

Impediments to Direct Trade between Turkey and Armenia

Existing trade between Turkey and Armenia

Trade between Turkey and Armenia is mostly one-way. Armenian exports to Turkey are almost non-existent; whereas, despite the closed border, Turkey ranks fourth in the list of countries exporting to Armenia.

Turkey's blockade does not allow Armenia export to Turkey via legal routes. Vehicles bearing Armenian number plates are not permitted to enter Turkey for unloading their goods since there is no bilateral road transport agreement between the two countries. Moreover, customs declarations for goods of Armenian origin or for goods that come in from Armenia are not issued.

On the other hand, exporting from Turkey to Armenia –although obstructed by legal provisions by Turkey- is possible in practice. Since there is no bilateral road transport agreements between the two countries, trucks bearing Turkish number plates are not allowed to go to Armenia. Similarly at the customs, export declarations to Armenia are not issued. However, in practice trucks initially declare Georgia as their destinations when exiting from Turkey, and later at the Georgian customs window change the destination to Armenia. Similarly, Turkish products find their way out as exports to Georgia and sold in the Armenian market via Georgian companies.

According to unofficial sources, at least 20.000 vehicles bearing Turkish number plates carry goods to Armenia over Georgia every year. Of the TIR transits between Georgia and Armenia, 40% originate from the Sarp border gate¹ and although the border between Armenia and Turkey is not open, Turkey ranks the 4th in the list of countries exporting to Armenia (please see annex for trade between Turkey and Armenia).

¹ Source: Asian Development Bank. Remaining portion of TIR trucks come from the Georgian ports Poti (47%) and Batumi (6%).

On the other hand, Armenian exports to Turkey are almost non-existent. Although one reason for this relate to certain impediments and 'blockades' covered in this note, the basic cause is the limited range of export products that the Armenian economy has to offer.

The cost of crossing Georgia

Entrepreneurs import these goods from Turkey to Georgia providing two invoices: one for Georgian intermediary consignee company and another for real Armenian consignee. While leaving Turkish customs border both invoices are stamped by customs authorities and one with Georgian consignee is later included in Turkey-Georgia trade statistics. Entering Georgia the transport agent provides invoice for Armenian consignee to Georgian customs authority. Thus, these goods pass Georgia as transit and further exit from Georgia and entrance to Armenia of the transport runs smoothly, as no embargo of Turkish goods exists in Armenia.

In this case, for example a vehicle that is bound for Armenia through Sarp border gate acquires from the Ministry of Transportation, Maritime Affairs and Communications a permit to unload in Georgia. The vehicle, as it leaves the Turkish customs and enters Georgia, declares itself as a transit vehicle with a shipment bound for Armenia. 110 \$ transit fee is paid and the vehicle is free to proceed to Armenia. As Georgian documents are 'multi-purpose,' i.e. not differentiating between transit and single destination permits, shippers do not experience any practical problems². In essence, Georgian rules on transportation allow a hauler to enter Georgian customs without any permits. All it takes is a 320 \$ fine. Specifically, the rate for a full truck with approximate cargo weight of 20 tons from locations in the main trade areas: e.g. Istanbul, Izmir, Denizli, to Yerevan is about USD 4,000. The rate depends on the cargo weight and place of loading in different regions of Turkey and varies from USD 3,600 to USD 4,300³ for a full a truck.

The above mentioned rates refer to those trucks that enter Georgia within the limits of established annual quantity of quotas concerning the number of trips of trucks country of origin (e.g. Bulgaria) to Armenia via Georgia. If a truck would cross Georgia while the road permission quota for the specific country has been expired, additional charges are incurred. This charge has been equal to GEL 500 (USD 300) by November 2011, yet it has been increased by 1000% and is set to GEL 5000 (USD

² In recent months Georgia restricted the passage of four Turkish trucks that were bound for Armenia. .

