

Turkish-Armenian Protocol: Five Years Later

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This updated article was originally published in the fall of 2009. During the past five plus years the Turkish-Armenian Protocol has remained frozen, unratified, and used as a diplomatic football between the associated parties. Much has changed internationally in past five years since the signing of this Protocol, including events in Ukraine. Turkey finds itself mired in internal change and regional upheaval, starting from the Arab Spring, the creation of the Islamic State (IS), the Iranian P5+1 negotiation, the Pope and its WWI allies recognizing the Armenian genocide. Even Turkish EU ascension is being seriously questioned.

The Protocol on the Establishment of Diplomatic Relations Between the Republic of Armenia and the Republic of Turkey officially announced in Berne, Yerevan, and Ankara on August 31, 2009, was brought to center stage and not without controversy. In order to fully appreciate and rationally analyze this document that is meant to serve as the basis for further dialog between the parties, its origins and accepted norms of international behavior regarding it must be understood. While this article cannot cover every aspect in depth, the attempt is to provide a foundation to understand what may or may not have been transpiring between Armenia and Turkey and why.

This Protocol was the culmination of at least five years of discussions between Armenians and Turks at different official levels. Beginning circa 2003, talks were underway between then Turkish and Armenians foreign ministers Abdullah Gul and Vartan Oskanian respectively. While these talks had the appearance of being non-productive, in 2005 Turkish Prime Minister Tayyip Erdogan suggested instituting a joint historical commission to study what was termed “claims of genocide”. Armenia and Turkey were talking for many reasons; if for no other reason they are neighbors, irrespective of the outstanding historical issues. Why might Armenia deign talking with Turkey? Without talking, nothing can be addressed between the two parties, including issues not related to the Protocol, and these are the parties who are the internationally recognized as players, in spite of an extensive Armenian Diaspora.

Neither Armenia nor Turkey is in a position to unilaterally act completely independent of the interests of larger regional or international states. Subordinate states have to constantly re-examine their interests in order to adjust with those

of major powers with the aim of maximizing bargaining capability while understanding (and attempting not to capitulate to) the interest of the other parties. In general, this precludes these states from engaging in zero sum inanity, such as demanding an all-or-nothing state of affairs.

If the combined political pressure from Russia, US, and EU “strongly suggests” not only Armenia consider discussing with the Turks lifting their border blockade but attempt to discuss historical issues, it is not acceptable or even in Armenia’s interest to simply say “no”. In a crude analogy, Serbia’s Milosevic responded with the refrain “no, no, no” in response to the demands of major powers to end the campaign of ethnic cleansing regardless of the claim “we didn’t start it”. His country was bombed and its infrastructure heavily damaged.

Equivalent pressure was put on the Turkey to begin serious talks with Armenia in spite of Turkish demands that Armenian forces leave Nagorno-Karabakh and its environs, and that Armenia end support for genocide recognition before discussions can become substantive¹. Interestingly enough, neither of these Turkish demands are stated in the Protocol.

Interplay of Competing and Converging Interests

There appeared to be a confluence of outcome in advancing Armenian-Turkish relations despite major interests appearing orthogonal to each other. The EU requires no border conflicts among any of its members or those in ascension towards membership, such as Turkey. It also has trade pacts and bilateral agreements with Turkey required by EU’s ascension criteria. The Turkish blockade of the Armenian border makes a mockery of many of their tenets. Moreover, the EU would like to see a stable Caucasus to facilitate energy transport to Europe. Any stable routing is in EU’s interest. Moreover, without an open border, Armenia cannot actively engage in the European Neighborhood Policy which is an extension of the European Partnership and Cooperation Agreement between the EU and Armenia. As of 2006² the resulting Action Plan for Armenia has provided over 2 billion Euros in Community assistance. The EU would like to see the fruits of their assistance grow through expanded trade. While it is unclear if Armenia would be part of any future or expanded energy transit routes, Turkey does want to expand its role and Armenia provides a convenient and alternative pathway. In the process, Georgia’s role as a forced transit route around Armenia may diminish. This would be in Russia’s interest.

