



EU-Armenia relations: future developments and prospects

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List of acronyms

AA	Association Agreement
ASEAN	Association of Southeast Asian Nations
CPCA	Comprehensive Partnership and Cooperation Agreement
CSP	Country Strategy Paper
DCFTA	Deep and Comprehensive Free Trade Agreement
EaP	Eastern Partnership
ENP	European Neighbourhood Policy
ENPI	European Neighbourhood and Partnership Instrument
EU	European Union
FCA	Framework Cooperation Agreement
MERCOSUR	Southern Common Market
NIP	National Indicative Programme
PCA	Partnership and Cooperation Agreement
SME	Small and Medium Enterprise

Foreword

The main goal of this short paper is to promote a constructive debate focused on EU-Armenia relations.

The text does not intend to present an exhaustive list of different scenarios but aims to provide hints on the future of EU-Armenia relations based on the work already achieved by both sides in this field, as well as the experience and the examples of other countries around the world.

The purpose of this short paper is not to speculate on the circumstances that drove the EU and Armenia to the current situation, but to contribute with clarity to the ways and means those relations may develop, given that both sides will be revisiting the basis for their relations in the near future.

Executive summary

Armenia concluded its negotiations on the EU-Armenia Association Agreement, which includes a Deep and Comprehensive Free Trade Area (hereinafter AA & DCFTA), in July 2013. However, its announcement to join the Russia-led Customs Union hinders its initialling, given incompatibilities with its trade component. Nevertheless, the European Union and Armenia have developed and reached a high degree of cooperation over the past four years. Proof of this includes achievements in areas of the Human Rights Defender Institution, electoral processes, transparency, good governance, freedom of the press, border management and fight against crime and corruption. These are examples of Armenia's efforts in implementing EU-inspired reforms and standards.

On the other hand, the EU has deep relations with other partner countries throughout the world, including some that belong to existing customs unions and trade blocs, such as Brazil, for whom the EU is the primary trading partner, and Malaysia, where trade and other domains of cooperation are dissociated. Inspired by these cases, there clearly should be room for further cooperation between the EU and Armenia, regardless of their respective trade commitments with third parties.

In addition, there is a growing consensus, both on the EU and the Armenian side, about the need to upgrade EU-Armenia's legal basis for cooperation, taking into consideration all the above-mentioned. This future legal basis could take the shape of an "AA Light" or "PCA Plus" that would allow the EU and Armenia to further develop their relations by capitalising on their current achievements, given that the vast majority of areas for cooperation are non-trade related.

However, even in the area of economic cooperation, sectoral agreements should remain feasible, as is the case, for instance, for EU-Uruguay relations.

Finally, it is now up to the Republic of Armenia to take the initiative and show political will for further cooperation with the EU and to make concrete proposals in the areas already defined in the EU-Armenia joint declaration, adopted in Vilnius in November 2013.

Introduction and Background

Since 1996, the relations between the European Union and the Republic of Armenia have been gradually intensifying, moving from the Partnership and Cooperation Agreement¹ (hereinafter PCA), signed in 1996, to the EU-Armenia AA. The latter's negotiation process started in July 2010, reaching the final step on 25 July 2013 when both sides concluded all rounds on the AA and DCFTA. The trade component of this agreement, the DCFTA, also implied the accession of Armenia to the EU internal market, to the EU Customs Union.

However, in September 2013, the President of the Republic, Serzh Sargsyan, announced publicly that Armenia would join the Russian-led customs union, together with Belarus and Kazakhstan. Consequently, the Republic of Armenia could not initialise the Association Agreement with the EU during the Vilnius Summit in November 2013, given that one country cannot belong to two different customs unions if those customs unions do not already have a trade agreement or share the same standards. However, during the Vilnius Summit, the EU and Armenia did adopt a declaration² putting forward their ambitions to continue and enhance their cooperation in non-trade related areas, such as human rights, good governance, rule of law etc. Notably, these issues actually represent the largest part of the EU-Armenia AA. During that period, all kinds of speculations were heard, ranging from the possibility for Armenia to still sign the AA in Vilnius without the DCFTA, to the classic, ungrounded catastrophic approach stating that it was the end of EU-Armenia relations.

