Genoese *müstemin* were envisaged as operating in Galata is reinforced by a further clause in the *ahidname* that states that they should be allowed to pray in whichever of the Frank churches still in Galata that they wished to.[73] This again seems to show that any division between *zimmi*s and *müstemin*s, at least in the Genoese case, was not that clear cut.

The blurring of the *zimmi*/*müstemin* divide evident in relation to the Genoese was also apparent with the Venetians. Referring to a document of 1607, Nora Lafi has noted that the Venetians in Aleppo paid the *cizye* while their commercial and community freedom was recognised in the *kanunname*. Venetians, she argues, were thus not in the category of Franks, that is foreign, *müstemin*. This, she argues, shows 'a more complex reality than that which has been long claimed in the literature on capitulations'.[74]

A further problem, and one that caused a clash between the law and the *ahidname*, concerned the importance of a clear-cut division between *müstemin* and *zimmi*. Bulunur has argued that what motivated the Genoese of Galata to push for a renewal of their *ahidname* in 1613 was the campaign of the *kadı* of Galata to impose *haraç* on all Frank *müstemin*.[75] He supports his argument by reference to a Venetian report which he describes as dated 2 January 1613 which he then ties to the date of the renewal of the *ahidname* by Ahmed I in March 1613. However, as the document to which he refers was actually dated 2 January 1614 (2 January 1613 *more veneto*),[76] this cannot have been the reason.[77] Further, the Genoese of Galata, as *zimmi*s, were already paying *haraç* (as in any case required under their *ahidname*). It may, perhaps, however, have been related to the earlier demand for the payment of the

[72] Başbakanlık Osmanlı Arşivi, Istanbul (BOA), A.DVN.DVE.d 108, f. 5. The *ahidname* is dated 21 Şaban 1124 (23 July 1712). For a transcription of this document see Abdullah Zararsız, '1712 Tarihli Osmanlı-Ceneviz Ahidnamesi ve Değerlendirilmesi' in Hatice Ourç and Muhammed Ceyhan (eds.), *Osmanlı Sosyal ve Ekonomik Tarihi. Prof. Dr. Yılmaz Kurt Armağanı*, Vol. II (Ankara: Akçağ Yayınları, 2016) 497-517, at 509-14.

[73] BOA, A.DVN.DVE.d 108, f. 8.

[74] Nora Lafi, 'I mercanti veneziani ad Aleppo nel cinquecento: degli Ottomani come gli altri?', in Estern Capuzzo and Bruno Crevato-Selvaggi (eds.), *Atti del VI convegno internazionale Venezia e il suo Stato da Mar/Venice and its Stato da Mar. Venezia/Venice, 22-24 febbraia/February 2018* (Rome: Società Dalmata di Storia Patria, 2019) 107-20, at 119.

[75] Bulunur, 'II. Mehmed', 62-3.

[76] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 2 January 1614, in Alan B. Hinds (ed.), *Calendar of State Papers Relating to English Affairs in the Archives of Venice*, *Volume 13 1613-1615* (London: Her Majesty's Stationary Office, 1907), no. 161. *More Veneto* was the dating system used by Venice in this period whereby the year started on 1 March. Thus, 2 January 1614 was 2 January 1613 *more veneto*.

[77] For the attempts to impose the *haraç* see Tijana Krstić, 'Contesting subjecthood and sovereignty in Ottoman Galata in the age of confessionalization: the 'carazo' affair, 1613-1617', *Oriente Moderno*, 93/2 (2013) 422-53.

kassabiye tax, which the *kadı* of Galata wished to impose on all *müstemin* and which the foreign ambassadors regarded as 'an innovation contrary to our capitulations'.[78] Under the 1453 *ahidname*, the Genoese of Galata were granted tax exemptions, thus presumably meaning that they had not been paying the *kassabiye*.

The *kadı*'s actions in 1613-14 both in relation to the *kassabiye* tax and to the *haraç*, and the later attempt by the *kaymakam* Ekmekçizade Ahmed Paşa in 1616 to impose *haraç*,[79] highlight the fuzzy border between *zimmi* and *müstemin*, and the apparent divergence between clauses in the *ahidname* and the law as interpreted by the *şeyhülislam*. In response to the foreign ambassadors united opposition to paying *haraç*, the *şeyhülislam* commented that it was 'just and reasonable' to demand tax from those who had been resident for some considerable time. He was not, he said, aware of any exemption under the *ahidname*s, and even if there were such an exemption 'it would be contrary to law'. If a foreign merchant stayed longer than one year, something he was not obliged to do, then he was required to pay the tax.[80] Several years later, the *şeyhülislam*'s attitude to the *ahidname*s was made abundantly clear for, according the Venetian *bailo* at Istanbul, Almoro Nani, he had 'declared that the man who had written the capitulations deserved to have his hands cut off'.[81] The *şeyhülislam* also informed the Venetian *bailo* shortly afterwards that 'the capitulations could not stand against the laws'.[82] This was an attitude very much in line with an earlier ruling by Ebussuud, *şeyhülislam* from 1545 to 1574. In a *fetva* which questioned whether the testimony of *müstemin*s against *zimmi*s, if such *müstemin*s had certificates from the sultan stating that their testimony against *zimmi*s was to be heard, was acceptable, the answer was 'certainly not. It was ignorant clerks who wrote that clause into their *ahidname*s. There can be no decree of the sultan ordering something that is illegal according to the sharia'.[83]

Despite the *şeyhülislam*'s strong views, the grand *vezir*, Halil Paşa opposed the imposition of the *haraç*.[84] According to de Groot, Halil Paşa, who had been *kapudan paşa* and became grand *vezir* in

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[78] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 23 December 1612, in Brown, *Calendar of State Papers*, *12*, 465, no. 724.

[79] de Groot, *The Ottoman Empire and the Dutch Republic*, 155-6.

[80] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 19 December 1613, in Hinds, *Calendar of State Papers,13*, no. 155.

[81] Almoro Nani, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 17 February 1617, in Alan B. Hinds (ed.), *Calendar of State Papers Relating to English Affairs in the Archives of Venice*, *Volume 14 1613-1615* (London: Her Majesty's Stationary Office, 1907), 444, no. 649.

[82] Almoro Nani, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 27 February 1617, in Hinds, *Calendar of State Papers Relating*, *14*, 449, no. 660.

[83] M. Ertuğrul Düzdağ, *Şeyhülsşlam Ebussuûd Efendi Fetvalaarı Işığında 16. Asır Türk Hayati* (Istanbul: Enderun Kitabevi, 1972), 98, no. 422; English translation in V.L. Ménage, edited with additions by Colin Imber, *Ottoman Historical Documents. The Institutions of an Empire* (Edinburgh: Edinburgh University Press, 2021) 84, no. 24. In *Ottoman Historical Documents* the translation is that the testimony of *harbi*s against *zimmi*s "is not to be heard". However, the Turkish is 'Padişah-i alempenah, "harbilerin zimmi üzerine şehadetleri tutula" deyu ellerinde temessükleri olucak'. The *fetva* is also referred to by Ménage, 'English capitulation', 378, where he states that 'Abu'l-Su'ud expressed himself also on another question relating to capitulations, on whether the testimony of *musta'min*s ("*Amānla gelen harbīler*") "who hold a *temessuk* from the Pādishāh stating that the testimony of harbīs against dhimmīs is to be heard" was admissible'.

[84] Almoro Nani, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 27 February 1617, in Hinds, *Calendar of State Papers Relating*, *14*, 450, no. 661.

November 1616, 'did not feel bound by the policy of his predecessor'. In response to the ambassadors' vigorous opposition, he had examined the texts of the *ahidname*s and had reached the conclusion that imposing *haraç* would be illegal.[85] Here, as the *bailo* put it, 'the Mufti [i.e. the *şeyhülislam*] was defending the law, the Paşa [i.e. the grand vezir] the capitulations',[86] demonstrating nicely the division between the *ahidname*s and the law, here the sharia.

The strength of the *ahidname*

An *ahidname*, at least for most of the period covered by this chapter, was not inviolable but could be legally breached. A sultan could disregard an *ahidname* if doing so was in the best interests of the state. In 1570, before his invasion of Cyprus, which was Venetian territory and thus covered by the *ahidname* with Venice, Selim II required a *fetva* on the legality of attacking Cyprus in contravention of the *ahidname*. The question posed was whether Cyprus's inclusion in the *ahidname* was 'an impediment to the Sultan's determining to break the *ahidname*'. The answer was

> There is no possibility that it could ever be an impediment. For the Sultan of the people of Islam (may God glorify his victories) to make peace with the infidels is legal only when there is a benefit to all Muslims. When there is no benefit, peace is never legal. When a benefit has been seen, and it is then observed to be more beneficial to break it, then to break it becomes absolutely obligatory and binding.[87]

This reiterated 'the basic Hanafi rule that treaties with infidels are valid only when they are beneficial to Muslims, who should break them when they cease to be so'.[88]

The idea that an *ahidname* was valid only so long as it suited the requirements of the state, and that it could therefore be altered at will whenever the ruler saw the need to do so, was also apparent in the attitude of the grand *vezir* Nasuh Paşa who informed the foreign ambassadors in 1613 that 'neither in the Gospels nor in the Alcoran, nor in any other law could it be found that a Prince might not do in his own State whatever suited him best', a view with which the ambassadors did not concur, regarding it as 'much nearer the truth that no law permitted a Prince to break his oath'.[89]

In the same period, the foreign ambassadors were involved in a tussle with the grand *vezir* over the contents of their *ahidname*s when Nasuh Paşa demanded that the ambassadors all hand over their

[85] De Groot, *The Ottoman Empire and the Dutch Republic*, 156.
[86] Ménage, 'The English capitulation of 1580', p. 380.
[87] Imber, *Ebu's-Suʿud*, 84-5; Düzdağ, 108-9, no. 478.
[88] Imber, *Ebu's-Suʿud*, 85.
[89] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 11 January 1613, in Brown, *Calendar of State Papers*, *12*, 476, no. 735.