³ Since September 2012 Georgia started to apply official re-export procedure which caused payment of additional \$800 - \$1200 for each truck as a cost for re-export. (<http://www.rs.ge/en/5269>)

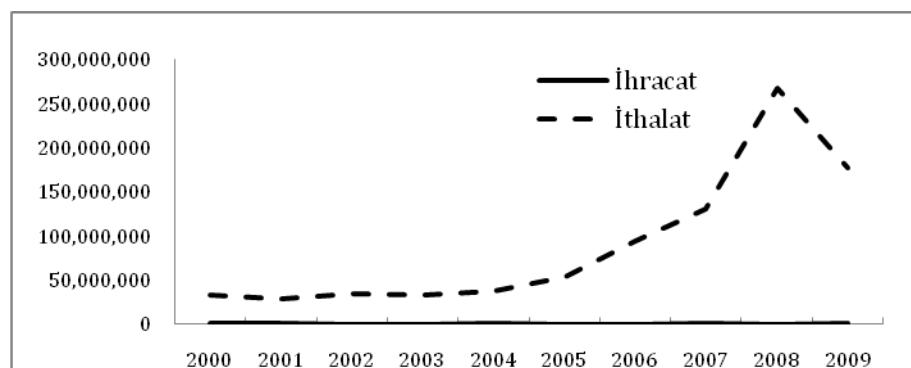
3,000) currently. Meanwhile, Georgian authorities count both transit trucks from the third countries passing to Armenia and trucks with final destination to Georgia under the same quantity of quota. Thus, the transit cost jumps dramatically if the current quota for all trucks (both transit and non-transit) from the specific country of origin has been expired.

The Turkish-Georgia agreement on joint management of customs checkpoints

The current transport facilitation practices will face challenges emerging from the new customs modernization initiative of Georgia and Turkey. As a result of Customs Union with EU, and as a requirement of harmonization of external tariff with the third countries, Turkey, signed FTA with Georgia in 2008. Furthermore, in the framework of customs modernization efforts by Turkey under the auspice of Turkey-EU Customs Union, Turkey and Georgia signed an agreement on joint management of customs checkpoints on the border of the two countries (Sarpi, Vale, Kartsakhi checkpoints) in early October 2010.

As Turkish officials noted this initiative will reduce the burden of procedures in customs gates by 40%, this modernization initiative will, perhaps, negatively affect trade and transport opportunities from Turkey to Armenia through Georgia, as the current quasi-legal mechanism cannot be applied further and businesses should seek new ad hoc solutions. Specifically, in the customs checkpoints managed jointly by Turkish and Georgian customs authorities, the customs freight procedures are simplified and drivers fill out their customs declarations at a checkpoint only one time. Thus, the “miracle” procedure with double invoices is no longer viable. Currently, the checkpoints in Vale and Kartsakhi operate under former customs separate procedures, yet in the close future this transit “gate” will also become reconstructed and transport companies will face similar problems in this locations.

Trade Between Armenia and Turkey (US \$)



De Jure and *De Facto* Status of Trade Affairs Between Armenia and Turkey

	Armenia		Turkey	
	<i>De Jure</i>	<i>De Facto</i>	<i>De Jure</i>	<i>De Facto</i>
Turkish vehicles	X	√	--	
Armenian vehicles	--		X	X
Turkish goods	√	√	--	
Armenian goods	--		√	X

The issue of the legalization of direct trade

This analysis is based on information gathered through interviews at the Turkish Ministry of Transportation, Maritime Affairs and Communications, the Undersecretariat of Customs, the TOBB TIR Department, customs offices at the Sarpi border gate, and Turkish transport companies as well as other publicly available information.

This note primarily focuses on problem areas in bilateral trade between Armenia and Turkey and does so basically in two categories: (1) problem areas in the authority of the Ministry of Transportation, Maritime Affairs and Communications and (2) problem areas in the authority of the Undersecretariat of Customs. Then, the note goes on to discuss non-problematic transits and private vehicles and finally steps to overcome these problems and legalize direct trade between Turkey and Armenia.