In the end, the pragmatic approach won over adventurism and, as mentioned above, the EU and Armenia defined some areas of cooperation together with the commitment to revisit the basis for their relations shortly.

Currently, EU relations with Armenia are governed by the EU-Armenia PCA, which entered into force in 1999 and which provides a legal basis for cooperation in the areas of political dialogue, trade, economy, law making, culture, prevention of illegal activities and control of illegal immigration, financial cooperation in the field of technical assistance, trade in goods, provisions affecting business and investment, cross-border supply of services and legislative cooperation.

It is on these particular aspects, namely areas of cooperation and the basis of future EU-Armenia relations, that we hope the present paper can make a modest contribution to and provide realistic scenarios for discussion among decision makers, EU-Armenia relations stakeholders, and last but not least the Armenian society at large.

EU-Armenia cooperation achievements

The 2010-2013 period was undoubtedly the most intensive in terms of reforms in the recent history of the Republic of Armenia and generally speaking, the Republic of Armenia made good progress in its EU-inspired reforms programme in most fields. This considerable effort has been repeatedly acknowledged by the European Union³.

In the field of democracy and human rights, Armenia has reinforced the independence of the Human Rights Defender (Armenian Ombudsman) and both the legislative and presidential elections were

¹<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:21999A0909%2801%29:EN:HTML>

²http://www.eeas.europa.eu/statements/docs/2013/131129_03_en.pdf

³http://ec.europa.eu/world/enp/docs/2012_enp_pack/progress_report_armenia_en.pdf

assessed positively by the international community⁴ as a step towards consolidated democracy. In addition, Armenian institutions have become more transparent and therefore more solid, thanks to the ongoing reforms taking place in this area.

On one hand, the establishment of an Ethics Commission⁵, which holds public hearings to initiate discussions on the conduct of high-level officials and conflicts of interest, has contributed to the reinforcement of Armenian state institutions. Further work is however needed for the Commission to be more independent and have additional scrutiny powers.

On the other hand, Armenia is the region's 2014 World Press Freedom Index⁶ leader, a report published by Reporters without Borders, ranking 78th overall, even though the report also notes the need for further improvement. The protection of personal data and the treatment of workers are also part of the reforms programme together with consumer protection, education, training and youth as well as cultural cooperation⁷.

Coming to rule of law, in addition to the judicial reform aiming at a fully independent judiciary, the following legislation changes were adopted: border management, money laundering and terrorism financing, fight against crime including illicit drugs, terrorism and corruption⁸. However, given the overall state of the Armenian judiciary, reforms should still continue in this domain.

Along the same lines, the Anti-Corruption Strategy was gradually implemented; e-governance is currently working in most structures of the Armenian Government together with an electronic tax-return system, an important tool for improving business environment and reducing corruption risks. In addition, Armenia has set up an online interactive budget system, which gives people public access to information about the state budget, including data on how and why funds are being spent⁹. Most aspects of the government procurement have been made transparent to the public through a mandatory electronic payment system¹⁰.

Significant steps have been taken towards the improvement of the business environment. According to the World Bank's Doing Business Report¹¹, Armenia has moved up by 3 points thanks mostly to the elimination of the company registration fees, which facilitates creation of new companies, and by merging the employee and employer social contributions and individual income tax into one unified income tax. Additionally, there has been a wide range of reforms on sustainable economic development covering more than 30 areas, such as energy, transport, environment protection, industrial and small and medium enterprise (SME) cooperation, as well as product standards.

At the institutional level, efforts have been undertaken concerning good governance and rule of law meant also to improve the administrative capacity of the country through twinning programmes, professional training and secondment of personnel. Moreover, Armenian institutions have been gradually re-organised in order to also be compatible with the EU bodies and institutions.