*ahidname*s, altered them to his satisfaction and, having had them 'scaled with the imperial seal',[90] sent them back.[91] The ambassadors refused to receive them, claiming that 'the original agreement had been solemnly sworn to by the Grand Signor and should be unchangeable'. The following day, however, the *çavuş* who had delivered the altered *ahidname*s was back with the same documents saying that grand *vezir* 'had commanded him to leave them upon pain of losing his head'. The ambassadors insisted on a meeting with the grand *vezir*, at which he stated

> the capitulations sent to them were those which the Grand Turk desired to be observed. They would have to observe them; there was no more to be said and they could leave the country if they were not satisfied. They replied with emphasis that although the capitulations had been left in their houses by force, they did not intend to accept them, and had come on purpose to return them. With that they left them behind and departed without saying another word.[92]

The issue was finally resolved with the ambassadors' accepting 'the deletion of the chapter which is desired by the Pasha, surrendering the point completely in order to make sure of the remainder'.[93]

The Ottoman authorities were not the only ones to regard the *ahidname*s as always up for discussion. At a 'court and consultation' held by the English ambassador Thomas Roe in January 1621, it was noted that 'concerning the renewing of the capitulations and all branches therein and additions requisite…every man was appointed to bethink himself and to prepare such matter and helps as his experience had informed him with, when all things should be fully debated and agreed upon, what to demand for further enlargement of privileges'.[94]

II Other Legal Documents

[90] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 3 April 1614, in Hinds, *Calendar of State Papers*, *13*, no. 217.
[91] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 21 March 1614, in Hinds, *Calendar of State Papers*, *13*, no. 210.
[92] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 3 April 1614, in Hinds, *Calendar of State Papers*, *13*, no. 217.
[93] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 16 April 1614, in Hinds, *Calendar of State Papers*, *13*, no. 237.
[94] The National Archives (TNA), State Papers (SP) 105/102, f. 7.

International commerce in the Ottoman empire was conducted in a veritable 'sea of papers'.[95] Apart from the *ahidname*s, which underpinned everything in relation to trade with states of the *darülharb*, there were documents issued by the Ottoman government providing safe conducts, instructions to officials to ensure the safety of merchants on the move, and ordering actions in response to complaints of infringements of the *ahidname*s. *Fetva*s were issued to shore up the legality of rulings related to trade. Imperial orders were despatched in relation to specific commercial issues or imperial letters to foreign states demanding action in matters of damage to Ottoman interests. Documents were issued to give evidence of trade transactions, such as the payment of customs. And the *kadı* courts produced documents to certify commercial contracts, acknowledgement or settlement of debts, and provision for the goods of foreign merchants who died in Ottoman territory.

The requirement for documentation was related to the nature of the *ahidname*s which were not sufficient in themselves to regulate the commercial relations between the empire and other states for they were, as Tommaso Stefini has argued in relation to Venice, 'only a theoretical framework, a set of general rules, with which the Ottoman authorities, the plaintiff merchants, and the *bailo* had to "fend for" their interests by negotiating with each other'. The 'seemingly inherent uncertainty' of the *ahidname*s thus required frequent further ad hoc decrees.[96]

The Ottoman administration produced documents in response to specific complaints or requests from foreign ambassadors for documentation to back up the *ahidname*s, as was the case, for example, in 1583 when a *hüküm-i şerif* was issued in relation to English merchants which, noting that an *ahidname* had been granted for English trade within the empire, ordered that there was to be no interference with English ships, goods, men or equipment in contravention of the *ahd* and *aman*.[97] Ambassadors also requested documents in relation to consular appointments such as that for a Venetian consul on Crete in 1671 when the Venetian *bailo* in Istanbul sent a petition for the establishment of a Venetian consul to deal with the affairs of Venetian traders on the island, for which a *nişan-ı hümayun* was issued. The sultan ordered that there be a consul to attend to the affairs of the Venetians who went there in accordance with the *ahidname*.[98]

Ottoman sultans corresponded with foreign rulers in order to ensure the safety of Ottoman merchants abroad or to protest about breaches of the trade agreements, as Selim II did when he sent an imperial letter (*name-i hümayun*) to Alvise Mocenigo, the Doge of Venice, in May 1574 over the illegal

[95] Guillaume Calafat, *Une mer jalousée : contribution à l'histoire de la souveraineté, Méditerranée, XVIIe siècle* (Paris: Le Seuil, 2019) 13, here referring to the Mediterranean.
[96] Tommaso Stefini, 'Ottoman merchants in dispute with the Republic of Venice at the end of the 16th century: some glances on the contested regime of the capitulations', *Turcica*, 46 (2015) 153-76, at 172. That the *ahidname*s 'provided no more than a general framework' is also noted by Suraiya Faroqhi, 'Before 1600: Ottoman attitudes towards merchants from Latin Christendom', *Turcica*, 34 (2002) 69-104, at 95.
[97] Ahmed Refik, *Onuncu Asr-ı Hicri'de İstanbul Hayatı (961-1000)* (Istanbul: Matbaa-ı Orhaniye, 1333) 177, no. 43, 4 Rebiülahır 991 (27 April 1583).
[98] The Turkish Archives of Heraklion (TAH), sicil 4, ff. 8-9. A summary in Greek is given in Elizabeth A. Zachariadou, Gülsün Aivali, Foteini Chaireti, Penelope Photeinou and Marinos Sariyannis (eds.), *Τουρκικές πηγές κριτικές ιστορίας – 3 Ιεροδικείο ηρακλείου τέταρτος κώδικας μέρος Α* (Heraklion: Vikelaia Municipal Library, 2010) 47, no. 22.

seizure of the goods of Ottoman merchants in the Adriatic in contravention of the *ahidname*.[99] Several months later, in July, Selim II was again in contact with a foreign ruler, this time Ivan IV, over 350 bales of goods stolen from an Ottoman state merchant who had been sent to Moscovy to trade on behalf of the empire;[100] and once more in November over a consignment of indigo which had been left by state merchants for safe-keeping with the now deceased Cevherizade Mehmed, and which two men had been sent to collect and bring it back to the empire. In his letter (*name-i hümayun*) to the tsar, Selim requested that the indigo be consigned to them and that Ivan provide them with a *temessük* so that when they arrived in Istanbul, this would certify the quantity of indigo they were to hand over.[101]

Imperial communications could be prompted by information received from foreign rulers. In 1554 the ruler of Ancona informed Süleyman that Ottoman merchants who frequented the month-long annual fair at Recanati, to the south of Ancona, had been attacked on their departure once the fair was over by robbers from the region, and requested that Ottoman merchants be directed not to go to the fair at Recanati but instead to go to that at Ancona, an interesting demonstration of a proactive policy to attract Ottoman merchants. The sultan responded by issuing an order to that effect.[102]

Foreign ambassadors were careful to collect documentation supporting the trade activities of their nations, such as that obtained from Mehmed IV in Edirne by the French ambassador, Gabriel-Joseph de la Vergne, in Istanbul from 1679 until his death there in 1685. These instructions, several of which were described as 'authorised by the hand of the Grand Seigneur himself', covered all the areas where the French were active: Cairo, Sidon, Aleppo, Antalya, the Morea, Crete, Cyprus, İzmir, Chios, Baghdad, Mosul and Istanbul.[103]

In the same way, ambassadors collected *fetva*s, as did the French ambassador François Savary de Brèves.[104] Savary de Brèves, ambassador in Istanbul from 1589 to 1605, was clearly proactive in his drive to obtain *fetva*s. Giovanni Carlo Scaramelli, Venetian Secretary in England, reported to the Doge and senate in Venice that the English ambassador in Istanbul, Henry Lello, had enclosed in a despatch to England in December 1602 'a decree passed by the Turks, drawn up by the Mufti [the şeyhülislam Hocazade Mehmed Efendi] on religious grounds at the insistence of the French ambassador [François Savary de Brèves], that English vessels shall always render an account of all goods brought and sold in Barbary and elsewhere within Turkish dominions; and the English ambassador is charged to see the order carried out. This information is extremely disliked'.[105]

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[99] BOA, A.DVN.MHM.d.24, f. 209, no. 550, 11 Muharrem 982 (3 May 1574).
[100] Ahmed Refik, *Onuncu*, 9, no. 8, 24 Rebiülevvel 982 (14 July 1574).
[101] Ahmed Refik, *Onuncu*, no. 22, p. 161, 16 Receb 982 (1 November 1574).
[102] ASA, Comune di Ancona, Pergamena 74 bis.
[103] Archives de la Chambre du *Commerce* de Marseille (ACCM), J144, Liste des commandements obtenus à la Porte par M. le Comte de Guilleragues pendant son séjour à Adrianople.
[104] See Viorel Paniate, 'A French ambassador in Istanbul and his Turkish manuscript on western merchants in the Ottoman Mediterranean (late sixteenth and early seventeenth century)', *Revue des études sud-est européennes*, 42/1–4 (2004) 117-32, for description of the collection of *fetva*s put together by the French ambassador François Savary de Brèves.
[105] Giovanni Carlo Scaramelli, Venetian Secretary in England, to the Doge and Senate, 20 March 1603, in Horatio F. Brown (ed.), *Calendar of State Papers Relating to English Affairs in the Archives of Venice*, *Volume 9 1592-1603* (London: Her Majesty's Stationary Office, 1897), 556, no. 1160.

*Fetva*s

*Fetva*s, which 'form one of the three major categories of Ottoman legal documents',[106] served to reinforce the provisions of the *ahidname*s. In the wake of a raid by ships from Algeria and Tunis in the Adriatic and Ionian sea in 1624, for example, a series of *fetva*s stated that raiding against those with whom the sultan had an *ahidname* was not permissible, those seized in such raids could not legally be enslaved and sold, and that it was not legitimate to launch a reprisal raid against those with whom an *ahidname* had been ratified. Further, those who bought such slaves could not prevent them being taken from them by Ottoman officials who were to free them as their seizure had been unlawful.[107]

According to Joshua White, 'securing a positive legal opinion from the *şeyhülislam* was critical to any European diplomatic effort to buttress the treaty provisions against opposition from other Europeans and local Ottoman officials'.[108] The *fetvas* collected by the French ambassador Savary de Brèves give a clear idea of the issues of concern to foreign merchants for which they required legal rulings. Such issues included rulings on seizure of French goods on the high seas. One such *fetva* posed the question of what should be done legally if French merchants sailing with merchandise to the Ottoman empire in accordance with the *ahidname* were intercepted by Muslim ships and their goods pillaged. The answer given was that the seized merchandise was to be handed back and those who had pillaged it were to be severely punished.[109]

A further *fetva* asked very much the same question: if the *müstemin*s Mihal and Nikola and Aleksi brought merchandise to the empire and traded there 'with sultanic permission', and at sea encountered the ships of the captains (*reisler*) Zeyd, Amr and Bekr, who pillaged the *müstemin*s' goods, 'can they legally do this?' Again, the answer was no. In response to the additional question about what should be done to Zeyd, Amr and Bekr should they fail to obey the sultan's order and return the pillaged merchandise, the ruling was that they should be punished severely and imprisoned for a lengthy period.[110]