The legalization of direct trade would imply that Turkish custom authorities accept and register invoices of Turkish goods with final destination to Armenia by introducing Armenia's international AMD code in Turkey's custom service document circulation. This will make the practice of double invoicing redundant and will further ensure integrity of transport and transit operations in all three countries engaged in transport cycle: Turkey, Georgia and Armenia. Such approach would considerably reduce vulnerability of transport agents, drivers and clients vis-à-vis procedures and related impact of local discretionary actions through all borders. Further, such step bears significant anti-corruption potential through reducing corruption risks, closing loopholes and preventing corruption cases in international trade and transport.

1. Problems related to the Ministry of Transportation, Maritime Affairs and Communications

1.1. Vehicles Bearing Armenian Number Plates Entering Turkey to Unload

Lack of a bilateral road transport agreement between the two countries prevents entry of vehicles bearing Armenian number plates into Turkey for delivery (unloading) purposes.

Vehicles from one country are allowed to enter Turkey for unloading purposes provided that a road transport agreement is signed between the two countries concerned. On the basis of such agreements and protocols thereof, Turkey issues passage carnets for vehicles concerned. Without these passage carnets incoming vehicles are not entered in the customs system hence not permitted. Turkey has bilateral road transport agreements with all trade-partner countries.

Vehicles from a country with whom such an agreement is not signed can only enter Turkey with special permits (for each vehicle) that are issued following applications by the diplomatic representations in Turkey or the ministeries of transport of countries concerned. For example, vehicles from India or China –two countries that do not have a bilateral road transport agreement with Turkey- can enter Turkey only upon the receipt of special permits that are issued following applications by the embassies of these countries.

There is no bilateral road transport agreement between Armenia and Turkey. There are no diplomatic relations between the two countries, hence Armenia does not have an embassy in Turkey to apply for special permits. This being the case, the only way to enable the entry of vehicles bearing Armenian number plates into Turkey is an application by the Armenian Ministry of Transportation, Maritime Affairs and Communications. However, no such requests have been yet received.

It would be useful to make a comparison with air transport. There are flights connecting Armenia and Turkey. Similar to road transportation, air transport also requires bilateral agreements between countries. Although between Armenia and Turkey there are no air transport agreements, flights are enabled by special permits that are renewed for each flight. However, flights between the two countries are only limited to 2-3 flights every week and certain tariffs are implied. On 2 May 1995 Turkey decided to reopen the H50 air corridor which was closed in 1993 to flight connections to Armenia. The reopening of this air corridor was requested indeed by Azerbaijani civilian aviation authority. Azerbaijan and Armenia indeed have access to each other's air space for civilian aviation. The closure of H50 air corridor between Turkey and Armenia was indeed affecting Azerbaijani flight connections to Turkey and to the Western countries. The Ministry of Foreign Affairs of Turkey authorized in August 1996 Armenian National Airlines to start operating

commercial passenger connections between Armenia and Turkey. General aviation procedures are applying for flights operated between Armenia and Turkey. Private operators- thus Armavia - are applying directly to the directorate general for civilian aviation based in Istanbul which contact then the Ministry of Foreign Affairs. The air corridor is also open for transit to/from Armenia. The Turkish national carrier, Turkish Airlines, hasn't started operating yet a flight connection to Yerevan.

A similar method could be as well be used for road and cargo modes of transport that are used more frequently and without any special tariffs.

Supposing that the above-mentioned problems are solved, the attitude of the Turkish customs office when faced with an incoming vehicle with a TIR carnet issued by Turkey at the customs gate would still be unclear. As for the time being vehicles bearing Armenian number plates can not enter Turkey as a result of certain practices of the Turkish Ministry of Transportation, Maritime Affairs and Communications. Authorities said that if the case occurs, from the Undersecretariat of Customs informed that they would seek the opinion of the Ministry of Foreign Affairs.

1.2. Vehicles Bearing Turkish Number Plates Leaving Turkey With Cargo Bound for Armenia

Turkish shipment vehicles need a passage carnet for passage through another country. Carnets thus issued are vehicle-specific and limited in number. These documents are issued and distributed among shippers that operate on routes specified in directives issued by the Ministry of Transportation, Maritime Affairs and Communications every year. Within the framework of routes specified in the annexes of the said directive, shippers thus acquire passage carnets to enable their passage through countries until they reach the final destination of delivery.