⁴<http://www.osce.org/odihr/elections/101314>

⁵<http://www.epress.am/en/2012/01/11/armenia-president-establishes-ethics-commission-of-high-ranking-officials.html> ; <http://www.ethics.am/>

⁶<http://rsf.org/index2014/en-eastern-europe.php>

⁷http://ec.europa.eu/world/enp/docs/2013_enp_pack/2013_progress_report_armenia_en.pdf

⁸<http://visa-free-europe.eu/wp-content/uploads/2011/06/Armenia-countryraportPASOS.pdf>

⁹<https://www.e-gov.am/interactive-budget/>

¹⁰http://www.mfa.am/u_files/file/OGPAP_Armenia_English.pdf

¹¹http://www.doingbusiness.org/~/_media/GIAWB/Doing%20Business/Documents/Annual-Reports/English/DB14-Full-Report.pdf

Overall, the progress made by Armenia in the above-mentioned areas have strongly contributed to bringing Armenia closer to European standards and resulted in a positive impact for Armenia. In the context of the Armenian society being traditionally weary and distrustful of the country's administration, it represents a step towards building a much needed cohesion across all parts of the Armenian civil society.

EU cooperation frameworks and examples

Given the recent international engagements of the Republic of Armenia, throughout this chapter we are going to focus on analysing EU cooperation with countries that are already members of an existing customs union or that are in the prospect of integrating one in the near future. On the other hand, the EU has also launched Strategic Partnerships for Modernisation with some countries which rely on bilateral sectoral agreements. The objective is that these examples could serve as inspiration both for the new framework of EU-Armenia cooperation as well as its content.

1. EU cooperation with MERCOSUR member states

MERCOSUR (Southern Common Market, which also includes a customs union) was founded in 1991 by Argentina, Brazil, Paraguay and Uruguay. Venezuela became a full member in July 2012, and Bolivia has been in the process of becoming a full member since December 2012; while Chile, Colombia, Ecuador and Peru are associated states, meaning they can join free trade agreements but remain outside the bloc's customs union.

Formal trade talks and negotiations (concerning areas such as market access or tariffs) are taking place between the EU and MERCOSUR as a whole, not its individual members.

1.1 EU cooperation with Brazil

Brazil is a founding member of MERCOSUR. Nevertheless, the country has also been gradually developing deep relations with the EU.

In 1992, the EU and Brazil concluded the European Economic Community-Brazil Framework Cooperation Agreement (hereinafter FCA) aiming to expand and diversify trade between the parties and to step up several areas of cooperation. In the following years, a series of bilateral agreements were concluded between the EU and Brazil on areas including maritime transport (1992), textile and clothing products (2002), scientific and technological cooperation (2004), fusion energy research (2009), and civil aviation safety (2010). Similar sectoral agreements were also concluded with other member states of MERCOSUR.

Moreover, in 2007, the EU launched a Strategic Partnership with Brazil¹² that includes fields such as effective multilateralism, cooperation on human rights, climate change, sustainable energy, the fight against poverty, as well as MERCOSUR's integration process and Latin America's stability and prosperity, which indicates that a Strategic Partnership and its sectoral agreements also have an impact on the entire region. Trade has also come to be a subject of dialogue, as the EU became the

¹²http://eeas.europa.eu/brazil/index_en.htm This EU-Brazil Strategic Partnership Joint Action Plan (2009-2011) reads: "The Joint Action Plan will enable both sides to start new regular bilateral dialogues as well as deepen existing partnership in areas that are of mutual strategic importance. The leaders emphasized the importance of the High Level Political Dialogue for the discussion of issues of common interest."

country's first trading partner, accounting for 20.8% of its total trade and being its biggest foreign investor present in most sectors of the Brazilian economy¹³.

1.2 EU cooperation with Uruguay

A founding member of MERCOSUR, Uruguay signed the FCA with the EU in 1992¹⁴. Since then, bilateral relations have intensified, not only in economic terms (the EU is the biggest source of investment¹⁵), but also politically. The Agreement foresees cooperation in areas such as health, social, administrative and food matters, rural development, environment, investment promotion and technology transfer.

Trade relations between the EU and Uruguay are important, with Uruguay consistently posting a surplus, mainly due to agricultural exports. The EU is Uruguay's second trade partner (15% of Uruguay's exports in 2011) and the first market for Uruguay beef (29% of beef exports)¹⁶.