Other *fetva*s in the collection of Savary de Brèves covered what happened if *harbi* merchants loaded goods, for which they paid freightage, onto the ships of those merchants 'who do not have their ambassadors in Istanbul and have imperial permission [izn-i ali] to come and go to the ports of the empire under the French flag and name', encountered Muslim ships at sea. The question posed was whether it was legally permissible to seize these goods, in contravention of the *ahidname-i hümayun*,

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[106] Imber, *Ebu's-Suʿud*, 51.
[107] Joshua M. White, 'Fetva diplomacy: the Ottoman *şeyhülislam* as trans-imperial intermediary', *Journal of Early Modern History*, 19 (2018), 199-221, at 216-18.
[108] White, 'Fetva diplomacy', 209.
[109] Viorel Panaite, 'French commercial navigation and Ottoman law in the Mediterranean according to the *manuscript turc 130* (Bibliothèque nationale de France)', *Révues Sud-Est Européennes*, 46/1-4 (2008), 253-68, at 256-7.
[110] Panaite, 'French commercial navigation and Ottoman law', 257-8.

claiming that the merchandise on the ship belonged to a *harbi*. The answer given was no. The follow-up question concerned what action should be taken against those who, having plundered *harbi* merchandise on the French ship, then proceeded to seize French goods and the ship, forcing 'the ship's *reis* and *katib* to say under duress that it was *harbi*'. The answer was that the merchandise was to be handed back and that the punishment 'for those daring to act in contravention of the peace and the *ahidname-i hümayun*' should be at the will of the sultanate.[111]

Such protection extended to *müstemin* trading in *harbi* territory. A *fetva* issued by the *şeyhülislam* Mehmed ibn Saadeddin Efendi responded to the question of whether it was legally permissible to enslave a Frenchman and seize his goods if he was found on a *harbi* ship. The Frenchman Zeyd had been 'in a *harbi* land for *mustemin* trade', had boarded a *harbi* ship to travel elsewhere and had encountered a Muslim ship at sea. He 'is not on a warship [*çekdirir gemi*] and he is not there to cause trouble [*fesad*]'. The answer to the question was no.[112]

Another *fetva* responded to a similar question, but interestingly notes the two categories of protection: the *ahidname* and the status of being a *müstemin*. In this *fetva* the question was whether a Muslim ship, which encountered a French *müstemin* who had gone on a *müstemin* ship to a *harbi* land where he had traded and loaded grain and other foodstuffs and was now on his way to another *harbi* land, could legally seize the ship and enslave the Frenchman, claiming that he was are buying foodstuffs and taking them to the enemy. The answer given was no.[113]

*Fetva*s thus served to shore up the provisions in the *ahidname*s by addressing specific questions about the treatment of foreign merchants and about what was, and was not, legally permissible in a range of circumstances. While these documents addressed hypothetical situations, albeit ones that reflected reality, the immediate problem of individual protection on the ground was addressed by another type of document, the safe conduct.

Safe conducts and travel passes

The premise on which international commerce was based was protection, an essential element if commercial relations were to function. As the Ottomans noted in 1619, protection was essential to the continuation of good relations with Venice and for the presence of Venetian merchants within Ottoman territories.[114] While the *ahidname*s constantly reiterated the right to safe passage, stay and trade within Ottoman territories, further documentation was provided in the form of the safe conduct. Ambassadors, thus, travelled under safe conducts provided by the Ottoman state, such as that given to the Genoese ambassador Francesco de Franchi Tortorino in 1556.[115] Other foreign officials, too, were both provided

[111] Panaite, 'French commercial navigation and Ottoman law', 260-1.
[112] Panaite, 'French commercial navigation and Ottoman law', 262-3.
[113] Panaite, 'French commercial navigation and Ottoman law', 265-6.
[114] BOA, MAD, 17901, f. 11, gurre-i Rebiülahır 1028 (18 March 1619).
[115] ASG, Archivio Segreto, Trattati e negoziazioni, 2737 D, doc. VII, facsimile no. 5 in *Turcherie*, 60 and 77-8.

with documents for safe passage, Ottoman officials to assist in areas of particular danger, and concessions to ensure that they travelled safely. The Venetian translator, Anton, who was sent from Venice to Istanbul on important matters in 1619, was thus provided with a *ferman-ı hümayun*, an escort in regions considered dangerous, and granted permission carry weapons, including a rapier and a sword, to wear a turban and to ride a horse.[116] Several years later, an official of the *bailo* going in the opposite direction to Venice with letters on important business was supplied with a safe conduct.[117] Ottoman merchants too received safe conducts for travel abroad, as the Ottoman subject Giovanni Cassinelli did in 1633 when travelling to Venice for trade.[118]

Merchants were to travel and trade in safety, their "lives, heads and goods" unharmed, in the phrase used in a *nişan-ı hümayun* issued in 1456 by Mehmed II concerning merchants from Akkerman who travelled to Edirne, Bursa and Istanbul to trade.[119] It was Genoese merchants who obtained for Bertrandon de la Broquière a letter from 'the lord of Turkey' who was in Bursa, that is Murad II, to allow him to cross the Straits.[120] Rhodian merchants received safe conducts to travel and trade in Ottoman territory when the island was under the Hospitallers, as did Ottoman merchants trading on Rhodes.[121] The reciprocity of trade relations between them is evident in the peace treaty concluded between Bayezid II and the Grand Master of the Hospitallers, Pierre d'Aubusson in 1482, which stipulated that merchants and subjects of both parties could go freely with their merchandise and goods and live, trade, sell and buy in each other's territory.[122] Safe conducts could also be granted by Ottoman officials. The *kapudanpaşa* Kılıç Ali Paşa, for example, issued one for an Englishman in 1579, noting that he would regard not attacking the English ship as 'a particular favour'.[123]

Such documentation could be specifically requested by merchants or an ambassador, as was the case with the Venetian translator Anton for whom the Venetian ambassador had requested an *emr-i şerif*. In December 1630, for example, orders were issued to the *beylerbeyi* of Erzurum and to the *beylerbeyi*s, *sancakbeyi*s and *kadı*s on the route from Istanbul to Erzurum in response to a petition (*arzuhal*) sent to Istanbul by two merchants requesting an imperial order (*emr-i şerif*) to ensure their

[116] BOA, MAD, 17901, f. 11, gurre-i Rebiülahır 1028 (18 March 1619).
[117] Nedim Zahirović, *The Register of Ottoman-Venetian Diplomatic Affairs at Leipzig University Library (1625-1640)* (Paderborn: Ferdinand Schöningh, 2020) 63, no. 60, evail-i Rebiülevvel 1043 (5-14 September 1633). This man subsequently died in Çorlu while on his way to Venice and the money he had with him was seized in contravention of the *ahidname*. An order was issued that the money was to be handed over to his heir, 64-5, no. 62, evail-i Rebiülahır 1043 (5-14 October 1633).
[118] Zahirović, *Register*, 60-1, no. 57, evasıt-ı Rebiülevvel 1043 (15-24 September 1633). For another safe conduct, this time for a Venetian merchant travelling to Istanbul, see 80-1, no. 79, evasıt-ı Zilkade 1044 (28April-7 May 1635).
[119] M. Guboglu, *Palaeografya Şi Diplomatica Turco-Osmana. Studiu Şi Album* (Editura Academiei Republicii Popolare Romine, 1958), 131, doc. 3, facsimile 3, p. 164, 5 Recep 860 (9 June 1456). See also Panaite, *Ottoman Law*, 337-8. The document is also in Ménage and Imber, *Ottoman Historical Documents*, 167, no 4.
[120] Betrandon de la Broquière, *Le Voyage d'Outremer de Bertrandon de la Broquière*, ed. Charles Schefer (Paris: n.p., 1892), 135
[121] Nicolas Vatin, *L'Ordre de Saint-Jean-de-Jerusalem, l'Empire ottoman et la Méditerranée orientale entre les deux sièges de Rhodes 1480-1522* (Louvain-Paris: Éditions Peeters, Louvain-Paris, 1994), 41, n. 10; 57; 58; 67; 68; 71; 183, n. 15.
[122] Archives of the Order of St. John of Jerusalem, of Rhodes and of Malta (AOM), 76, ff. 116v (101r)-117r (102r); Miklosich, and Müller, *Acta et Diplomata*, III, 3, 318-19, no. 23.
[123] Skilliter, *Harborne*, 218, doc. 7a. For a discussion of safe conducts in this period, see pp. 12-19, 56-58, 77-8 and 231 (doc. 13), 205-6 (doc. 1), 225-7 (docs. 9, 9a) and 258 (doc. 21).

safe return to Iran from Istanbul where they had taken merchandise for trade.[124] Merchants could obtain such documentation through their ambassadors, as Russian merchants did to cover their travel for trade from Istanbul to the Aegean islands in 1793.[125] The request for free passage under the *ahidname* with Russia for a Russian merchant ship in 1804 sailing from the Black Sea to the Aegean resulted in the issuance of a *ferman* which ordered that Ottoman officials protect any Russian merchant ships, men or merchandise from corsair attacks made in contravention of the *ahidname*.[126] British ambassadors in the eighteenth century were responsible for obtaining the travel permits for their nationals,[127] and Venetian *bailo*s were required to provide travel permits to their merchants. Under the 1482 and 1521 *ahidname*s, merchants wanting to go to Bursa or other locations had first to obtain a permit (*icazetname*) from the *bailo*. If a merchant insisted on going without such a document, the *subaşı* was to assist the *bailo* to prevent him.[128]

Safe conducts and *fetva*s represented two ends of the spectrum of legal documentation utilized by foreign merchants within Ottoman territory and, together with a whole array of other legal documents, formed part of the legal landscape of international trade.