The full extent of Russian interests in advancing this Protocol itself could be the subject of a small book. However, it is clear that Russian economic interests in Armenia, which are considerable, by 2009 amounting to nearly \$2.5B³. Such a

level of investment can generate better returns with at least a semi-open border and established relations between Armenia and Turkey. Russia's ability to bring Armenia to its knees in short order is astounding. It could force the closure of the Armenian nuclear power plant at Medzamor, for "technical reasons", eliminating about 40% of Armenia's electrical generating capacity. Russian gas, running through Georgian pipelines to Armenia could easily be "damaged" during winter months, cutting off gas and crippling Armenia. This combined with the ability to enact restrictions on remittances from Russian Armenians; it is clear Russia holds the keys in Armenia. Whether Armenia should have sold off critical infrastructure to the Russians is now a moot point.

Russia watched Azerbaijan react in disbelief when Turkish President Abdullah Gul traveled to Armenia for a soccer match in 2008. It appeared to Azerbaijan that Turkey had forsaken it with Gul stepping foot in Armenia. Turkey has been the champion in support of Azerbaijan in the frozen conflict over the Armenian populated enclave Nagorno-Karabakh. Nagorno-Karabakh had been placed under Azerbaijani jurisdiction during the Soviet era. Now it is basically an extension of Armenia after Azerbaijan lost control of it in a war. After Gul's visit, Azerbaijan made threats to stop gas shipments to Turkey and the use of the Baku-Ceyhan pipeline, and began auditing institutions in Azerbaijan funded with Turkish money. Turkey maintained, until the Protocol was made public, that it would not enter into border discussions until Armenian troops vacated Nagorno-Karabakh. There could not have been a more efficient way to create suspicion of Turkish intentions towards Azerbaijan, bringing Baku to a point where it could decide to transport a larger percentage of its gas via existing Russian pipelines. The Azerbaijanis may not like dealing with the Russians, but at least the latter is predictable.

Georgia's war with Russia changed the balance of power in the Caucasus and in doing so became a catalyst in advancing Armenian-Turkish talks and accelerating, by perhaps a year or so, the establishment of the Protocols. Georgia became one of the two front-line states, along with Ukraine, an otherwise battleground for influence between the US and Russia. The United States can project power, but little can replace the influence on Georgia and Ukraine of a neighboring power. This is clearly seen in Ukraine today, with its southeastern regions in rebellion. In the end, Georgia became a weaker state after the August 2008 Russian-Georgian conflict, not just because it effectively lost South Ossetia and Abkhazia, and is under partial blockade, but Russia made a clear statement about its continued influence in the Southern Caucasus. Azerbaijan was subsequently forced to re-think entertaining notions of attacking Nagorno-Karabakh. In the zeal to create rough parity with the increased Russian

influence moving south across the Caucasus, Turkey was forced to engage Armenia by: accelerating diplomatic efforts, Gul attending the soccer match in Armenia, and advancing a then-defunct Caucasian Initiative, all at the expense of Azerbaijan. This exposed a flaw in Turkish foreign policy by damaging relations with Azerbaijan. In addition, Turkey had shown interest in actually buying Caspian Basin gas and reselling to the EU, cutting into Azerbaijani profits. Individual state interest trumps so-called brotherly relations.

The August 2008 Russian-Georgian war terminated Russia's use of Georgian transport routes to maintain activities at Russian military bases in Armenia. Reports and quick Turkish denials claim the Russians began working with Turkey to allow the use of their airspace to maintain operations in Armenia^{4,5}. Also, supply trains destined for Armenia initially remained stalled in Georgia, creating enough worry that Georgian routes to the Black Sea or to the North Caucasus are simply not reliable for Armenian trade.

A closed Armenian border with Turkey would make any land transport of Russian military items difficult – an open border would facilitate this. Why might Turkey allow Russia to transport military equipment to its base in Gyumri? For Turkey, the prospect of an arrangement, especially on its terms, outweighed any potential threats from Russian bases especially in light of greatly increased bilateral trade and cooperation in potential energy transport to the EU. Besides, once in operation, Turkey can always attempt to extract concessions from Russia for the use of transport routes and can restrict passage any time.