2. EU cooperation with ASEAN countries

The Association of Southeast Asian Nations (hereinafter ASEAN) is a political and economic organisation of ten countries located in Southeast Asia, formed in 1967 by Indonesia, Malaysia, the Philippines, Singapore and Thailand. Since then, it has expanded to include Brunei, Burma (Myanmar), Cambodia, Laos, and Vietnam. Its aims include accelerating economic growth, social progress, and cultural development among its members. From an economic point of view, they are organised around a free-trade area, and they expect to implement the ASEAN Economic Community by 2015, consisting of a single market, a highly competitive economic region, a region of equitable economic development, as well as a region fully integrated into the global economy. Moreover, some of its members, such as the Philippines, are urging the establishment of an ASEAN customs union.

2.1 EU cooperation with Indonesia

After Free Trade Area negotiations between the EU and some ASEAN countries proved difficult, the EU decided to pursue its cooperation with Indonesia, focusing on non-trade related issues. Today, both are actively working on the EU-Indonesia Framework for Comprehensive Partnership and Cooperation Agreement (hereinafter CPCA). This Agreement foresees bilateral cooperation with ASEAN states and the organisation as a whole. Other sectors are also included in the Agreement. The EU and Indonesia have committed to work not only on cultural and social matters but also on their industrial policies and SME cooperation, by promoting joint research projects in selected industrial areas and contacts between economic operators, as well as on science and technology, with the exchanging of information and know-how and other forms of human resources training¹⁷.

With this Agreement, the EU and Indonesia are also willing to improve movement of goods and passengers, maritime and aviation safety and security, human resources development, as well as environmental protection by amending certain elements in existing bilateral Air Services Agreements

¹³<http://ec.europa.eu/trade/policy/countries-and-regions/countries/brazil/>

¹⁴http://eeas.europa.eu/uruguay/index_en.htm

¹⁵<http://ec.europa.eu/trade/policy/countries-and-regions/countries/uruguay/>

¹⁶http://eeas.europa.eu/uruguay/index_en.htm

¹⁷http://eeas.europa.eu/delegations/indonesia/documents/eu_indonesia/eu_idnpca_en.pdf

and engaging dialogue in the field of maritime transport, which is, in the case of Indonesia, an important issue. Education and culture, human rights, health, modernisation of the state administration and cooperation in combating illicit drugs, money laundering and corruption are also on the agenda. As for the trade and investment part of the CPCA, the parties rely on World Trade Organisation regulations and have set several objectives such as encouraging transparency of trade regulations, promoting access to each other's markets, in particular for services, and have expressed their interest in considering the possibility, in the future, of concluding a protocol on customs cooperation, but do not explicitly mention any DCFTA ambition.

2.2 EU cooperation with Malaysia

A bilateral PCA is being negotiated between the EU and Malaysia, whose relations have been evolving for more than thirty years under a European Community-ASEAN Agreement. Through this PCA, both parties seek to deepen their relations and mutual commitment by collaborating on numerous subjects. It is indeed necessary that various areas of cooperation are considered, as economic opportunities alone are not sufficient for such a goal. However, Malaysia and the EU do not discard economic cooperation. Apart from the PCA, they are separately negotiating a Free Trade Agreement to maintain, regulate and develop their trade relations.

EU-Armenia prospects for cooperation

1. Current legal basis for EU-Armenia relations

Armenia's inclusion (as one of the countries of the South Caucasus) in the European Neighbourhood Policy (ENP) (2004) and the Eastern Partnership (EaP) (2009) delivered new frameworks and programmes for EU-Armenia joint work, complementing its PCA. Concretely, the EU adopts a Country Strategy Paper¹⁸ (hereinafter CSP) for Armenia which is developed in close consultation with the Armenian administration and reflects the national priorities. The current one covers the 2007-2013 period and is mostly put into practise with the financial resources provided by the European Neighbourhood and Partnership Instrument (hereinafter ENPI)¹⁹.