Armenia is not included in the list of routes specified in the annex of the 'Directive Concerning the Principles for the Distribution of Passage Carnets for 2011.'⁴ Similarly, Armenia was not in any of the annexed lists issued for previous years.

⁴ The list concerned is the list of routes cutting through Caucasus that are specified in the annex of the Directive Concerning the Principles for the Distribution of Passage Carnets for 2011

Name	Gate	Route
AZ1	Gürbulak	Iran – Azerbaijan
AZ2	Sarp or Türközü	Georgia – Azerbaijan
AZ3	Rize or Trabzon	Georgia – Azerbaijan
GE1	Sarp or Türközü	Georgia
GE2	Rize or Trabzon	Georgia

Trucks bearing Turkish number plates face no problems entering Armenia.

2. Problems Rooting from the Practices of the Undersecretariat of Customs

2.1. Importing Goods of Armenian Origin to Turkey

Any product originating from Armenia cannot be imported to Turkey through third countries, as customs declarations for these products will not be issued.

An on-line declaration has to be issued at the customs for each product entering Turkey. No goods are allowed in country without appropriate declaration. The on-line registration system (BİLGE) owned by the Undersecretariat of Customs includes Armenia with code 77. In other words, the system allows for the registry of goods of Armenian origin however the officers refuse to fill in and issue customs declarations for these goods hence enter them to the system. Central and provincial offices of the Undersecretariat of Customs claimed that they proceed based on a Ministry of Foreign Affairs' letter of 2003. However the obstruction of trade with Armenia doesn't have any legal ground. The decision to sever transit between Turkey and Armenia, in other terms to close the border is taken by on 3 October 1993 by a governmental decree. This decree is not referring generally to trade relations: it only mentions that Turkey will halt the transit of humanitarian aid across its territory to Armenia. The existence of another decree issued by the Ministry of Foreign Affairs a couple of months ago banning trade relations with Armenia has been mentioned during the interviews. This two paragraph long decree would have been addressed to the Secretariat for Foreign Trade to the chambers of commerce. As a matter of fact, the current situation can be best characterized as a de facto embargo.

It should be emphasized that Turkey's commercial relations with Armenia do not come under its responsibilities assigned by the World Trade Organization (WTO). In line with the provisions of the Marrakech Agreement establishing the World Trade Organization in 2002, i.e. long before Armenia joined the WTO, Turkey had announced that Multiparty Trade Agreements mentioned in annexes 1 and 2 of the Agreement and Armenia's membership to the WTO would not be binding for Turkey. Article 13 of the Agreement Establishing the WTO provides that member

KZ3	Sarp or Türközü	Georgia – Azerbaijan - Kazakhstan
KZ4	Sarp or Türközü	Georgia – Azerbaijan - Turkmenistan - Uzbekistan – Kazakhstan
RUS2	Sarp or Türközü	Georgia – Russia

countries would chose not to carry out responsibilities that are set out in the Agreement for new members.

2.2. Export of Goods from Turkey to Armenia

Turkish customs do not issue customs declarations for goods from Turkey that are sold to Armenia. We suppose that the customs authorities are acting on the Ministry of Foreign Affairs' decree as laid out in Section 2.1.

However, for goods that are actually being exported from Turkey to Armenia it is practically possible to declare such goods for Georgia; in this way Turkish customs' declaration is received and the goods concerned are then forwarded from Georgia to Armenia. According to the information received from logistics companies, in Georgia there are agencies that solely deal with this kind of operations. In short, such is the scope of exports from Turkey to Armenia; Georgian middlemen receiving 1-2% of a commission and with no practical problems.

Furthermore, the Undersecretariat of Customs has declared that TIR carnets are not issued for Armenia. It was found out that this has no legal bearing. However, in line with discussions in Section 2.1, since the Ministry of Transportation, Maritime Affairs and Communications does not permit shipment of goods to Armenia above mentioned carnets were not needed in first place. Also, logistics operators can ultimately reach Armenia after some modifications at the Georgian customs and without needing such carnets.