Russia and Turkey cannot project complimentary influence in the larger region without a resolution of the Turkish blockade of the Armenian border. The \$500M Russian loan to Armenia⁶ earlier in 2009 reinforced the strategic importance Russia places on Armenia and with clear ability to influence policies in Yerevan.

There was talk of Turkey warming up to the estranged Georgian region of Abkhazia, which advances Russian interest at the expense of Georgian-Turkish relations. In the words of a think tank associated with the Turkish FM, "Ankara could no longer ignore the new reality in the region"⁷. Armenian news outlets at the time quoted Cenk Baslamis writing in the Turkish daily Milliyet, "Ankara will recognize independence of Abkhazia in the near future, while Moscow will recognize Turkish part of Cyprus". Apparently, this topic began surfacing with an article by Paul Goble in the English Language Georgian Daily⁸. While this could hardly happen overnight, the trial balloon has been released. Ultimately, Turkey can simultaneously give tacit approval of the "new reality" while fomenting anti-Russian agitation in Abkhazia. Turkish-Russian political relationships have been quite dynamic since talks began circa 1996 to reduce Turkish involvement

in Russia's Chechen war and Russian support for the PKK⁹. The Turkish-Russian relationship culminated with the historic visit of Russian President Putin to Turkey in late 2004¹⁰.

One could see a confluence of Russian and Turkish interest on one side and US pressure on the Turks to "unfreeze" discussions with Armenians and reach some interim agreement -- the Protocol¹¹.

The US had transitioned its policy objectives in the southern Caucasus from those of the previous decade. In the decade prior to the signing of the Turkish-Armenian Protocol, the US aimed to secure the development of latent energy reserves and the ability to securely move them westward. Much of this effort was centered upon Azerbaijani oil and gas reserves and those on the eastern shores of the Caspian, such as Turkmen gas and Kazakh oil. This effort required the exaggeration of existing Azerbaijani reserves and tolerating a series of despotic regimes in Baku. The US State Department claimed that from 50 to 200 billion barrels of oil existed under Azerbaijani sovereignty. It turned out to be from 5 to 20 billion barrels. In fact, Azerbaijan will become net importer of oil by about 2021 unless substantial new fields were discovered¹². Claims such as "The Deal of a Century" were touted in the western presses, especially in the US and the UK. Clearly, the regional competitor capable of transporting Caspian Basin energy resources was Russia. As the decade proceeded various projects were proposed. The largest was the Baku-Tbilisi-Ceyhan pipeline project signed in 1994. This pipeline avoided Armenia and Iran, even though it was more expensive to construct the line through Georgia. Being Russia's strategic partner in the region, Armenia was bypassed for political reasons. Iran was not even considered, since Azerbaijan is a major source of oil for Israel. US energy related companies have substantial percentage interest in nearly every transport consortium and gas or oil fields in Azerbaijan.

As western energy development and transport schemes became viable alternatives to the Russian pipelines and with Russia architecting and successfully negotiating with energy partners, by early to mid 2000s, US policy in the region moved from competition with Russia to mild cooperation. Peace and stability were in both US and Russian interest. As energy transportation requires deposits and contiguous geography respectively, US (and European) efforts became focused first on freezing armed hostilities, then onto solving existing ethnic disputes. The closed Turkish-Armenian frontier must have been at the top of that list, considering the zeal at which Turkey accepted the soccer match invitation at the jaw dropping chagrin of Baku.

US officials have stated that an open border with Turkey would reduce Armenia's dependence on both Russia and Iran. However, any reduction in Russian influence on Armenia with an open Turkish border is questionable since Russia owns major segments of Armenia's strategic infrastructure, such as the electrical grid, the operation of Armenia's nuclear power station, the rail system, and had interest in the Armenian-Iranian gas pipeline, among other things.

