

TURKISH TRADE WITH ABKHAZIA: AN APPLE OF DISCORD FOR GEORGIA

This article discusses how trade between Turkey and Abkhazia increased recently, to the detriment of trust between Georgia and Turkey. As Turkish vessels continue violating Georgia's territorial integrity, Tbilisi has no appetite for seeing Turkey play a stronger role in conflict resolution and confidence building in Abkhazia. Georgia, angered with the blatant violation of its restrictive legal regime over trade with Abkhazia, started capturing Turkish vessels in 2010. This situation increased the interest of Turkish politicians, and led to negotiations between Ankara and Tbilisi over the modalities of trade between Turkish and Abkhaz ports. While no agreement was reached in 2010, the author believes that an agreement is still within reach if both sides have sufficient political will and creativity.

Sergi Kapanadze*



TURKISH POLICY
QUARTERLY

Fall 2014

* Sergi Kapanadze is the Director of the Tbilisi-based, multi-profile think tank Georgia's Reforms Associates (GRASS). He is also a Dean of the School of Governance at Caucasus University and Associate Professor at Tbilisi State University. He served as a Deputy Foreign Minister of Georgia and was in charge of the negotiations with Turkey over the captured vessels in 2009-10.

Georgia and Turkey have enjoyed two fruitful and eventful decades of cooperation. Turkey is Georgia's number one trading partner; Turkish investments drive Georgia's economy; the number of Turkish visitors to Georgia is increasing annually; and the two countries jointly administer a mutual border which can be crossed by using ID cards. Turkey is the only neighbor of Georgia with whom it has delimited and settled borders, land and maritime. This trend of positive strategic relations, as well as certain newly emerged problematic aspects, such as the increase of anti-Turkish sentiment in the last few years' pre-election campaigns in Georgia has been well detailed by Ivane Chkhikvadze¹ and Nigar Göksel² in relevant works. All things taken into account, Georgian-Turkish relations are quite exemplary for the wider Black Sea and Middle East regions, and could be taken as a model for good neighborly relations.

The aim of this article, however, is to focus on one problematic aspect of this otherwise friendly relationship: the relations that Turkey has with one of the occupied regions of Georgia – Abkhazia.

Despite the fact that Abkhazia has been under an embargo on all trade and foreign economic activities by Georgia, economic and trade ties between Turkey and Abkhazia have intensified rapidly during the past few years.³ Turkish investments have increased in Abkhazia, unofficial trade is reaching higher marks every year, Turkish businesses have opened offices in Abkhazia, the movement of persons is increasing, and so are the attempts of the Abkhaz political elite to use Turkish support to garner political support inside Abkhazia. This has led to increasing disappointment with Turkey among the Georgian political elite.

At the same time, on the record, Turkey remains a supporter of Georgia's territorial integrity within its internationally recognized borders. Right after the August 2008 Russia-Georgia War, on August 13th, Turkish President Abdullah Gül made a strong statement: "We attach importance to Georgia's territorial integrity and sovereignty."⁴ By May 2014, six years after the war, the Turkish position had not changed, as President Gül reiterated Turkey's "support for the territorial integrity of Georgia."⁵

1 Ivane Chkhikvadze, "Zero Problems with Neighbors: The Case of Georgia," *Turkish Policy Quarterly*, Vol.11, No. 2 (Summer 2011),

<http://www.turkishpolicy.com/article/617/zero-problems-with-neighbors-the-case-of-georgia-summer-2011/>

2 Diba Nigar Göksel, "Turkey and Georgia: Zero-Problems?," *German Marshall Fund of the United States*, June 2013, <http://www.gmfus.org/archives/turkey-and-georgia-zero-problems/>

3 Nick Clayton, "What is Turkey Doing in Abkhazia?," *Heinrich Boell Stiftung*, 16 January 2014, <http://ge.boell.org/en/2014/01/16/what-turkey-doing-abkhazia>

4 "Gül urges respect for Georgia's territorial integrity and sovereignty," *Today's Zaman*, 13 August 2008, http://www.todayszaman.com/diplomacy_gul-urges-respect-for-georgias-territorial-integrity-and-sovereignty_150070.html