III The importance of Legal Documentation in Practice

The production of written documentation was important for the successful conduct of international trade, and the possession of the necessary documents afforded protection to merchants. Genoese who had *temessük*s and *hüccet*s were not to be hassled, under a clause of the 1712 *ahidname*. In the event of the death or transfer of a customs *emin*, then his successor was to accept the *temessük*s of payment of customs issued by his predecessor and not to press the Genoese merchants over payments. Nor were Genoese merchants to be made to wait for documentation once they had paid customs but were to be provided with *tezkere*s of payment without delay.[129]

It was the possession of documents that allowed Venetian merchants to reclaim plundered goods. When cloth, broadcloth, and other merchandise plundered from Venetian ships was taken to Aleppo and other ports, the goods of those Venetians who had documents (*nişanlar*) were to be handed over immediately to the *bailo* in accordance with the sharia, *kanun* and *nişan-ı hümayun*.[130]

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[124] *85 Numarali Mühimme Defteri (1040-1041 (1042) / 1630-1631 (1632)) Özet – Transkripsiyon - İndeks* (Ankara: T.C. Devlet Arşivleri Genel Müdürlüğü, 2002), 174-5 and 122, 14 Cemaziülevvel 1040 (19 December 1630).
[125] Michael Ursinus (ed.), *Catalogue of the Ottoman Holdings of St. John's Monastery in Patmos. Part Two Dossiers 21-38* (Louvain-Paris: Peeters, 2019), 86-7, no. 26-*3*.
[126] Ursinus, *Catalogue*, 161-2, no. 30-*54*; 208, no. 32-*1*.
[127] Mehmet Demiryürek, 'From theory to practice: British travel permits in the Ottoman empire (1700-1800)', *Turkish Historical Review*, 9/1 (2018) 39-53, at 43.
[128] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 371-2 (Ottoman text) and 378 (Italian text); 415; Şakiroğlu, '1521 Tarihli', 387-404, at 398.
[129] BOA, A.DVN.DVE.d 108, ff. 6 and 8.
[130] BOA, MAD, 17901, f. 11, gurre-i Rebiülahır 1028 (18 March 1619).

The need to register transactions in the *kadı* court was stressed. The 1580 *ahidname* with England stated that

> whenever the merchants and interpreters and consuls of England and of the places dependent on it are engaged in the affairs of selling and buying and trade and standing surety and other legal matters [umur-i şeriye] in our well-protected dominions, they shall go to the *kadı* and have him register it in the court register [sicil] or else they shall take a *hüccet*. Afterwards, should a dispute occur, let the *hüccet* and the *sicil* be inspected and action taken according to it.[131]

An identical clause appears in the Dutch *ahidname* of 1612,[132] while a clause in the 1673 *ahidname* with France too stipulated that merchants, interpreters and consuls appear before a judge to register their affairs and obtain a legal document, to which reference could be made in any matter of dispute.[133] The 1607 *ahidname* with Poland also stressed the importance of *kadı* court documentation, stipulating that 'when a merchant has a dispute with another [merchant] over buying and selling, it must be registered in the kadı sicil'.[134] That the importance of ensuring registration in the *kadı* court was understood by western merchants is indicated by the French merchant and diplomat, Laurent d'Arvieux, in the Ottoman empire in the second half of the seventeenth century and French consul at Aleppo from 1679-86, who noted in his memoirs that after being attacked by corsairs in 1660 while sailing from Sidon to Acre, he and his companions took care to have the *kadı* draw up a 'procès verbal' describing what had occurred.[135]

Possession of a court document could form 'an integral part of the evidentiary arsenal'[136] needed by those involved in disputes, in this particular case involving a document issued over equipment stolen from the ship of a Muslim and discovered later on the ship of a Frank, who claimed to have bought the items legitimately with no knowledge of their origin.[137] Failure to procure documentation caused difficulties for foreign merchants. There were complaints in the early seventeenth century that,

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[131] Skilliter, *Harborne*, 88 and 234, doc. 14. In April 1583 Morosini, the Venetian ambassador at Istanbul, sent an enclosure to Venice giving the terms granted to the Queen of England, among which were: 'Englishmen trading in Turkey who require a legal document shall go before the Cadi, who shall apply his seal to the deed, or they shall ask for a decree (cogetto) otherwise their causes cannot be heard before the courts', Giovanni Francesco Morosini, Venetian ambassador at Constantinople, to the Doge and Senate, Pera, 5 April 1583, in Horatio. F. Brown (ed.), *Calendar of State Papers Relating to English Affairs in the Archives of Venice*, *volume 8 1581-1591* (London: Her Majesty's Stationary Office, 1894) 51, no. 127.

[132] de Groot, *The Ottoman Empire and the Dutch Republic*, 241 and 255.

[133] *Les capitulations entre l'empereur de France et Mehemet quatrième empereur des Turcs*, 21-22, Clause 27. For the clauses in the *ahidname* of 1569 and that of 1581 see *Treaties between Turkey and Foreign Powers*, 177, Clause 6 and 182, clause 10.

[134] Viorel Panaite, 'Osmanlı-Leh Ahidnamelerinde Ticaret ve Tüccarlar (1489-1690) in Güler Eren, Kemal Çiçek and Cem Oğuz (eds.), *Osmanlı 3 İktisat* (Ankara: Yeni Türkiye, 1999) 342-50, at 347.

[135] D'Arvieaux, Laurent, *Mémoires du chavalier d'Arvieux, envoyé extraordinaire du Roy à la Porte*, vol. II (Paris: chez Charles-Jean-Baptiste Delespine le fils, 1735) 92.

[136] White, 'Fetva diplomacy', 237.

[137] Timur Kuran (ed.), *Mahkeme Kayıtları Işığında. 17 Yüzyul İstanbul'unda Sosyo-Ekonomik Yaşam. Social and Economic Life in Seventeenth-Century Istanbul. Glimpses from Court Records* Vol. I (Istanbul: İş Bankası Kültür Yayınları, 2010), 784-5, no. 404.

in the absence of *sicil*s and *hüccet*s, *subaşı*s and other officials (*ehl-i urf*) were making 'false accusations' in order to seize Venetian goods in Aleppo.[138]

No court documentation could result in no case being heard. In an order sent to the *beylerbeyi*, *kadı* and *defterdar* of Aleppo in 1619, it was noted that Venetian merchants trading in the empire should register affairs in the *kadı* court and ensure that such matters were entered into the *sicil* or they should obtain a *hüccet* in order that, if there was a dispute, the matter could be resolved according these documents. If there was neither a *sicil* nor a *hüccet* and there was a court case, then that case was not to be heard.[139] In a court case from 1661 it was noted that if a plaintiff against an Englishman did not have any *hüccet* to support his case, as was required in cases against English *müstemin*s who were going about their business in the *darülislam*, then the case was not to be heard and no witnesses called. The *ahidname* and *fetva*s of the *şeyhülislam* were produced and examined in the court, which then, in the absence of the plaintiff's *hüccet*, therefore ruled that he could not bring a case.[140]

In the same way, the right documentation could lead to a legal victory. In two disputes over debt which went to court in 1604, the plaintiffs, all *müstemin*s, who had sold broadcloth to two *zimmi*s but had not received payment, produced *hüccet*s signed by the *naib* Mevlana Hüsam Efendi ibn Mehmed, to back up their claims. In both cases, the court examined the *hüccet*, the authenticity of which was rejected by the *zimmi*. The court therefore requested additional proof from the *müstemin*s, who in both cases called two Muslim witnesses who testified in their support and to the *hüccet*s' authenticity. The court therefore found in favour of the plaintiffs.[141]

A multiplicity of documents could be involved in major disputes. In 1576, Murad III wrote to the Doge Alvise Mocenigo concerning a dispute between Ottoman and Venetian merchants. The Ottoman merchants had loaded goods onto a Venetian ship at Istanbul. The goods were to be handed over to their agents in Venice. The *bailo*, Antonio Tiepolo, had 'with a signed document furnished with his seal' confirmed that the man to whom the goods had been consigned and the captain (*patrono*) of the ship were Venetian citizens and that they would fulfil what they were obliged to do. However, instead of going to Venice as they were required to, the Venetians had gone to Messina where they had sold both the ship and the cargo. The Ottoman merchants had produced the document of the *bailo* and a *hüccet* from the *kadı* of Galata, demanding payment by the Ottoman treasury. The *bailo* had supported the Venetian merchant, who was not present. In his letter to the Doge, Mehmed III noted that on the basis of the agreements (*ahd*), the merchants should not suffer damage, that it was known for certain

[138] BOA, MAD, 17901, f. 11, gurre-i Rebiülahır 1028 (18 March 1619).
[139] BOA, MAD, 17901, f. 9, evahir-i Rebiülevvel 1028 (7-17 March 1619).
[140] Kuran, *Mahkeme*, 830-2, no. 436, 15 Şevval 1071 (3 June 1661).
[141] Kuran, *Mahkeme*, 785-6, no. 405, 14 Şaban 1013 (5 January 1605); 786-8, no. 406, 14 Şaban 1013 (5 January 1605). For a detailed discussion on witnesses in court and on court documentation see Francisco Apelániz, *Breaching the Bronze Wall: Franks at Mamluk and Ottoman Courts and Markets* (Leiden: Brill, 2020) 206-84.

that the debtors were Venetian, and that the *bailo* had supported the Venetian merchant. The two Venetians should be made to appear, by the *bailo*, and they or their guarantors (*küfela*) or relations should be forced to pay the sum given in the documents.[142]

Documentation would also be required in major cases of fraud. In 1631 an English merchant called George More had absconded with a great deal of money and goods belonging to various merchants, both Muslim and other merchants, and had escaped on an English ship. Instructions were issued that the ship was to be apprehended and More seized and sent to Istanbul. If More was not found, then the *katip* and the *reis* of the ship, together with their documentation (*defterleriyle*) were to be sent to the imperial capital.[143] More had in fact skipped owing a great deal to a great many. According to the Venetian *bailo*, Giovanni Capello, More, 'one of the leading English merchants here, has failed and run away, carrying off 100,000 reals belonging to various persons', including the *kaymakam*, to whom he owed 10,000 reals. 'The ambassador is much harassed by the creditors flocking to his house…Rigorous orders have been issued for an enquiry and finding the culprit. It is thought that the event will greatly derange the English business here'.[144]

Trade-related documentation registered in the court covered a wide range of matters. Such documentation could be registrations related to deceased merchants, as was the case, for example, in October 1478 when the appointment of the Genoese Sangiacomo son of Lorenzo as the trustee for the estate of the deceased Florentine Piero son of Alessio was registered in the *kadı* court in Bursa,[145] or the commercial arrangements over cloth registered there by Ottoman and Italian merchants in the same year.[146] Many concerned payments, registering that payment had not been made, was to be paid, or had been settled, such as the registration in court in 1619 of the arrangement for payment for goods bought by the *voyvoda* of Moldova from the English ambassador Paul Pindar,[147] or for payments of ransoms for Muslims incarcerated in Malta.[148] Other arrangements were also registered for the rescuing of Ottomans held on the island. In 1663 Ahmed Odabaşı ibn Ali registered in court the arrangement whereby he handed over to the *müstemin* Tarako veled-i Ulo, a Maltese merchant, his slave Karlo veled-i Malinor in exchange for his brother Arslan, a slave of Sör Cuvan, a *harbi* from Malta.[149] The use of slaves as objects of exchange or as a pledge for a loan is also evident in a transaction registered in the *kadı* court