If steady energy transport and revenues generated are at the basis for current US policy, it may not be surprising that a positive change in the political status quo of Nagorno-Karabakh may be in the interest of major powers. The status quo with respect to Nagorno-Karabakh was in the interest of major players except for those in Baku who daily bellicose vocabulary would have one expecting an Azerbaijani attack on Nagorno-Karabakh any day for the past two decades. This frozen status was used by Moscow to influence policy in Azerbaijan. The "new regional realities" and political transformations have taken place with the Armenians of Nagorno-Karabakh conducting their own affairs outside of Azerbaijani sovereignty. The existence of Nagorno-Karabakh in any form does not affect the transport of energy, for there would be no logical reason to run any pipelines over its mountains when that region is surrounded by relatively flat lands. In addition, Nagorno-Karabakh does not have any hydrocarbon deposits. A real resolution to the Nagorno-Karabakh conflict may be possible in the near future with such realities in mind.

With an open or semi-open Turkish-Armenian border, Georgia will quickly lose much of its overland transport fees from Armenian wholesale importers. Reduced importance of Georgia on Armenia also serves Russian interests. Russia would prefer to see Georgia in its sphere of influence. Until that time, Russia prefers Georgia simply wither on the vine.

The Protocol

Other than state institutions and the negotiators themselves, no one knows under what conditions, stated or perceived interests, principles, etc., the Protocol discussions proceeded. The process was not at all transparent. It is clear that a unique confluence of political resolve exhibited between the US and Russia across the Atlantic and between Turkey and Russia regionally, had a strong influence on both parties to reach a framework for further negotiations. It is not accurate to assume that Turkey, Armenia or both could simply ignore these international pressures.

Before the Protocol was made public, Turkey maintained two basic preconditions that had to be addressed before formal negotiations could proceed: Armenia end

its support for expanding international recognition of the Turkish genocide of the Armenians, and Armenian forces withdraw from Nagorno-Karabakh and surrounding regions. In addition to these two basic preconditions, references were made regarding Armenia specifically stating it has no claims on any lands in eastern Anatolia and by default recognizing current borders as inviolable. None of these items are mentioned in the Protocol. There are only three actionable items in the Protocol, the rest is procedural¹³. These are:

1. Agree to open the common border within 2 months after the entry into force of this Protocol,

2. Agree to conduct regular political consultations between the Ministries of Foreign Affairs of the two countries;

implement a dialogue on the historical dimension with the aim to restore mutual confidence between the two nations, including an impartial scientific examination of the historical records and archives to define existing problems and formulate recommendations;

make the best possible use of existing transport, communications and energy infrastructure and networks between the two countries, and to undertake measures in this regard;

develop the bilateral legal framework in order to foster cooperation between the two countries;

cooperate in the fields of science and education by encouraging relations between the appropriate institutions as well as promoting the exchange of specialists and students, and act with the aim of preserving the cultural heritage of both sides and launching common cultural projects;

establish consular cooperation in accordance with the Vienna Convention on Consular Relations of 1963 in order to provide necessary assistance and protection to the citizens of the two countries;

take concrete measures in order to develop trade, tourism and economic cooperation between the two countries;

engage in a dialogue and reinforce their cooperation on environmental issues.

3. Agree on the establishment of an intergovernmental bilateral commission which shall comprise separate sub-commissions for the prompt implementation of the commitments mentioned in operational paragraph 2 above in this Protocol. To prepare the working modalities of the intergovernmental commission and its sub-commissions, a working group headed by the two Ministers of Foreign Affairs shall be created 2 months after the day following the entry into force of this Protocol. Within 3 months after the entry into force of this Protocol, these modalities shall be approved at ministerial level. The intergovernmental commission shall meet for the first time immediately after the adoption of the said modalities.

The sub-commissions shall start their work at the latest 1 month thereafter and they shall work continuously until the completion of their mandates. The timetable and elements agreed by both sides for the implementation of this Protocol are mentioned in the annexed document, which is integral part of this Protocol.

Both Turkey and Armenia must ratify the text before this Protocol becomes actionable.

Item **1** is the clause that serves as the basis for opening the border. However, how open it would be and restrictions of its use by the parties, is not stated.

Item **2** refers to the furtherance of bilateral relations, but in particular notes a bilateral commission to be established to examine the “historical” record. While not explicitly stated, the overarching historical issue is the genocide of the Armenians. It is generally understood this is the paramount issue that will be examined.

Item **3** is a procedural item referring to implementing Item 2.