5 "Turkey supports territorial integrity of Azerbaijan and Georgia," *Today.az*, 6 May 2014, <http://www.today.az/news/politics/133377.html>

The contradiction in words and deeds has often made the Georgian government uneasy. Statements of concern have been made by high-level officials from Tbilisi and *démarches* have been made with Turkish ambassadors, including during my tenure at the Ministry of Foreign Affairs as head of the international organizations department and then as deputy foreign minister between 2008 and 2012.⁶ Georgian law enforcers have sometimes gone as far as to detain the Turkish vessels in Georgia's territorial waters and beyond because of illicit trade with Abkhazia. In fact, during the period of 1999-2009 almost 60 vessels were reported to be captured by the Georgian navy in the Black Sea.⁷ These "unfriendly" actions undertaken by Tbilisi have made Ankara unhappy, and concrete political and diplomatic countermeasures have been sought. Even though this problem has not often made headlines, it certainly remains, albeit under the radar, and should not be swept under the carpet.

“During the period of 1999-2009 almost 60 vessels [that engaged illicit trade with Abkhazia] were reported to be captured by the Georgian navy in the Black Sea.”

The Multiple Dimensions of Turkish-Abkhaz Relations

Turkish-Abkhaz relations exist on a multitude of dimensions. The Abkhaz diaspora is quite strong in Turkey. According to various sources, 100,000 to 500,000 ethnic Abkhaz reside in Turkey.⁸ They are well organized and allegedly maintain serious influence on Turkish politics, particularly with regard to the policies towards Abkhazia and the Northern Caucasus. This year, Abkhaz diaspora organizations even opened the election precinct in Istanbul to ensure that Abkhaz voted in the *de facto* presidential elections.⁹ Despite the fact that official Ankara had halted the opening of the polling stations¹⁰ and the Turkish Ambassador to Georgia stated that Turkey would not recognize the elections,¹¹ Abkhaz sources still claimed that votes

6 “Turkey supports Georgia’s territorial integrity despite Abkhazia visit,” *Agenda.ge*, 13 May 2014, <http://agenda.ge/news/14022/eng>; also see: “Georgian MFA: Abkhaz portion of Maritime border closed,” *Civil.ge*, 28 June 2005, <http://www.civil.ge/eng/article.php?id=10233>

7 “Turkish Investment and Trade Booms in Abkhazia,” *Tabula Magazine*, 1 April 2011, <http://www.tabula.ge/en/story/70070-turkish-investment-and-trade-booms-in-abkhazia>

8 Diba Nigar Goksel, “Turkey and Georgia: Zero-Problems?,” *Black Sea Trust for Regional Cooperation, German Marshall Fund of the United States*, June 2013

9 “A Polling station has been opened in Turkey for the election of the President of Abkhazia,” *Abkhaz World*, 14 August 2014, <http://abkhazworld.com/aw/current-affairs/1248-a-polling-station-has-been-opened-in-turkey-for-the-election-of-the-president-of-abkhazia>

10 *News.ge*, 25 August 2014, <http://news.ge/ge/news/story/102046-turqetis-khelisuflebam-aghkveti-okupirebuli-afkhazetis-e.ts.-saprezidento-archevnebis-chatarebis-mtsdeloba-turqetshi>

11 “Interview with the Georgian Ambassador to Turkey,” *I Channel*, 24 August 2014, <http://1tv.ge/news-view/74444>

had been cast from Turkey for the elections in Abkhazia. In any case, such activeness showed the strength of the Abkhaz diaspora in Turkey.

Abkhaz-Turkish relations have had relatively weak, but nevertheless sometimes worrying, political and diplomatic dimensions. In 2007, Abkhaz leader Sergey Bagapsh wanted to visit Turkey to meet with the Abkhaz diaspora, and the visit nearly happened. Only after serious *démarches* from the Georgian side, did the Turkish government decide to refuse to issue him a visa.¹² However, this incident demonstrates that, in principle, Turkish authorities would not object to the informal visit of the Abkhaz leader to Turkey. In 2011, Bagapsh visited Turkey for a “business visit,” which was down-played by the Turkish Ministry of Foreign Affairs (MFA) as a “private visit on health grounds,” and which sparked protest from the Georgian side.¹³