[142] Maria Pia Pedani (ed.), *Inventory of the* Lettere Scriture Turchesche *in the Venetian State Archives* (Leiden: Brill, 2010) 68-9, no. 301, 3rd decade Zilkade 983 (21 February-1 March 1576); see also 86, no. 369 and 370.
[143] *85 Numaralı Mühimme Defteri*, 88 and 60, no 143, 8 Recep 1040 (10 February 1631).
[144] Giovanni Capello, Venetian ambassador at Constantinople, to the Doge and Senate, February 1631 (1630 m.v.), in Hinds, Alan B. (ed.), *Calendar of State Papers Relating to English Affairs in the Archives of Venice*, *volume 22 1629-1632* (London: Her Majesty's Stationary Office, 1919), no., 607, February 1631 (1630 m.v.).
[145] Halil İnalcık, 'Bursa I. XV. Asır Sanayı ve Ticaret Tarihine Dair Vesikalar', *Belleten*, 14/93 (1960), 45-102, at 70, doc. 4, 20 Recep 883 (19 October 1478).
[146] İnalcık, 'Bursa', 72, doc. 7, 24 Ramazan 883 (19 December 1478).
[147] Kuran, *Mahkeme*, 827-9, no. 434, 14 Rebiülevvel 1028 (1 March 1619), and 829-30, no. 435, 14 Rebiülevvel 1028 (1 March 1619).
[148] Fuat Recep and Salih Kahriman, *İstanbul Kadı Sicilleri Galata Mahkemesi 90 Numaralı Sicil (H. 1073-1074/M 1663)* (Istanbul: ISAM, 2012), 94-5, nos. 65-68. See also nos. 131, 133, 138, 208, 271, 304, 309.
[149] Recep and Kahriman, *Galata Mahkemesi 90*, 90, no. 182.

in Kandiye (modern Heraklion) when, in 1671, Mustafa ibn Zefer handed over his slave, Gülistan bint Abdullah, to Bernardo son of Martinico as a pledge for the loan of 150 *esedi guruş*.[150]

In cases where debts were owed both to the state and to other creditors, the state could wish to have first call. In an interesting case from 1604, an individual, Konstantin veled-i Yorgi, incarcerated in the prison at Galata, owed 300,000 *akçe* to the state. His imprisonment, however, was due to the debt he owed to three *müstemin*, Karice veled-i Sice, Nikola veled-i Maroco and Vadiki veled-i Varal, who had requested his imprisonment. Mehmed ibn Mustafa, an official of the *defterdar* Mahmud Paşa, went to court, together with the three *müstemin*s, where he presented an order (*buyuruldu*) issued by Mahmud Paşa and requested that Konstantin be released in order to pay his debt to the state, after which he would be delivered to the three *müstemin*s. The *müstemin*s agreed to this proposed arrangement provided that someone stood surety for Konstantin's delivery to them after he had settled his debt to the state. Mehmed Bey agree to ensure that Konstantin was handed over, and, having secured the *müstemin*s' agreement, Konstantin's release was registered in court.[151]

IV Disputes and Resolutions

While international trade in the Ottoman empire might be conducted within a legal framework accompanied by a 'sea of paper', such documentation was often insufficient to ensure smooth commercial relations. In such circumstances, foreign merchants had a variety of venues to which they could turn in cases of dispute and figures to whom they could appeal against abuse or infringement of trade agreements. Many commercial disputes ended up in the *kadı* courts, were referred to the consuls or were heard in the imperial council (*divan-ı hümayun*).

Of the many bones of contention, a particularly common source of friction was over-charging, or 'the exorbitant pretences' as the English saw it,[152] by customs officials who could overvalue merchandise in order to charge higher customs taxes, as was the case in Aleppo in the early seventeenth century;[153] charge at a higher rate than agreed, the 1712 *ahidname* with Genoa, for example, containing a clause specifying that customs officials were not to attempt to charge more than the stipulated rate of customs[154] and the *beylerbeyi* and *kadı* of Egypt being instructed in 1633 to ensure that customs officials

[150] TAH, sicil 3, ff. 25-6, no. 63, 12 Rebiülahır 1082 (18 August 1671); Greek summary in Elizabeth A. Zachariadou, Eleni Karantzikou and Penelope Photeinou (eds.), *Τουρκικές πηγές κριτικές ιστορίας – 1 Ιεροδικείο ηρακλείου τριτος (1669/73-1750/67)* (Heraklion: Vikelaia Municipal Library, 2003) 35, no. 63.
[151] Kuran, *Mahkeme*, 777-8, no. 399, 11 Cemaziülevvel 1013 (5 October 1604).
[152] Akdes Nimet Kurat, *The Despatches of Sir Robber Sutton, Ambassador in Constantiople (1710-1714)* (London: the Royal Historical Society, 1953) 51 and 52.
[153] BOA, MAD, 17901, f. 10, evahir-i Rebiülevvel 1028 (7-17 March 1619). See also Zahirović, *Register*, 59-60, no. 56, evahır-ı Muharrem 1043 (28 July-6 August 1633).
[154] BOA, A.DVN.DVE.d 108, f. 5.

did not charge more than the legal rate for sugar;[155] or simply extort extra money, the Dutch *ahidname* of 1612 noting that 'merchandise may not be assessed at an excessive price'.[156] According to James Porter, the customs officials ignored the customs duties stipulated in the *ahidname*s and 'charge them at pleasure, according to their will and caprice'.[157]

Complaints against the corruption of officials were rife. According to the English merchants, William Shales and John Sanderson, in Cairo in 1586, the *beylerbeyi* there 'hath much damnified the merchants, seeking to eate upon them',[158] and traders from Patmos complained in 1553 that Ottoman officials, including the *emin*s of the ports in Ottoman territory, extorted money from them and forced them to buy provisions.[159] Mehmed IV issued an order against Selim, the *kahya* of police in Cairo instructing him to restore 1,500 piastres which he had taken in relation to French ships which had arrived in Alexandria, with the further instruction that should Selim make any difficulty or fail to return the money, then he was to be sent to Istanbul to give an account of his conduct.[160]

Certainly, misbehaving Ottoman officials was not something the Ottoman government wanted, for such behaviour risked bringing 'harm to the revenue'.[161] Free-wheeling officials caused loss of income. It was the behaviour of the then influential Yasef Nassi (Yosef Nasi), the Duke of Naxos, in 1568 that undercut the port of Alexandria and damaged treasury revenue when, in order to collect a sizeable debt owed him by the king of France, he had seized French ships and merchants coming to the port of Alexandria together with ships belonging to those from Messina, Genoa, Ancona and others under the French flag, as well as those from Venice and Dubrovnik. In the order (*hüküm-i hümayun*) sent to the Alexandria, it was noted that this was the reason for the port falling out of use and for the subsequent loss of revenue for the state treasury. In a pragmatic solution, Yasef Nassi was ordered that goods, to the value of the debt, should be taken gradually from French merchants, and those under French protection. Ships that legally came to the port were not to be seized, nor was there to be any aggression against ships from Venice or Dubrovnik.[162]

It was the danger of revenue loss that encouraged the issuing of an order to the *beylerbeyi*, *kadı* and *defterdar* of Aleppo, in response to a complaint from the Venetian *bailo* in 1619 about the hassling of Venetian merchants by Ottoman officials. Noting that since the time of the conquest of Aleppo,

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[155] Zahirović, *Register*, 40-1, no. 35, evahır-ı şevval 1042 (1-9 May 1633). See also 42, no. 37, evahır-ı şevval 1042 (1-9 May 1633).
[156] de Groot, *The Ottoman Empire and the Dutch Republic*, 238 and 252.
[157] Porter, *Observations*, 102.
[158] Sir William Foster (ed.), *The Travels of John Sanderson in the Levant, 1584-1602* (London: The Hakluyt Society, 1930), 134, 16 October 1586.
[159] Nicolas Vatin, Gilles Veinstein and Elizabeth Zachariadou, *Catalogue du fonds ottoman des archives du monastère de Saint-Jean à Patmos. Les vingt-deux premiers dossiers* (Athens: Fondation nationale de la recherche scientifique, 2011), 72, no. 1b-*21*.
[160] ACCM, J144, Liste des commandements obtenus à la Porte par M. le Comte de Guilleragues pendant son séjour à Adrianople. A marginal note made against this entry stated that this judgement should serve to impede anyone else in the future from such 'avanies' against merchants.
[161] BOA, MAD, 17901, f. 10, evahir -i Rebiülevvel 1028 (7-17 March 1619).
[162] *7 Numaralı Mühimme Defteri (975-976/1567-1569) Özet – Transkripsiyon – İndeks*, (Ankara: T.C. Devlet Arşivleri Genel Müdürlüğü, 1997), Vol III, 344-5 no. 2666 and *Tıpkıbasım*, Vol. II, 966, no. 2666, 26 Cemaziülahır 976 (16 December 1568).

Venetian merchants had, in accordance with 'the *ahidname* and the high order they have in their hands', been importing broadcloth, cloth and other merchandise, the order stipulated that Ottoman officials were not to demand more customs and taxes than they should and warned against 'damage to the state revenue'.[163]

One avenue open to merchants who fell victim to abusive Ottoman officials was to appeal directly to the sultan. When Iranian merchants found themselves fleeced by customs officials in Edirne in 1630, they sent a petition to the centre. They had taken goods to Istanbul, where they had paid customs before continuing with the goods to Venice. There they had bought cloth and other merchandise. While returning to Istanbul, they had stopped at Edirne to rest. Although they had not unpacked their merchandise nor traded, the customs official in Edirne had demanded customs tax from them in contravention of established custom. They urgently requested an imperial order (*emr-i şerif*) that the previous practice be observed and merchants left unmolested. The order was issued that in these circumstances, no customs was to be charged in contravention of 'the sharia, the *kanun* and the established practice'.[164] The desire to protect merchants from Iran was underlined in a document from 1703 which noted that previous sultans had issued 'sharia orders for the protection and defence' of merchants who came from Iran to the Ottoman empire. The document was issued in response to a petition from Armenian merchants from Iran complaining that although they had paid customs at Erzurum and had a receipt (*eda tezkeresi*) from the customs official there, customs was being demanded from them in other places.[165]

In the case of *müstemin*s, appeal could be made to the consul. For Panaite, the 'essential job' of the consuls was to 'harmonize' the 'permanent contradiction between theory and practice, between the diplomatic text of the capitulations (*ʿahdnāme-i hümāyūn*), and the often abusive circumstances on the spot'.[166] Venetian consuls were, in Maria Pia Pedani's words, 'to protect a Venetian community abroad, to be a judge for it, to control commercial exchanges, to collect taxes and duties, to get in touch with local officials and to inform Venetian home authorities about trade and international politics'.[167] Pedro Teixeira, in Aleppo in 1605, noted that the French, English and Venetians each had their own consul there who 'serves as a chief, to settle differences amongst themselves, and to transact all needful business with the Pasha, on behalf of his nation'.[168] The *ahidname*s also made reference to the role of the consuls, that with Venice in 1478/79 stating that the *bailo* 'will be able to dispense justice and