Since Armenia has long stated its desire to enter into discussions with Turkey without any preconditions to affect a resolution of Item 1 -- lifting the Turkish border blockade -- it can be assumed that Item 2 was a Turkish initiative. It is also assumed that Turkey was never strategically or fundamentally against opening the border, judging by its current tactical interests.

Thus, we can tabulate the preconditions that were suggested, agreed to or dismissed throughout discussions, post 2005, especially after the election of Armenian President Serge Sarkisyan in 2008.

Condition	Suggesting Party	In Protocol
Open Border	Both	Yes
Armenian forces withdraw from Nagorno-Karabakh	Turkey	No
Historical Commission	Turkey	Yes
End International Recognition of Armenian Genocide	Turkey	No
Explicitly State no Land Claims on Western Armenia	Turkey	No

Roughly speaking, the outcome of the agreement is the promise of an open border in exchange for the establishment of the historic commission.

The “winning” and “losing” party was spun by both sides. Typical of Turkish spin is read in the pro-government daily *Hurriyet*, September 15, 2009, in an article written by Yusuf Kanli¹⁴ where he states,

“First of all Armenia has accepted for the first time ever the creation of a history commission that might feature historians from interested third parties in examining the genocide claims. That is, without saying so the Serge Sarkisian administration of Armenian has conceded from the “Genocide is a fact, there is no need to verify it through scientific research or to discuss it” position.”

What appears to be an Armenian concession to the Turks is at best a method for Turks to delay international debate on genocide recognition. It is unclear why the Turkish side sees this as a victory unless delaying recognition was their original goal. Using such a commission as a delay tactic will ultimately result in a strategic blunder as Turkish disingenuousness will be clear to the international community. Whether the Turkish end game is gaining a few years of leeway or denying consent to an unfavorable commission outcome, or both, can have negative repercussions with EU countries, highlighting Turkish resistance to reforms expected of it. This may be the case with European states that have recognized the genocide.

Turkey may have made another mistake in misreading Armenian opposition to a historical commission since Erdogan suggested it in 2005. Armenian opposition to an historical commission, mainly seen in the Diaspora, is based on the assumption that any inquiry into the historical record regarding the genocide is tantamount to questioning the veracity of the genocide. By 2009, over twenty countries had recognized the Turkish genocide of the Armenians as an indisputable fact and the Society of Genocide Scholars have stated without reservation that the Armenians were subject to genocide. Scores of renown historians agree it was genocide and the International Center for Transitional Justice (ICTJ), commission by the Turkish Armenian Reconciliation Commission, in their study concluded the Armenians were subject to genocide¹⁵ What other possible outcome could such an honest historical commission as stated in Item 2, be other than a reiteration of what is an accepted fact. Unlike the Jews in the aftermath of the Nuremberg Trials, Armenians do not have the luxury of completely rejecting any inquiries into confirming the genocide. The Jews have the ability to reject as blasphemous, for example, somebody publishing an

analysis of the gas used in gas chambers as being not really Zyklon-B, but perhaps Zyklon-C, or –D.

Armenian protests¹⁶ at the time and proclamations against this commission certainly give the Turks reason to assume they extracted some sort of a concession from the Armenians. Protests since 2005 against any historical commission may have unwittingly helped Armenia's negotiators.

Paraphrasing Turkish professor Taner Akcam¹⁷, what previously unknown document could possibly exist that will allow one to negate the genocide of the Armenians in light of all the research that has been done and the clear recognition it has received.

It is entirely possible that Armenian historians would be so inept so as to allow Turkish denialists to re-write history. The chance of this happening with the entire concerned world watching is doubtful. Moreover, if the commission becomes a mockery of the facts, any conclusions it makes would be considered effectively null and void. However, even if the outcome of the historical commission's "research" reiterates the fact of genocide, subsequent redress may remain unresolved.

Yusuf Kanli continues:

"Secondly, for the first time ever in the post-Soviet era, Armenia has agreed to recognize the joint border with Turkey as was defined in the Kars treaty, though there is no reference in the protocols to the Kars treaty. Such recognition by Armenia is no less than declaring it has no territorial claims from Turkey or it has turned a cold shoulder to Diaspora's land claims from Turkey."