The CSP for Armenia sets out the overall objectives of EU assistance, encompassing all its instruments and programmes. Based on the CSP, a National Indicative Programme (hereinafter NIP) for the ENPI is adopted and implemented. It supports implementation of the key objectives of the PCA, the ENP Action Plan and the priorities of the Eastern Partnership and includes areas such as deeper political cooperation, trade, economic relations between Armenia and the EU, social and economic development between the regions in Armenia, and increased mobility and security to facilitate the movement of goods and persons. The programme also takes into account the implications of the changing situation in the region. The current NIP covering the period 2011-2013 sets out the priority areas for bilateral EU assistance to Armenia representing 157.3 million euros. Only one out of those three priorities is trade related, and in terms of financial assistance, the two non trade related priorities represent around 75% of the EU support.

¹⁸http://ec.europa.eu/world/enp/pdf/country/enpi_csp_armenia_en.pdf

¹⁹The ENPI was established to provide assistance for the development of an area of prosperity and good neighbourhood with the partner countries covered by the European Neighbourhood Policy (ENP)

The same situation applies to the AA where trade matters concern around one tenth of all elements of the Agreement, although it is fair to say that the DCFTA part acts as an incentive and is often the main motivation to accomplish all reforms defined in the AA.

2. Alternative legal basis for future EU-Armenia relations

It is clear that the EU and Armenia need to upgrade the legal basis of their relations, since the Partnership and Cooperation Agreement, which entered into force in 1999 seems to be obsolete for a country that concluded an AA with the EU.

Indeed, there seems to be a consensus on both the EU and the Armenian side to revisit the legal basis of their relations as it has been expressed in the EU-Armenia joint statement of 29 November 2013²⁰. Given the impossibility of moving forward with the already negotiated AA/DCFTA, another document, such as an “AA Light” or a “PCA Plus”, which would preserve the past achievements and build upon them, will have to be defined.

In this regard, the EU’s recent, repeated acknowledgement for deeper differentiation between the EaP countries is especially relevant. Therefore, there is little risk for Armenia to be offered a standardised “template” document that would define the EU’s relations with each of the EaP countries, regardless of their specific internal situation or geopolitical setting. Instead, the new legal basis for the EU-Armenia relations would recognise Armenia’s specific situation and offer a prospect for cooperation best adapted to its ambitions and needs. This is also an opportunity for Armenia to proactively propose a tailor-made framework for its future relations; an occasion that the country cannot afford to miss.

When we look at the previous chapters and the international engagements of the Republic of Armenia, it seems that the Malaysian approach could be followed in terms of splitting the trade component of the relations from the others. However, as we have just mentioned, a PCA would not fit the high level of cooperation that the EU and Armenia have already reached. In this regard, although a Framework for Comprehensive Partnership and Cooperation Agreement could be a legal basis to consider, it still does not cover all the areas of cooperation of the EU-Armenia AA (setting aside the trade component).

Ideally, a new type of association agreement should be developed, aiming at including all the chapters of the EU-Armenia AA not related to trade, since its negotiations were successfully closed on 25 July 2013.

3. Potential areas of cooperation

As mentioned earlier, the largest part of the existing EU-Armenia cooperation is not directly related to trade, therefore it is clear that there is enough room to uphold a high degree of cooperation, provided there is a strong political will to do so.

Regarding the contents of such cooperation, as both sides stated in Vilnius, the main axis should be: improvement of democratic institutions and the judiciary, promotion of human rights and rule of law, good governance, fight against corruption, and strengthening of the civil society.

²⁰ http://www.eeas.europa.eu/statements/docs/2013/131129_03_en.pdf

More specifically, it could cover three of the four sections (all except DCFTA) of the AA that the EU and Armenia concluded in July 2013:

- Common Foreign and Security Policy
- Justice and Home Affairs
- Issues including the environment, science, transportation, and education

In particular, this new AA would therefore be a comprehensive agreement which reflects the existing wide range of cooperation in political and economic areas, and develops these areas further. To reflect the new quality in the EU-Armenia relations, it should go far above and beyond the existing PCA commitments.

The new Agreement could provide for a firmer commitment to an institutionalised dialogue on common values, notably democracy and rule of law, good governance, and respect for human rights and fundamental freedoms, including minorities rights, a market economy and sustainable development.

It could also enhance cooperation in foreign and security policy, with focus on regional issues, non-proliferation and disarmament. Deepened cooperation in economic areas such as business and investment climate, public finance, macroeconomic stability, and employment as well as social affairs could also be part of the text together with further cooperation in energy matters, paying particular attention to issues concerning security and diversification of supply.