[163] BOA, MAD, 17901, f. 10, evahir-i Rebiülevvel 1028 (7-17 March 1619).
[164] *85 Numaralı Mühimme Defteri*, 33 and 23, no. 51 and no. 311
[165] Svetlana Ivanova, 'The empire's "own" foreigners: Armenians and acem tüccar in Rumeli in the seventeenth and eighteenth centuries' in van den Boogert and Fleet, *Ottoman Capitulations*, 681-703, at 693-4.
[166] Viorel Panaite, 'French capitulations and consular jurisdiction in Egypt and Aleppo in the late sixteenth and early seventeenth centuries' in Pascal Firges, Tobias Graf, Christian Roth and Gülay Tulasoğlu (eds.), *Well-Connected Domains. Towards and Entangled Ottoman History* (Leiden: Brill, 2014) 1-87, at 87.
[167] Maria Pia Pedani, 'Venetian consuls in Egypt and Syria in the Ottoman age', *Mediterranean World* 18 (2006) 7-21, at 7.
[168] Pedro Teixeira, *The Travels of Pedro Teixeira*, trans. William F. Sinclair, notes and introduction Donald Ferguson (London: The Hakluyt Society, 1902) 118.

administer Venetian affairs, according to their custom',[169] and that with France in 1597 stating that the consuls 'were appointed for the merchants' affairs'.[170]

Ambassadors and consuls did not always perform well. In 1596 the inhabitants of Tophane in Istanbul went to the *kadı* court in Galata to complain about the English ambassador and his retinue who were living in a house in Tophane. According to the complaint, 'far from behaving decently, they indulge all the time in every kind of disorder, and some libertines come from outside and join the debauchery and bring in prostitutes, (in short) there is no depravity and foulness of which they are not guilty'. The inhabitants of Tophane 'deposited a paper, stating in writing: "either you expel the ambassador or else we set fire to the quarter". Their depravities and excesses are beyond all limits; in every way it is better for the Muslims that those people should live in Galata, in the houses where they used to live formerly'. The sultan instructed the *kadı* that the English ambassador was to be evicted forthwith and sent back to Galata; 'you shall not allow the aforesaid ambassador to make any excuses or pretexts'.[171]

For the European states which appointed them, the role of the consuls was all about stimulating trade and protecting commercial interests, as Charles II's appointment document for Thomas Baker, consul in Tripoli in 1677, makes clear, for the appointment was made 'being desirous to advance and encourage Trade and Commerce that hath been and is between Our Dominions and the Citty and Territories of Tripoly aforesaid within the Dominions of the Grand Signor, and for the greater benefit and the good and more orderly Government of all Our English Merchants and others Our Subjects trading thither or residing there'.[172] Among the duties listed for the new consul was 'to examine and heare, and as much as in him is to compose and determine, all and all manner of differences, contentions, suites, and variances that shall or may happen or arise … between Our said Merchants and Subjects or any of them'.[173]

The *ahidname*s set out the details of how cases involving *müstemin*s of the various states should be handled. Cases or disputes between the Genoese, for example, were to be dealt with by their ambassadors and consuls who were to judge matters 'according to their customs and law'. There was to be no involvement by the *beylerbeyi*s, *kadı*s or *hakim*s.[174] Similar clauses appear in the Dutch *ahidname* from

[169] Wright and MacKay, 'Peace treaty', 275; Miklosich and Müller, *Acta et Diplomata*, III, 296.
[170] Panaite, 'French capitulations', 87.
[171] Susan A. Skilliter, 'The Turkish documents relating to Edward Barton's embassy to the Porte (1588-1598)', unpublished PhD thesis, University of Manchester (1965) 212-16, doc. 33.
[172] Pennell, C.R. (ed.), *Piracy and Diplomacy in Seventeenth-Century North Africa. The Journal of Thomas Baker, English Consul in Tripoli, 1677-1685* (Rutherford: Fairleigh Dickinson University Press; London: Associated University Presses, 1989), p. 75.
[173] Pennell, *Journal of Thomas Baker*, p. 77.
[174] BOA, A.DVN.DVE.d 108, f. 7.

1612,[175] that with the English in 1580,[176] those with Venice from 1502,[177] 1521[178] and 1540,[179] and that with France in 1673.[180] In the case of merchants from Rhodes any disputes between Ottoman and Rhodian merchants (i.e. subjects of either party) were to be settled according to the justice and custom of the place where they were, under the 1482 peace between the Ottomans and the Hospitallers.[181]

While consuls were to judge cases involving their own nationals, and cases involving foreigners and Ottomans went to the *kadı* court, Pedani has drawn attention to the fact that consular courts could also be used by Ottomans and that consuls did make judgements in mixed cases, something permissible under Islamic law. Pedani notes that in a dispute with Christians a Muslim could appeal to a non-Muslim judge even if the decision of such a judge would be considered arbitration rather than a legally binding decision. She further argues that a factor in a Muslim's decision to go to a consul could have related to costs, for to go to trial was expensive and if a Christian consul's fees were lower than a *kadı*'s, this would make the consular court more attractive.[182]

In a reversal of this, it would also appear that cases involving only *müstemin*s could be examined in the *kadı* court. In 1478 a case of debt was taken to the *kadı* court in Bursa. In court a Frank, Filipo son of Alessandro, stated that he owed Gerardo son of Piero, a Frank, 87,890 *akçe*, but that he too was owed money by Gerardo. Gerardo, however, stated that the money he was owed by Filipo was 97,572 *akçe*. Therefore, four Frank merchants, Leonardo (Yunardo) son of Anton, Anton son of Stefano (İstefa), Benedetto (Benadid) son of Anton and Serumed (?) son of Francesco, were appointed to examine the accounts and account books (*hesablar ve kitaplar*) of Filipo and Gerardo to ascertain the truth of the situation.[183]

This use made of the *kadı* courts and the consular courts shows the legal plurality and fluidity of litigation in the Ottoman empire, and once again serves to highlight the pragmatic, rather than the dogmatic, approach to the practicalities of existence and the realities of commerce in the Ottoman realm.

From a case in 1605 in the Galata court, it appears that the *bailo* could act as the legal agent for Venetians in cases against Ottoman subjects. In this case the dragoman of the Venetian *bailo*, Marco, a *zimmi* and Nikola veled-i Fotayı, a resident of Athens, sued a *topcı*, Memi Reis. Nikola and Ayobandid, from Venice, had bought a ship in partnership together. They had loaded goods in İzmir and while sailing off to trade, their ship and everything on it had been seized by foreign corsairs (*harbi korsanlar*). Equipment from their ship was found in the possession of Memi Reis. Marco claimed that the *bailo* acted as agent (*vekil*) for Venetians in such cases and that the *bailo* had appointed him to act in this case

[175] de Groot, *The Ottoman Empire and the Dutch Republic*, 237 and 251.
[176] Skilliter, *Harborne*, 235 and 88.
[177] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 371 (Ottoman text), 378 (Italian text).
[178] Şakiroğlu, '1521 Tarihli', 402; Theunissen, *Ottoman-Venetian Diplomatics*, 2, 414.
[179] Theunissen, *Ottoman-Venetian Diplomatics*, 2, 443-4.
[180] *Muâhedât Mecmûası*, I, 8 and 10; *Les capitulations entre l'empereur de France et Mehemet quatrième empereur des Turcs*, 17, clause 16, and 24, clause 34; *Treaties between Turkey and Foreign Powers*, 197, clause 16; 199, clause 37.
[181] AOM, 76, ff. 116v (101r)-117r (102r); Miklosich and Müller, *Acta et Diplomata Graeca*, III, 318-19, no. 23.
[182] Pedani, 'Venetian consuls', 12.
[183] İnalcık, 'Bursa', 71, doc. 6, Ramazan 883 (November/December 1478).

for Ayobandid. As no witnesses were produced to support Marco's claim either that the *bailo* was the legal agent for Ayobandid or that he, Marco, was the *bailo*'s legal agent, he was dismissed from the case.[184]

Interestingly this case went originally to the Rumeli *kazasker* (chief military judge). White suggests a number of possible reasons for this. Under the *ahidname*, the Venetian might have chosen to the take the case to the *divan-ı hümayun* (imperial council), or the defendant, Memi Reis, if he were a member of the *askeri*, might have exercised his right to select the location and, too, have chosen the *divan-ı hümayun* which in turn passed the case on to the *kazasker*. A further possibility was that the *kazasker*, due to his position and prestige, was chosen by both parties in the first place.[185] It was to the *divan-ı hümayun* that cases of a certain importance, or those that involved an ambassador, were directed. Ambrosio Bembo, who spent 15 months in 1671-3 in Aleppo where his uncle was the Venetian consul, noted that cases involving more than 5,000 *akçe* were submitted to Istanbul,[186] this figure being given as 4,000 *akçe* in the 1601 *ahidname* with England.[187]

Ambassadors could attempt stalling tactics to delay proceedings in court. In 1567 a *hüküm* was issued in a case involving a janissary who had taken the Hungarian ambassador to court, but the ambassador was dragging his feet. The order instructed that the ambassador should stop making excuses, and the case be heard.[188] This practice is also alluded to in the 1580 *ahidname* with England when it warned that the English should not 'seek idle pretexts' in order to delay legal proceedings.[189] This related to the presence of a translator, required in court cases involving foreigners such as the English and the Dutch. In the event of no translator being available, cases could be adjourned. However, this was not to be abused and, as expressed in the 1612 Dutch *ahidname*, 'they may not seek an excuse and try to cause delay by saying: "our dragoman is not present"'.[190] The French *ahidname* of 1673 stipulated that a merchant could not 'maliciously' use the excuse that there was no interpreter present in order persistently to delay court proceedings.[191]

Foreign ambassadors could also appeal directly to the sultan for justice. When two Venetian subjects were seized, together with their goods, and accused of being spies at Bozcaada in 1619, the *bailo* appealed to the sultan. In consequence an order was issued that the Venetians and their goods were to be handed over to the consul at Gelibolu.[192] Ambassadors could also petition the sultan for the protection of their consuls, who could be Ottoman subjects, within Ottoman territory. In 1605 the

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[184] Kuran, no. 420, pp. 806-10, evahir-i Safer 1014 (1605); also in Kuran II, no. 130, pp. 196-200.
[185] White, p. 230.
[186] Ambrosio Bembo, *The Travels and Journal of Ambrosio Bembo*, ed. Anthony Welch and trans. Clara Bargellini (Berkeley: University of California Press, 2007) 41-2.
[187] Mübahat S. Kütükoğlu, *Osmanlı-İngiliz İktisâdî Münâsebetleri I (1580-1838)* (Ankara: Türk Kültürünü Araştırma Enstitüsü, 1974) 26.
[188] Ahmed Refik, *Onuncu*, 198, no. 6, Rebiülahır 975 (2 November 1567).
[189] Skilliter, *Harborne*, 88 and 235.
[190] de Groot, *The Ottoman Empire and the Dutch Republic*, 242 and 255.
[191] *Les capitulations entre l'empereur de France et Mehemet quatrième empereur des Turcs*, 23, Clause 33.
[192] BOA, MAD, 17901, f. 8, 12 Cemaziülevvel 1028 (27 April 1619).