Senior Turkish diplomats have visited Abkhazia too, in obvious attempts to grant Turkey a bigger role in conflict resolution and to enhance relations with Sukhumi.¹⁴ On 8-9 September 2009, the Turkish MFA’s then-Deputy Undersecretary Ünal Çeviköz visited Sukhumi and held meetings with Abkhaz officials to discuss the potential for further cooperation, particularly along the economic dimension.¹⁵ In 2010, the head of the Turkish MFA’s Caucasus Department, Nurdan Bayraktar, visited Abkhazia along with Turkey’s Ambassador to Georgia Levent Murat Burhan. The Turkish MFA explained the visit in terms of its willingness to keep relations between Turkey and Abkhazia alive, and the Ambassador was quoted stating that Ankara hoped “to discuss establishing direct trade relations with Abkhazia.”¹⁶ In May 2014, a group of Turkish journalists visited Abkhazia, leading to protests on the Georgian side.¹⁷ In June 2014, a group of Turkish MPs visited Abkhazia, which also elicited protests from Georgia.¹⁸

These visits and political links between Sukhumi and Ankara are undeniably worrisome for Tbilisi. The official Turkish position has always been the same – that

12 Emrullah Uslu, “Turkey Considers the Status of Abkhazia,” *Jamestown Foundation*, 5 October 2009, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35581#.VFwqWvldXX5

13 “Лидер Абхазии посетил Турцию с «бизнес-визитом»” [Abkhaz leader went to Turkey on the ‘business visit’], *Voice of America*, 13 April 2011, <http://www.golos-ameriki.ru/content/abkhszia-turkey-visit-2011-04-13-119789734/232346.html>

14 Uslu (2009)

15 Hasan Kanbolat, “Turkey-Abkhazia Relations after Cevikoz,” *Today’s Zaman*, 17 September 2009, http://www.todayszaman.com/columnist/hasan-kanbolat/turkey-abkhazia-relations-after-cevikoz_187337.html

16 *Tabula Magazine* (2011).

17 “Tbilisi Complains over Visit of Federation of Turkish Journalists to Abkhazia,” *Civil.ge*, 14 May 2014, <http://www.civil.ge/eng/article.php?id=27227>

18 “Tbilisi Protests Turkish MPs’ Visit to Abkhazia,” *Civil.ge* 9, June 2014, <http://www.civil.ge/eng/article.php?id=27334>

Turkey respects the territorial integrity of Georgia, and that all interaction between Turkey and Abkhazia is a result of private initiatives not endorsed by the government.¹⁹ While this response makes sense from economic and democratic governance points of view, it never seems to satisfy the Georgian authorities. Truth be told, Georgian authorities never fully trusted, or trust, Turkey's intentions with Abkhazia. Such mistrust has been further fueled with the speculations that Turkey was ready to recognize Abkhazia in exchange for Russia recognizing the Turkish Republic of Northern Cyprus in 2008-9. Unfortunately, such mistrust has led the Georgian side to engage in defending its territorial integrity through all means available to it, sometimes even arresting Turkish citizens and vessels that have violated Georgian legislation, thus inciting further mistrust and diplomatic actions from Ankara.

In turn, Turkey's attempts to promote trade with Abkhazia is understandable, as Ankara does not want Abkhazia to be economically isolated, Russian businesses to dominate Abkhazia, and the traditional links between the Abkhaz diaspora in Turkey and their motherland to be severed. While trying to reach these goals, however, for Tbilisi, Turkey has lost its reputation of a potentially constructive broker who could de-isolate Abkhazia and assist Georgia in building confidence with the Abkhaz population.

“This year, Abkhaz diaspora organizations opened the election precinct in Istanbul to ensure that Abkhaz voted in the de facto presidential elections.”