On the other hand, enhanced relations in other sectoral policy areas such as transport, and aviation in particular, environment and public health, science and technology, education and culture and information society and media should also be included. People-to-people contacts, inter alia through exchange and cooperation programmes for schools, students (increased number of scholarships) and researchers, should be further strengthened.

In addition, further cooperation in the field of justice, liberty and security that are only partially covered in the PCA together with institutional building could be part of this new AA.

Finally regarding trade, even though the Republic of Armenia is supposed to join the Russian-led customs union, there might still be room for cooperation with the EU on a sector-by-sector basis. Such sectoral agreements in areas that both parties are interested in can be signed – especially when it comes to providing technical assistance, in the form of e.g., twinning projects – as we have described is already the case for Uruguay and Brazil. The key challenge remains Armenia's capacity to meet and keep the EU standards and to fully upgrade quality infrastructure institutions in line with EU standards, and this would certainly be the main topic of discussion while negotiating such sectoral agreements. In any case, it appears that Armenia has adopted the closest standards to those of the EU, among all countries set to become part of the EURASIAN Customs Union. Therefore it is foreseeable that Customs Union members' companies will increase their presence in Armenia. In this regard, it would be mutually beneficial for both the EU and Armenia to develop additional mechanisms of cooperation in this field.

Conclusions and Recommendations

One of the main factors to consider while analysing the situation we have described in this paper is that there are no precedents in the history of EU relations with third countries of a state finalising its negotiations for an AA and DCFTA with the EU and then failing to initialise it. Therefore, concrete imaginative solutions and innovation are key to overcome the current state of play and further develop the future joint work expressed during the Vilnius summit in areas such as democracy, good governance, civil society and human rights.

Because of this precedent, it is obvious that the above-mentioned circumstances have undermined the level of trust that the Republic of Armenia built throughout three years of successful reforms vis-à-vis its EU counterparts, and therefore rebuilding trust remains the necessary condition to successfully find a positive way out of the current situation. Moreover, some scepticism from the EU side may arise, given the poor record in the above-mentioned areas of Armenia's future partners in the Customs Union, according to EU assessments²¹.

In this regard, it would be positively perceived if Armenian officials continued their frequent visits to the EU institutions at the same level and with the same intensity as over the last three years. Along this same line, the parliamentary cooperation component remains determinant in this period of uncertainty. Additionally, a perceived weaker commitment of the Armenian parliament to the EURONEST Parliamentary Assembly and/or the European and Armenian parliament Cooperation Committee would risk being interpreted as a lack of interest in EU-Armenia relations at large.

However, stimulating a debate on EU core values should be considered, and past approaches focused on borderline EU issues that create unnecessary controversies and disapproval should be abandoned.

In conclusion, it is now up to the Armenian side to send a clear signal regarding the content of their future relations with Europe, as well as regarding the legal base of these relations. Such initiative should take into consideration the Republic of Armenia's new international commitments, but also express a continuously strong political will to work together with the EU along those lines, developing a new type of association agreement based on most of the past achievements. In this regard, the access to EU programmes and agencies granted recently by the EU to the Republic of Armenia²² and the use it will make of it remains an opportunity for Armenia to convince its European partners of its commitment to cooperate with the EU. In addition, the new European Neighbourhood Instrument (ENI) will make funding faster and more flexible and should allow Armenia to define together with the EU an ambitious programme for the 2014-2020 period.

Finally, looking back in history and with just one glance at the map, it becomes very clear that this South Caucasus republic has already shown its expertise in overcoming a whole range of complicated, often dramatic, situations with its powerful neighbours, while managing to preserve its European values. The more support Europe provides to Armenia, the more margin of manoeuvre Armenia will have to rebuild its relations with the EU.

²¹http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/137151.pdf
http://europa.eu/rapid/press-release_SPEECH-13-690_en.htmhttp://eeas.europa.eu/statements/docs/2013/131127_01_en.pdf

²²<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P7-TA-2013-0555&language=EN&ring=A7-2013-0406>