French ambassador in Istanbul sent a petition to the sultan complaining that the *zimmi* Adovardo Niko, an inhabitant of Galata who was his consul, was being required to pay *haraç* by the *mütevelli* of a *vakıf*, despite that fact that he possessed a document (*muafname-i hümayun*) exempting him from *haraç* and other taxes (*tekalif-i örfiye*). This exemption was also registered in the *ahidname* granted to the French king. The ambassador requested that the matter should be conducted in accordance with the *ahidname* and that Adovardo Niko's name be removed from the tax register (*avarız defteri*). The sultan issued an *emr-i şerif* that the *ahidname* be followed and his name be removed from the *haraç* and *avarız defteri*.[193]

The *kadı* court was a major site of trade-related litigation for all foreign merchants, both those from the *darülharb* and from the *darülislam*. Under the *ahidname*s, cases involving *müstemin* merchants and Ottomans went to the *kadı* court. Disputes could be settled by arbitration and then registered in court, as in the case of debt between Osman, a janissary, and a *müstemin*, Anton in 1604.[194]

It was to the *kadı* court in Bursa that the prominent Gilani merchant Mahmud Gavan went in 1478. He had appointed as his agent (*vekil*) Ali who went in the company of Abdülaziz to Anatolia to trade. Ali gave Abdülaziz to sell 877 pieces of cloth, from the cloth that Mahmud Gavan had given him to trade. While Ali was absent, Abdülaziz died and all his effects were recorded and then seized. Ali claimed that the cloth in the possession of the late Abdülaziz and which had been registered was from the cloth given to him by Mahmud for trade. Witnesses supported Ali's claim before the legally appointed representative of Abdülaziz's daughter Fatma and the official from the *beytülmal*, Mevlana Mühieddin.[195]

One of the major concerns of merchants was what happened to the goods of a foreign merchant who died in Ottoman territory. In theory, the legal requirement was that in such cases the merchant's goods were to be handed to the *kadı* or the consul or to the agent of the merchant for ultimate transfer to his heirs. The *kanunname* dating to c. 1500 stated that if an infidel from the *darülharb* died in Ottoman territory and 'if after the payment of debts there remains over an estate, it is to be listed with the cognizance of the kadı and held…if there is no dispute over who inherits or over the will, the estate is to be held in a safe and secure place, and the beytülmalcı [the official responsible for managing unclaimed inheritances] is not to intervene; when a man from the dead man's country comes with a letter regarding the estate [all the papers are to be sent to the Porte and a *firman* will be issued]'.[196] The need for the goods of a deceased merchant to be handed to the consul or agent, and not to fall into the hands of Ottoman officials, was constantly reiterated in the *ahidname*s. The same situation applied to a foreign merchant from the *darülharb* and so not covered by an *ahidname*. Thus, under a *ferman* dated 1736 issued by Mahmud I which confirmed the decision of the previous sultans Mustafa II and Ahmed III,

[193] Kuran, *Mahkeme Kayıtları*, 810-12, no. 421, 14 Rebiülevvel 1014 (30 July 1605).
[194] Kuran, *Mahkeme Kayıtları*, 790-1, no. 409, 18 Şaban 1013 (9 January 1605).
[195] İnalcık, 'Bursa', 69, doc. 3, evail-i Cemaziülahır 883 (mid September 1478).
[196] Ménage and Imber, *Ottoman Historical Documents*, 108, no 3.

the goods of Iranian (*acem*) merchants who died in Ottoman territory were to be handed over to the merchants with them and Ottoman officials were not to interfere.[197]

This, however, was not always what happened. In 1619 an order was sent to the *kadı* of Galata concerning the Venetian merchants trading in Bandırma. One of them had died and, in contravention of the *ahidname*, the *beytülmalcı* had taken his goods. The order was that the *emin* and the *beytülmalcı* were not to touch the goods of the Venetian merchant in Bandırma and they were to be given to the merchant's agent (*vekil*) in accordance with the *ahidname*.[198] At the same date a *nişan-ı hümayun* was issued. Venetian merchants were to come in safety to the empire and trade without interference. If a Venetian died, the *beytülmalcı* and *kassam* and others were not to interfere but, through the expertise of the Venetian *bailo* and the consul, the deceased Venetian's goods were to be handed to his partners or heirs.[199] A similar order was also sent to the *beylerbeyi* and *kadı* of Aleppo giving instructions that the *beytülmalcı*s were not to interfere with goods of deceased Venetian merchants. Such goods to be handed over to *bailo*s in accordance with the *ahidname*.[200]

V The Limits of the Law

Ottoman international trade might theoretically have been conducted within a framework of legal structures and documentation, but the law could be ignored, rendered impossible to enforce or simply bypassed. The enormous extent of the empire inevitably meant that control throughout was never uniform and legal enforcement was thus dependent on where and when. As Rhoads Murphey has noted, here referring to the seventeenth century, 'an approach to the Ottoman empire based on the assumption of a unitary state whose regulatory presence and pre-eminence was felt and recognized in every corner of the vast extent of its territories is…problematic'.[201] Despite legal protections, consuls and merchants could be imprisoned, as the English consul and merchants were in the mid-1670s in Tunis, an area largely beyond effective central control.[202] Legal instruments could in any case be fraudulent, the 1712 *ahidname* with Genoa warning against any fraudulent use of bills of exchange (*poliçe*).[203]

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[197] Serap Yılmaz, 'İranlı Ermeni Bir Tüccarın Terekesi ve Ticari Etkinliği Üzerine Düşünceler', *Tarih İncelemeleri Dergisi*, 7/1 (1992) 191-215, at 194.
[198] BOA, MAD, 17901, f. 5, evasıt-ı Rebiülevvel 1028 (25 February-7 March 1619).
[199] BOA, MAD, 17901, f. 5, evasıt-ı Rebiülevvel 1028 (25 February-7 March 1619).
[200] BOA, MAD, 17901, f. 6, evasıt-ı Rebiülevvel 1028 (25 February-7 March 1619).
[201] Rhoads Murphey, 'Merchants, nations and free-agency: an attempt at a qualitative characterization of trade in the eastern Mediterranean, 1620-1640' in Alastair Hamilton, Alexander H. de Groot and Maurits H. van den Boogert (eds.), *Friends and Rivals in the East. Studies in Anglo-Dutch Relation in the Levant from the Seventeenth to the Early Nineteenth Century* (Leiden: Brill, 2000) 25.
[202] C.R. Pennell (ed.), *Piracy and Diplomacy in Seventeenth-Century North Africa. The Journal of Thomas Baker*, *English Consul in Tripoli, 1677-1685* (Rutherford: Fairleigh Dickenson Press; London: Associated University Presses, 1989) 103.
[203] BOA, A.DVN.DVE.d 108, f. 8.

Among those issues which proved particularly resistant to legal control was corsairing, or piracy. The English and Dutch plundered Ottoman ships in the Red Sea;[204] the corsairs from North Africa, under a very tenuous control from Istanbul, plundered everyone; the Hospitallers from Malta did pretty much the same, carting off boatloads of Ottoman captives to the island, including Macuncuzade Mustafa Efendi, captured on his way to take up the position of *kadı* of Paphos in Cyprus in June 1597.[205] Piracy, in short, was a problem for everyone. It was such a contentious issue that it could lead to behaviour that was decidedly not diplomatic. In June 1586, during an audience between the English ambassador and the grand *vezir*, the quarrel between the ambassador and the *kapudan paşa* over the seizure of various English vessels 'came to such a pitch that from abuse they passed to blows…to the disgust of the Grand Vizir'.[206] The English were certainly unpopular in this context. Giovanni Carlo Scaramelli, the Venetian Secretary in England, reported to the Doge and Senate in March 1603 that 'the English through their rapacity and cruelty have become odious to all nations'. He added 'how great, how universal, and how just is the hatred which all nations, nay all peoples we might say, bear to the English, for they are the disturbers of the whole world'.[207]

Piracy was thus a major problem for all sides. The behaviour of Thomas Sherley, which eventually led to his incarceration first in Negroponte in 1603 and then in Istanbul, prompted English merchants to write to the English ambassador in Istanbul, Henry Lello, to warn him for they feared that 'he will spoil the Turkey trade'.[208] His appeals to the English consul at Patras were ignored, as were his appeals, initially, to the English ambassador, who assured the Ottomans they could do whatever they wished with him, an attitude presumably also resulting from the fact that Lello was at that point involved in negotiations for the renewal of the *ahidname*.[209]

In 1603 an Ottoman official was sent to England with a letter for Queen Elizabeth. 'His mission', according to Francesco Contarini, the Venetian ambassador in Istanbul, was 'the question of English pirates'.[210] The behaviour of the English was such that 'English merchantmen have begun to sail fully armed as if for war, and to plunder the unarmed merchant ships which they meet, and to wrap up the crews in the sails and throw them into the sea'. It was noted that 'Turkish ships, too, are plundered

[204] Cristoforo Valier, Venetian ambassador in Constantinople to the Doge and Senate, Pera, 26 April 1613, in Brown, *Calendar of State Papers*, *12*, 528, no. 823.
[205] Macuncuzade Mustafa Efendi, *Malta Esirleri. Ser-Güzeşt-i Esîrî-i Malta*, ed. Cemil Çiftçi (Istanbul, 1996) 22-3.
206 Lorenzo Bernardo, Venetian ambassador at Constantinople, to the Doge and Senate, Pera, 23 June 1586, in Brown, *Calendar of State Papers*, *8*, 172, no. 368.
[207] Giovanni Carlo Scaramelli, Venetian Secretary in England, to the Doge and Senate, 20 March 1603, in Brown, *Calendar of State Papers, 9*, 556, no. 1160.
[208] Anthony D. Alderson, 'Sir Thomas Sherley's piratical expedition to the Aegean and his imprisonment in Constantinople', *Oriens* 9/1 (1956) 9-40, at 3 and 5.
[209] Alderson, 'Sir Thomas Sherley's piratical expedition', 6-8.
[210] Francesco Contarini, Venetian ambassador in Constantinople, to the Doge and Senate, 13 June 1603, in Horatio. F. Brown (ed.), *Calendar of State Papers Relating to English Affairs in the Archives of Venice*, *volume 10 1603-1607* (London: Her Majesty's Stationary Office, 1900) 51, no. 74.