Turkish Trade and Investments with Abkhazia

Deepened economic ties and ever-increasing informal trade between Turkey and Abkhazia represent a matter of serious concern for Georgia. According to a report cited in *Turkish Policy Quarterly*, about 60 percent of imports to Abkhazia come from Turkey, while about 45 percent of Abkhazia's exports go to Turkey.²⁰ As estimated in the report, in 2007, before significant investments made by Russia and the boom in Turkish trade and investment, about 30 percent of Abkhazia's governmental budget came from customs duties on trade with Turkey.²¹

19 *Civil.ge* (2014); see also Eric Eissler, “Can Turkey de-isolate Abkhazia?”, *Turkish Policy Quarterly*, Vol. 12, No. 3 (Fall 2013), p. 131, <http://www.turkishpolicy.com/article/946/can-turkey-de-isolate-abkhazia-fall-2013/>

20 Burcu Gultekin Punsmann, “Questioning the Embargo on Abkhazia: Turkey's Role in Integrating Into the Black Sea Region,” *Turkish Policy Quarterly*, Vol. 8, No. 4 (Winter 2009), <http://www.turkishpolicy.com/images/stories/2009-04-tpq/77-88.pdf>

21 Nick Clayton, “What us Turkey Doing in Abkhazia?” *Heinrich Boell Stiftung*, 16 January 2014, <http://ge.boell.org/en/2014/01/16/what-turkey-doing-abkhazia>

In 2013, the volume of foreign trade between Turkey and Abkhazia allegedly rose to 600 million dollars, which is an unofficial but still credible number. The majority of trade is transported through the Black Sea, with Turkish vessels leaving the Turkish ports of Istanbul, Samsun, and Trabzon and officially heading for Sochi. After reaching Sochi or sometimes rerouting midway, the vessel then travels to Sukhumi and returns to Turkish ports with Abkhaz exports. Turkey exports oil, food, textiles, and construction materials to Abkhazia, and imports coal and timber.²² Most of the vessels trading between Abkhazia and Turkey are owned by Turkish ship-owners, but do not fly Turkish flags. These vessels also regularly turn off their AIS (automatic identification system) devices when they travel to and from Sukhumi, so as not to be spotted by Georgian law enforcers.

Moreover, several Turkish companies have invested in or have expressed interest in investing in Abkhazia, despite the risks associated with doing business in the occupied regions and violating Georgian legislation. Just recently, representatives of companies interested in logistics, recycling, tourism, and construction visited Abkhazia to explore further business opportunities.²³ Turkish companies and Turkey-based subsidiaries of international brands such as Benetton have opened their shops in Sukhumi.²⁴

A Problem for Tbilisi: Violations of Georgian Legislation

For officials in Tbilisi, these actions represent the violation of Georgia's territorial integrity, not to mention a number of legislative acts that are important to the government, which consider Abkhazia to be a region occupied by Russia.

Trade with Abkhazia is banned according to several pieces of Georgian legislation. Presidential Order No. 313 of 3 August 2004 bans all navigation to Abkhazia and closes the Abkhaz ports to international movement, except for humanitarian cargo. The Law on the Occupied Territories of 23 October 2008 defines the status of Abkhazia as occupied and establishes the restricted legal regime therein, banning all trade and movement. The Decree of the Government of Georgia of 12 November 2008 establishes the rules for economic activities in the occupied territories, allowing only such activities that aim to promote confidence building, restore territorial

²² "A new Era in Turkey-Abkhazia Relations," *Today's Zaman*, 1 September 2014, <http://www.todayszaman.com/newsDetail.action;jsessionid=f76WhBRZ7FrEE-5Fslk4NqiZ?newsId=357355&columnistId=0>; also see: "Основные торговые партнеры Абхазии" [Trading Partners of Abkhazia], *Abkhazia-apsny.ru*, <http://abkhazia-apsny.ru/trading-partners.html>

²³ "Турецкие и абхазские предприниматели обсудили возможные механизмы увеличения инвестиций в Абхазию" [Turkish and Abkhaz businessmen discussed the mechanisms of increasing investments in Abkhazia], *Apsnypress*, 30 October 2014, <http://apsnypress.info/news/13375.html>

²⁴ "Benetton in Abkhazia," *Hurriyet Daily News*, 25 May 2009, http://www.hurriyet.com.tr/english/finance/11716897_p.asp

integrity, and meet humanitarian needs. The law basically says that any attempt to trade with Abkhazia needs to be coordinated with the Georgian government.