There is a border that exists between Armenia and Turkey. On one side are Turkish guards, on the other Russian and Armenian guards. Recognizing the current border is required in order to open it. Hurriyet and its editors engage in extreme spin when they claim that border recognition requires recognizing the process that created that demarcation. Nowhere in the Protocol does it mention the Treaty of Kars, the Treaty of Moscow, or the Treaty of Alexandropol for that matter. This is because there is no international obligation for Armenia to recognize such previous treaties in this case. This is well defined in Villiger's Customary International Law and Treaties¹⁸ and in the Vienna Convention on the Law of Treaties¹⁹, ratified by Armenia²⁰ in May 2005. The latter clearly states in Section 2,

APPLICATION OF TREATIES

Article 28: Non-retroactivity of treaties

Unless a different intention appears from the treaty or is otherwise established, its provisions do not bind a party in relation to any act or fact which took place or any situation which ceased to exist before the date of the entry into force of the treaty with respect to that party.

Article 29: Territorial scope of treaties

Vienna Convention on the Law of Treaties

Unless a different intention appears from the treaty or is otherwise established, a treaty is binding upon each party in respect of its entire territory.

Article 30: Application of successive treaties relating to the same subject-matter

1. Subject to Article 103 of the Charter of the United Nations, the rights and obligations of States parties to successive treaties relating to the same subject-matter shall be determined in accordance with the following paragraphs.
2. When a treaty specifies that it is subject to, or that it is not to be considered as incompatible with, an earlier or later treaty, the provisions of that other treaty prevail.
3. When all the parties to the earlier treaty are parties also to the later treaty but the earlier treaty is not terminated or suspended in operation under article 59, the earlier treaty applies only to the extent that its provisions are compatible with those of the latter treaty.
4. When the parties to the later treaty do not include all the parties to the earlier one:
 - (a) as between States parties to both treaties the same rule applies as in paragraph 3;
 - (b) as between a State party to both treaties and a State party to only one of the treaties, the treaty to which both States are parties governs their mutual rights and obligations.
5. Paragraph 4 is without prejudice to article 41, or to any question of the termination or suspension of the operation of a treaty under article 60 or to any question of responsibility which may arise for a State from the

conclusion or application of a treaty the provisions of which are incompatible with its obligations towards another State under another treaty.

At the time of this writing Turkey still has not ratified this convention²¹. Armenia has and is under no obligation to recognize the Treaty of Kars or Moscow that basically resulted in the current Turkish-Armenian border. The United States ratified this convention on April 24, 1970.

Positions

Armenia was in an interesting diplomatic position at the publication of this Protocol. The only item that changes anything would have been the physical lifting of the Turkish border blockade. Armenia should have ratified this Protocol immediately, putting pressure on Turkey not to delay or pay the PR consequences. Armenia did not ratify the agreement while placing the ball squarely in Turkey's court, where it remains.

Turkey was in a situation where it had alienated its ally Azerbaijan by appearing to cut a deal with Armenia while making deals with Russia. Turkey may have also been under the false impression it has extracted concessions from Armenia. Turkey cannot appear overtly pan-Turkic in rhetoric in its support of Azerbaijan, as it would have been used by opponents of Turkey's EU ascension. Turkey could have attempted to drag out the mandate of an historical commission but that has its time limits as well. Armenian diplomacy could consistently point to Turkish delay tactics.

Turkey had issues with ratification. Some opposition parties objected to opening of the border without a resolution of the Nagorno-Karabakh conflict. Turkey could have used this as an excuse to re-work the Protocol, but that would have come at a loss to Turkish diplomacy. Armenia might have used this period to press Turkey publicly with actual preconditions of its own if Turkish non-ratification was being used as a technique to gain concessions from Armenia. If Turkey had ratified the Protocol, the pro-Islamic AK party would have been on the carpet to deliver the goods for Turkey. They had to end the perception of alienating Azerbaijan, not appearing too overtly helpful to Armenia, while trying to convince the EU that it was sincere in solving its ascension demands, and work with its new energy partner, Russia. If then Turkish Foreign Minister Davutoglu, Prime Minister Tayyip Erdogan, and President Abdullah Gul failed to convince the Turkish public and the military that engaging Armenia using the guidelines agreed to in the Protocols, there may have indeed be early elections in Turkey before 2012. The AK party could have been swept from power, leaving the Protocol in

the hands of nationalists which could face public pressure to declare it null and void.