by the English'. As a result, 'the Queen is requested to compel her merchants to behave as other merchants do'.[211]

The French were very annoyed about English pirates and 'the mischief done by the English to French vessels in these seas'. In July 1600 the Venetian ambassador at Istanbul, Girolamo Capello, reported that the French ambassador had managed to obtain an order instructing the *kapudan paşa* to look into the matter. He informed the grand *vezir* that it was 'incumbent on the Turks to see that these vessels found no shelter in the ports of the Grand Signor; for, if they could not find safe harbour nor market for their spoils, they would be forced to adopt another line'.[212]

Smuggling was a further problem that proved difficult to control. The great demand for grain ensured a healthy black market in supplies sold in contravention of Ottoman regulations to European merchants whose ships cruised around the waters of the Aegean. Foreign merchants, clearly in cooperation with locals, could by-pass customs by loading and unloading in different locations, as Frankish merchants taking goods to İzmir did in the later seventeenth century when, instead of going to the correct customs jetty, they secretly unloaded their goods at the *Ceneviz iskele* instead, thus avoiding customs taxes.[213] Foreign and local merchants could collaborate to avoid higher customs tax payment by passing goods off as those of Ottoman subjects, an activity specifically forbidden in 1493 when an order was issued in relation to trade in Edirne that no one was 'to come to an agreement [with an infidel] and enable the infidel's goods to evade [full] customs-duty by claiming that they are his'.[214] This was a problem also encountered at the Dolyan fair at Ustrumca in 1631 where people, who claimed to be *sipahi*s and janissaries, concealed the merchandise of foreign merchants with their own goods and carried them into the fair, thus avoiding the taxes and defrauding the income of the *vakıf* of Rüstem Paşa to which the income of the fair belonged.[215]

Customs controls were in any case a problem, with constant complaints about the corruption of customs officials attempting to extract more than the fixed rate. Admonitions appeared frequently in the *ahidnme*s about the avoidance of corrupt practices by customs officials. In 1683 a customs official imposed customs on French merchandise at the rate of five per cent, in contravention of the *ahidname*, granted by Mehmed IV in 1673, which had reduced the customs tax for the French from five to three per cent. Telling the official that 'it is not up to him to interpret the capitulations', the French ambassa-

[211] Letter to the Queen of England, in Brown, *Calendar of State Papers*, *10*, 51.
[212] Girolamo Capello, Venetian ambassador in Constantinople, to the Doge and Senate, 29 July 1600, in Brown, *Calendar of State Papers, 9*, 420, no. 903.
[213] BOA, MAD 81880, f. 9, hüccet 17, 12 Rebiülevvel 1095 (28 February 1684).
[214] Beldiceanu, *Recherche*, 176-9 and 420-2, no. 14, evasit-i cemaziülevvel 898 (27-February-8 March 1493); Ménage and Imber, *Ottoman Historical Documents*, 132, no. 2f.
[215] *85 Numaralı Mühimme Defteri*, 266-7 and 182, no. 439, 5 Muharrem 1041 (3 August 1631).

dor, Gabriel-Joseph de la Vergne, threatened the customs official that he would complain to the *kaymakam* and the grand *vezir* 'himself', at which point the customs official climbed down and charged at the rate of three per cent.[216]

Corruption and personal contacts were also prevalent. Pedani has noted that 'in the Ottoman empire foreigners were often granted more privileges than they had in official documents. Part of this power came sometimes from being well acquainted with Ottoman officers'.[217] Such relationships often involved bribery. The various foreign ambassadors, who kept a close eye on each other's activities, were often suspicious of their rivals' Ottoman contacts. In 1603 the Venetian ambassador in Istanbul, Francesco Contarini, reported to the Doge that 'this week an Englishman named Jonah has received a present from the Pasha. He bears the title of English Consul in the Morea. He brought here various pleas from the Turkish officers about the attack on Patras. This is proof that the Pasha has taken the English under his protection at a time when he certainly ought not to have done so. I am sure bribes are employed'.[218]

In this environment, therefore, it is important not to overdo the significance of legal structures, either in terms of enforceability or respect paid to them by merchants themselves. While it is true that legal structures are never "all-powerful" and are inevitably subject to interpretation or to limitation, Murphey's rather stark assessment is still a useful reminder of the commercial realities of the period: 'the whole legal framework within which trade was theoretically conducted must be regarded rather as a guidance than active directives whose terms actually motivated or shaped the behaviour of merchants'.[219]

While the law might thus be a rather rocky basis for international trade, there was another important element in the conduct of commerce, and that was trust. In 1415 the Venetian Senate dispatched two ambassadors to the court of the Mamluk sultan al-Mu'ayyad. The ambassadors, Lorenzo Capello and Santo Venier, whose job it was to ensure an end to the 'innovations' with which Venetian merchants trading in Mamluk territory were faced and to negotiate a satisfactory trade treaty, began by drawing the sultan's attention to the 'trust' with which Venetian merchants traded in Mamluk territories.[220] It was trust which underlay the web of commercial relations, particularly for long distance trade for, as Bruce Masters noted in relation to *mudaraba* contracts, 'without that level of trust and honesty, long-distance trade would have been extremely difficult in an era that had neither rapid travel nor easy long-distance communication'.[221] For an earlier period, Avner Greif has noted that 'the relations between

[216] Gabriel-Joseph de la Vergne, le Palais de France a Pera, 12 December 1683, ACCM, J144. The customs official was aiming to charge French merchandise at this rate, claiming that it belonged to Venetians and had arrived on a ship which flew the Venetian flag 'in order', in the words of the ambassador, 'to gain two per cent'.
[217] Pedani, 'Venetian consuls', 11.
[218] Francesco Contarini, Venetian ambassador in Constantinople, to the Doge and Senate,23 August 1603, in Brown, *Calendar of State Papers*, *10*, 85, no. 115.
[219] Murphy, 'Merchants, nations and free-agency', 38.
[220] Nicolae Jorga, "Notes et extraits IV. Documents politiques", *Revue de l'Orient Latin* (1896) 226-622, at 545, 27 June 1415.
[221] Bruce Masters, *The Origins of Western Economic Dominance in the Middle East: Mercantilism and the Islamic Economy of Aleppo*, *1600-1750* (New York: New York University Press, 1988), 50.

business associates reflected in the Geniza suggest that these relations were based upon mutual trust' rather than relying upon any legal system.[222]

When Genoese merchants concluded a contract for the purchase of a substantial amount of copper from the İsfendiyar ruler Süleyman in 1390, the power to enforce such a contract legally would have been severely limited.[223] What made the contract function, therefore, was trust based on mutual benefit. Despite any mechanisms of legal enforcement, it is clear that in reality it was not legal sanction that underpinned commerce so much as mutual trust. In the late sixteenth and early seventeenth centuries, contracts made with the Cairene merchant Abu Taqiyya 'mention no penalties if one of the partners did not fulfill his obligations', leading Nelly Hanna to conclude that 'in spite of formal contractual links, merchants doing business together had to have a certain degree of mutual trust in order to minimize risks'.[224] This was a world of 'networks of mercantile trust', to use Trivelatto's phrase,[225] where, at least for the Hanseatic League, 'it was a common strategy of merchants to make friends out of occasional partners and relatives out of friends'.[226] While there might be a 'much more fragile state of trust … in obligations contracted over long distances', according to Craig Muldrew in relation to early modern English trade,[227] it nevertheless existed. At the end of the day, no trust meant no trade.

VI Conclusion

International commerce in the Ottoman empire operated within a legal framework, but, as has been stressed, that framework was often more of a guide than a control and could operate more in theory than in practice. Smuggling and piracy proved practically impossible to police, driven by financial ambition unfettered by any legal constraints. Those officials employed to apply the law often abused their position and chose corrupt practice rather than correct procedure. Merchants, rather than operating within the law, often sought ways to bypass it thus undermining its effective functioning. What made the wheels of Ottoman international commerce rotate, therefore, was not so much a legal structure as an environment marked by mercantile contacts and cooperation. The better a merchant understood the world he operated in and the stronger his commercial contacts and his local links were, the greater was the likelihood of his success. The impact of legal structures or political circumstances could thus be

[222] Avner Greif, 'Reputation and coalitions in medieval trade: evidence on the Maghribi traders', *The Journal of Economic History* 49/4 (1989) 857-82, at 864.
[223] ASG, Notai C.476, Donato de Clavaro, doc. 26. A summary and transcription of this document is in Fleet, *Trade*, 158-61, Appendix, doc. 3. A summary has also been published by Michel Balard, Angeliki L. Laiou and Catherine Otten-Froux, *Les Italiens à Byzance et présentation de documents* (Paris: Publications de la Sorbonne, 1987) 37, no. 82.
[224] Nelly Hanna, *Making Big Money in 1600: The Life and Times of Isma'il Abu Taqiyya, Egyptian Merchant* (Syracuse NC: Syracuse University Press, 1998) 60.
[225] Francesca Trivellato, *The Familiarity of Strangers: the Sephaardic Diaspora, Livorno, and Cross-Cultural Trade in the Earky Modern Period* (New Haven: Yale University Press, 2012) 273.
[226] Ulf Christian Ewert and Stephan Selzer, *Institutions of Hanseatic Trade. Studies on the Political Economy of a Medieval Network Organisation* (Frankfurt am Main: Peter Lang, 2016) 38.
[227] Craig Muldrew, 'Interpreting the market: the ethics of credit and community relations in early modern England', *Social History*, 18/2 (1993), 163-83, at 181.

negligible in a world dominated by the desire for commercial profit. Wars between states, an impediment to trade at least in theory, could be of little consequence as the judgement of the Levant Company in the Nine Years War makes clear: 'although our sovereigns are in warre, yet we as merchants may live together in love and peace'.[228]

[228] Levant Company to Consul Richard Westbrook, 11 September 1689, London, The National Archives (TNA), State Papers (S.P.) 105/114, f. 474. I should like to thank Aristide Chryssoulis for drawing my attention to this reference.