The Georgian government also claims that in order to protect this legislation and Georgia's territorial integrity, Georgia can restrict the freedom of navigation in the Black Sea within Georgia's Exclusive Economic Zone (EEZ – 200 miles). Even though international law does not permit such restrictions, some states argue that the principle of necessity and special interest of the state may prompt them to act in such a way. Georgia has claimed that “special interest in protecting its sovereignty justifies the arrest of vessels otherwise precluded by the exclusive jurisdiction of the flag state during the exercise of freedom of navigation,” which is “further reinforced by the special circumstances deriving from Russian occupation.”²⁵ In 2010, Georgia even notified the International Maritime Organization based in London that “Georgia reserves the right to take all appropriate measures in order to prevent and punish infringement of its national and international law by vessels illegally shipping to Abkhazia, Georgia.” The Turkish side certainly rejects this argument, as Ankara considers the Black Sea as high seas; no country is permitted to exercise its jurisdiction in the high seas.

“Ankara does not want Abkhazia to be economically isolated, Russian businesses to dominate Abkhazia, and the traditional links between the Abkhaz diaspora in Turkey and their motherland to be severed.”

Detention of Turkish Vessels by the Georgian Authorities

In an apparent, even desperate attempt to enforce Georgian legislation and oblige Turkish trade operators to respect Georgian laws, Georgian law enforcers arrested several Turkish vessels in 2009-10. All of these vessels had engaged in illegal trading activities with Abkhazia. The pattern was the same as detailed above: a vessel left one of the Turkish ports and sailed to Sochi, which was declared as the official destination in the documents. After leaving Sochi, the vessel turned off the AIS device, entered Abkhazia, stayed there for several hours or days, and then went back to Turkey through Georgia's territorial waters, or EEZ. Sometimes the trade was direct, without a detour to Sochi, but in most of the cases the first pattern held.

²⁵ Shalva Kvinikhidze, “Current Legal Developments Georgia,” *The International Journal of Marine and Coastal Law* 27 (2012), pp. 176-177.

“The period of 2009-10 was a cold one for Georgia-Turkey relations and the detentions were discussed at every opportunity – during bilateral visits in New York, meetings, and informal gatherings”

One of the most notorious cases of seizing Turkish vessels was that of the tanker *Buket*, which was seized on 24 August 2009. The tanker carried 17 crew members and several thousand tons of fuel.²⁶ The captain of the ship was charged in Georgia with unauthorized entry into the Abkhaz port and sentenced to 24 years in prison for violating the blockade.²⁷ The Turkish side claimed that *Buket* was arrested in the open sea, whereas the Georgian side maintained that the hot pursuit of the vessel started in Georgian territorial waters and ended

in the EEZ, a principle which is endorsed in international maritime law. This explanation never seemed satisfactory to the Turkish authorities, who argued that any action in the open sea was illegitimate and contrary to international law.

At one moment in 2010, the Georgian side held five Turkish vessels, all detained for the violation of Georgia’s territorial integrity and the Law on Occupied Territories. These vessels were the following:

- *Pala Reis*, a cargo ship flying the Turkish flag, was detained on 13 February 2009. It had a crew of 23 and carried contraband of 50 tons of fish and a small amount of marijuana. After the trial 50,000 laris (approximately 30,000 dollars) was paid by the crew.
- *Densa Demet*, a tanker flying the Turkish flag, was detained on 14 April 2009. It had a crew of 10 and carried contraband of over 4,000 tons of petrol. After the trial, 110,000 laris was paid in fines and the ship was confiscated by Georgian authorities.
- *New Star 1*, a cargo ship flying Sierra Leone’s flag was detained on 29 April 2009. It had a crew of 11. The ship was confiscated and 45,000 laris was paid in fines by the crew.
- *Buket*, a tanker flying the flag of Panama was detained on 15 August 2009. It had a crew of 17, mainly Turkish and Azeri citizens, and carried contraband of 2,500 tons of petrol and 700 tons of diesel fuel. The ship and cargo were confiscated and the captain was sentenced to 24 years in jail, but was later released.