Turkey would have been in a diplomatic disadvantage if Armenia made no errors. Armenia made no errors although the immediate importance of these Protocols have diminished over time as other regional upheavals have taken center stage.

Trade Issues

There appears to be no official public study commissioned by the government of Armenia having as its basis a political and economic analysis demonstrating that opening the border between Armenia and Turkey will benefit anybody. Armenia may actually have an argument and not even know it. What has been stated publicly are simply guesses, usually positive, by some members of the Armenian Parliament, Turkologists, “experts”, or oligarchs. An open border isn’t binary as almost all simple guesses have been based on. An “open border” may simply mean it is not totally closed and only allow products and material to traverse a limited number of hours or days a week or may mean automobile and bus traffic allowed on a weekly basis. There may never be a completely open border. It could also be completely open. This is an unknown at this time, but its answer lies at the center of the affects of an open Turkish-Armenian border on the Armenian economy.

This missing study must include a competitive analysis of all major Armenian industries covering at a minimum: management team expertise, product sales & marketing, product planning, market channels and development, government relations, cross-border transportation, international business planning, credit and banking reviews, and yes, accounting practices. One must then compare these industries with their Turkish counterparts and using Armenian and Turkish demographic buying patterns, determine the viability probability of each Armenian industry assuming free and open competition with the added affects of partial and severe protectionism. Past, current and projected trading patterns must be evaluated. In parallel, a comparative study must be done with the only other country having a similar geo-political and economic position and that is Georgia. Such a study must determine why Georgia’s GDP has had a general negative trajectory since 2007 considering it has free and open trade with Turkey, Azerbaijan, and has many Black Sea ports.

Solid conclusions cannot be made without studies. If the studies are skewed (such as not taking into account: general corruption, influence peddling, nepotism, fraud, racketeering, graft, extortion, cartels, blackmail, potential EC-centric liability and product quality issues, engagement and exit strategies

adjusting for changes in the Turkish government policies, Georgian and Iranian reaction, changes in employment patterns and the consequences of any subsequent brain drain, etc.) there is every chance of a failed evaluation. Perhaps the reason none of these studies seem to exist is because they would expose too much of the region's black economy.

If history is any guide, Armenian oligarchs and those aspiring to be, may simply attempt to sell assets to Turks. An easy way to personal wealth is to replace the “headache” of producing domestic products with those made in Turkey, considering local distribution channels exist and some are near monopolies. Armenians emptied out factories in the early and mid-nineties and sold their contents, including machines, to the Iranians. Apparently, no accounting was made of those transactions.

Unregulated trade, combined with years of Turkish experience in the mechanisms of market economics, could easily destroy Armenia's economy and return the Armenian people to the specter of Turkish domination.

However, with Russian control of major segments of Armenia's infrastructure, unfettered Turkish inroads into the Armenian economy will presumably be moderated. In addition, EU analysts are watching closely over Turkish treatment of its neighbors.

Five Years After Signing

The Turkish tradition of last minute bartering, going as far back as İsmet İnönü, has not paid off in the case of the Turkish-Armenian Protocol. Even though Turkey threw the Nagorno-Karabakh wrench into the ratification process, current regional events such as the creation of ISIS, Ukraine, and the P5+1 negotiation have taken center stage.

The declining position of the Protocol was evident soon after its signing in the tone used in the Armenian President's words uttered in March of 2010, at the Armenian Genocide Memorial in Deir Zor, Syria, where he stated,

“The signing of the Armenian-Turkish protocols presented us with an historic opportunity that should have a logical destiny. We, however, do not accept the style of references to the Armenian-Turkish dialogue in attempts to avoid the recognition of the Genocide.” ²²

On September 24, 2014, in his statement ²³, Armenian President Serzh Sargsyan, at the 69th session of the UN General Assembly, said,

“However, those Protocols have been shelved for years now awaiting ratification in the Turkish Parliament. Ankara declares publicly that it will ratify those Protocols only if Armenians cede Nagorno- Karabakh, the free Artsakh, to Azerbaijan. In Armenia and Artsakh ordinary people often just retort to such preconditions: “To hell with your ratification.” This vernacular phrase concentrates the age-old struggle of the entire nation, and it unequivocally explains to those who attempt to bargain the others’ homeland that the motherland is sacrosanct, and they had better stay away from us with their bargain. It is in these circumstances that currently the official Yerevan is seriously considering the issue of recalling the Armenian-Turkish Protocols from the parliament.”