3. Non-problematic Areas of Passage

3.1. Transit Passage of Armenian Vehicles Bound for Third Countries Over Turkey

Turkey grants passage to vehicles of Armenian origin bound for third countries without load/unload, such as for example, vehicles from Armenia that are bound for Germany over Georgia. Yet, the number of such haulers bearingn Armenian number plates is very small. Customs authorities tell that in the last three months the number of transit vehicles with Armenian number plates to pass from Sarp border gate is 1. The total number of transit vehicles bearing Armenian number plates to transit Turkey is 80 since 2004. It was found out that the Ministry of Foreign Affairs has approved this practice in a letter which is dated 08.06.2004 to the Undersecretariat of Customs.

Armenian International Road Carrier Association (AIRCA) requested the Union of Road Transport Associations in the Black Sea Economic Cooperation Region (BSEC-

URTA) to organize free transit of Armenian trucks holding BSEC Permit across the territories of Turkey with a view to benefiting from the Ro-Ro services between Turkey and Russia in March 2011. BSEC-URTA and BSEC undertook various contacts and discussions with the Turkish authorities in order to seek positive consideration of the AIRCA's request in mid-2011.⁹⁴ Thanks to the active role and efforts of Armenia's representative in BSEC, as of 1 July 2011 Turkey allowed the holders of the actual BSEC Permit for transit including 200 Armenian trucks. Permissions have been officially commissioned to AIRCA in September 2011. Based on the above mentioned practice of creating and promoting precedent based practices two TIR trucks of Armenian carrier with non IMO, non-excise, non-heavy cargo disembarked from Ro-Ro vessel in Samsun (Turkey) and passed Turkey using the established quota. AIRCA and BSEC-URTA have facilitated the process in real time and secured implementation of the quota providing hands-on solutions to emerged minor issues. Thus, a practice has been established, details of procedures under current state of affairs have been fine-tuned and the BSEC-URTA permits mechanism became operational. Later, in November 2011, it was agreed to continue the permit quotas to 2012. As of beginning October 2012, Turkey used all its permits in a few days while Armenia could only use two. The drivers of the trucks transiting Turkey are requested to hold a work visas. The application procedure for the visa in the Turkish consulate seems to have constituted an impediment for the use of these permits on the Armenian side.

3.2. Transit Passage of Vehicles with Third Country Number Plates to/from Armenia Over Turkey

Transit passages of shipments to/from Armenia with vehicles that are registered in third countries are allowed. There are no problems involving either permits by the Ministry of Transportation, Maritime Affairs and Communications that are issued for vehicles or declarations by the Undersecretariat of Customs that are issued for goods concerned. As an example, a vehicle bearing a Moldovan number plate can enter Turkey from Bulgaria and ship to Armenia or vice versa without facing any problems.

In line with the provisions of related regulations of the Ministry of Transportation, Maritime Affairs and Communications such transit vehicles are granted 'Third Country Documents.'

On the customs side, the Ministry of Foreign Affairs' letter to the Undersecretariat of Customs dated 08.06.2004 allows transit passage.

3.3. Private Vehicles

There are no problems in neither of the countries concerned regarding incoming and/or outgoing private vehicles.

3.4. Passengers' Buses

In terms of passenger transportation between the two countries it makes sense to distinguish between two sectors: tourism and shuttle trade, as this is where Armenia has the most passenger flow. Tourism to Turkey is reflected by the demand of Armenians visiting the old Armenia monuments and churches in Turkey. The two other main destinations of tourist flow from Armenia to Turkey are Istanbul and the Antalya sea resort, and the main mode of transportation for the tourists is by air, though the air fare is significantly higher than the bus travel rates.

As to shuttle traders, it should be noted that they prefer to travel to Turkey by bus, as it is considerably more inexpensive than air travel. Goods to Istanbul are transported on buses owned by nearly 20 Turkish bus companies on a 36-hour route. Because of border disputes between Turkey and Armenia the transportation is carried out via Georgia. Shuttle traders purchase goods in Istanbul to bring back to Armenia, for which they then arrange cargo truck transport in Istanbul before they return home via the passenger buses. The companies provide services such as changing the commercial invoices and transport documents on the Turkish-Georgian border, and ensuring the customs clearance in Armenia as a final destination.

However, the shuttle trade faces a few serious challenges. First, it should be noted that the transportation of the cargo from Turkey is arranged by Armenian travel agencies, which in a way act as intermediaries. The latter contract the above-mentioned Turkish bus companies for providing the passenger transport to Turkey and back to Armenia, since the access to Turkey of Armenian transportation means is restricted to passenger cars and mini buses with not more than 17 seats. Why this restriction has been made remains unclear yet.

4. Further Steps to Lift the Barriers to Bilateral Trade

The process envisaged in the protocol for the Development of Bilateral Relations between Turkey and Armenia signed by both governments should be considered as a non-linear process in which win-win steps would prepare for the opening of the border. Art. 2/c of the Protocol states that '*[...] parties agree to make best use of the*

existing transportation, communication and power infrastructure and networks and to employ measures thereof.'

Against this backdrop there are two steps that can be taken in the short run:

Firstly, the basis (which decree by the Ministry of Foreign Affairs) for the practices of the Undersecretariat of Customs that block incoming goods of Armenian origin and outgoing Turkish products can be clarified.

Secondly, a joint road transport commission by the Turkish and Armenian ministeries of transportation can convene to sign a mutual road transportation protocol. Such a protocol with its technical content and one-year duration might not require the approval of the Turkish Grand National Assembly (TGNA). Following such an agreement Turkey would allow shipments by haulers bearing Armenian number plates as well as Turkish shippers would be provided with a new route and permission for shipping to Armenia.

Moreover, in case of signing of the road construction agreement under the umbrella of the Organization of Black Sea Economic Cooperation (BSEC) concerning the construction of a peripheral Black Sea motorway⁵, this multiparty agreement would also facilitate the issuance of permits for haulers bearing Armenian number plates to enter Turkey. This would also obliterate the need for bilateral protocols.

In the meantime we recommend proper sequencing of activities for extending the current practice under the established permit quota for transit operations from Armenia to final destinations (e.g. in Russia and Ukraine) via Turkish ports. Firstly, we consider engaging other stakeholders including Armenian and Turkish Business Associations and think tanks working closely with local authorities, namely, AIRCA, UMBA, TABDC, TEPAV, as well as BSEC-URTA to ensure smooth and gradual extension of the current practice, specifically tracking border crossing process, assisting facilitation of the process, and responding to emerging problems.

The extension of the current practice over the trucks with excise cargo (e.g. Armenian brandy). Specifically, Armenian carriers (trucking companies and truck owners) could send the first Armenian truck under established BSEC-URTA permission quota via Sarpi checkpoint to Turkish ports Trabzon or Samsun, with excise cargo to Russia, making bank deposits according Turkish regulation for alcohol transit. At the same time key stakeholders as mentioned-above should be informed and engaged to follow and facilitate transit and border crossing.

⁵ The agreement that was signed on April 19th, 2007 in Belgrade provides for a re-regulation of road transportation through the contruction and linking of a total of 7000 km of motorways in member countries.

In parallel to these steps, a simultaneous and more comprehensive process focusing on a study of the barriers to trade between the two countries can be initiated in a way not to exclude Armenia. Such a process would also allow to determine what other steps outside of the legislative frameworks concerning transportation and customs that are linked to commerce can be taken in other fields such as banking etc. (letters of guarantee, for example).

It seems that the success and breakthrough in establishing cooperation and promoting services in transport sector could be largely credited to the practical approach of Armenian and Turkish businesses. Additionally, the practices of engaging other stakeholders including business associations, media and civil society at large in parallel with working low profile and carrying second track negotiations to address practical needs and extend businesses proved being effective.