Finally, on February 16, 2015, in a letter²⁴ addressed to the speaker of the National Assembly, Armenian President Serzh Sargsyan stated his decision to recall the Armenian-Turkish protocols from the National Assembly, stating:

“... we have to state the absence of political will, distortions of the letter and spirit of the protocols by the Turkish authorities and continuous attempts to articulate preconditions. Simultaneously, on the eve of the Armenian Genocide centennial the policy of denialism and history revision has been intensified.”

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¹² *Real Azerbaijan*, "Khronika Neobyavlennoi Katastrofi (Chronically Unannounced Catastrophe) January 2, 2007, Eldar Namazov

¹³ Protocol on the Establishment of Diplomatic Relations between the Republic of Armenia and the Republic of Turkey. www.armenianow.com/pdf/20090831_protocol.pdf

¹⁴ The Armenian Opening, <http://www.hurriyetdailynews.com/n.php?n=the-armenian-opening-2009-09-15>

¹⁵ The Applicability of the United Nations Convention on the Prevention and Punishment of the Crime of Genocide to Events Which Occurred During the Early Twentieth Century -- Legal Analysis Prepared for the International Center for Transitional Justice <http://www.ictj.org/images/content/7/5/759.pdf>

¹⁶ Aghjayan: In Pursuit of Justice and True Friendship, <http://www.hairenik.com/weekly/2009/09/20/aghjayan-in-pursuit-of-justice-and-true-friendship/>

¹⁷ Taner Akçam: The decision will be made by politicians, not historians,
<http://www.reporter.am/go/article/2009-09-15-taner-ak-am-the-decision-will-be-made-by-politicians-not-historians>

¹⁸ *Customary International Laws and Treaties*, Mark Villiger, 1985 ISBN 90-247-2980-7. This is available at: http://books.google.com/books?id=PCoNaFd0TwgC&dq=customary+international+law+on+the+law+of+treaties&printsec=frontcover&source=bl&ots=aboOfjxNy0&sig=6muWHnnFkwNR3-_g-jRU T8K07ow&hl=en&ei=HcixSuz2M5-NtgfV_KDzBw&sa=X&oi=book_result&ct=result&resnum=1#v=onepage&q=&f=false

¹⁹ <http://www.worldtradelaw.net/misc/viennaconvention.pdf>

²⁰ On July 13, 2006 Armenia recorded a reservation:

Reservation

"The Republic of Armenia does not consider itself bound by the provisions of article 66 of the Vienna Convention on the Law of Treaties and declares that for any dispute among the Contracting Parties concerning the application or the interpretation of any article of part V of the Convention to be submitted to the International Court of Justice for a decision or to the Conciliation Commission for consideration the consent of all the parties to the dispute is required in each separate case."

²¹ Treaty Status of: 21-09-2009 04:03:52 EDT,
http://treaties.un.org/Pages/ViewDetailsIII.aspx?&src=TREATY&mtdsg_no=XXIII~1&chapter=23&Temp=mtdsg3&lang=en

²² Remarks by President Serzh Sargsyan in Deir ez Zor

<http://www.president.am/en/statements-and-messages/item/2010/03/24/news-58/>

²³ Statement by President Serzh Sargsyan at the 69th session of the UN General Assembly

<http://www.president.am/en/press-release/item/2014/09/24/President-Serzh-Sargsyan-New-York-speech/>

²⁴ Armenian President recalls Armenian-Turkish Protocols from National Assembly

<http://www.president.am/en/press-release/item/2015/02/16/President-Serzh-Sargsyan-National-Assembly/>

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