26 “Georgia Detains Ship Captain Over Abkhazia,” *Civil.ge*, 25 August 2009, <http://www.civil.ge/eng/article.php?id=21389>

27 Nick Clayton, “What us Turkey Doing in Abkhazia?” *Heinrich Boell Stiftung*, 16 January 2014, <http://ge.boell.org/en/2014/01/16/what-turkey-doing-abkhazia>

- *Afro Star*, a cargo ship flying the flag of Cambodia, was detained on 18 August 2009. It had a crew of 7, mainly from Syria, and carried contraband of 1,200 tons of scrap metal. The crew was fined 24,000 laris, the captain was sentenced to pre-trial detention and then released, and the ship and cargo were confiscated.

The Turkish side obviously protested against these detainments. In fact, the period of 2009-10 was a cold one for Georgia-Turkey relations and these detentions were discussed at every opportunity – during bilateral visits in New York, meetings, and informal gatherings. Several conversations took place on these matters between then-Prime Minister of Turkey Recep Tayyip Erdoğan and the President of Georgia Mikheil Saakashvili. Turkish high-level delegations visited Tbilisi to discuss the incidents in the Black Sea. It is understandable that, particularly in the aftermath of the Gaza flotilla raid in 2010, Turkey did its best to avoid another complication with its neighbor regarding naval issues.

Eventually, all detained Turkish vessels were released or sold in auction, in most cases the only bidders being the former owners. However the problem has not yet been solved. Turkish vessels continue to sail for Abkhazia even today. In 2013, four years after the *Buket* incident, this issue resurfaced again, as three vessels were detained by Georgian authorities in the span of six months. Among them was the cargo vessel *Pasha*, flying the Tanzanian flag, which left the Turkish port Bartın for the Abkhazian port of Ochamchire. The captain had to pay 50,000 laris bail in order to secure his release.²⁸

Even though these incidents did not translate into a wider political standoff between Turkey and Georgia, there is a high probability that the incidents could spiral out of the control and lead to a major political and security crisis in the Black Sea. That is, unless the two sides decide to find a mutually acceptable solution to the problem.

Negotiations in 2010 and Their Failure

In 2009 and 2010, the Georgian and Turkish sides held several rounds of negotiations, including in Ankara in Spring 2010 and Batumi in Summer 2010. Even though the sides were close to finding an agreement, no deal was reached. I had the honor of representing the Georgian side in these talks, and I have to say that these talks could have easily concluded successfully. In fact, the fundamental interests of the parties overlapped and an agreement should have been reached.

²⁸ “Sokhumi condemns detention of cargo vessels en route between Abkhazia, Turkey,” *Civil.ge*, 16 July 2013, <http://www.civil.ge/eng/article.php?id=26276>

Even though the positions of both sides could prompt some to believe that they have contrary interests, a deeper look at the situation, and my personal experience, shows that both sides in fact share complementary interests. Georgia does not have an interest in preventing Turkish trade with Abkhazia, and Turkey does not have an interest in violating the territorial integrity of Georgia. The Turkish side is interested in continuing its trade with Abkhazia in order to benefit from it, and to contribute to the de-isolation of Abkhazia. Fundamentally, Georgia has the same interest – its strategy towards the occupied territories is aimed at opening up Abkhazia economically and reducing its dependence on Russia. Georgia, however, wishes to have a say in the economic practices and other projects taking place in Abkhazia, even if this “say” is symbolic. Turkey has never expressed its disagreement with this principle. In fact, Turkish officials have always clearly stated that they respect the Georgian legislation governing the legal regimes in the occupied territories. To speak in theoretical terms, Zones of Possible Agreement (ZOPA) are overlapping; therefore the agreement is possible in principle.

Despite a few rounds of negotiations, an agreement was not reached in 2010. However, many issues were discussed and many positions were bridged. If agreed upon, the agreement could have included the following:

- Respect for each other’s sovereignty, territorial integrity and borders (important for Georgia).
- Respect for the international law governing the conduct in the high seas (important for Turkey).
- Modalities for trading between Turkish ports and Abkhazian ports based on the following principles:
 - o In advance notification by the vessels leaving for Abkhazia (important for Georgia).
 - o Full provision of documents to the Georgian authorities (important for Georgia).
 - o Opportunity for the Georgian authorities to inspect the vessels going to Abkhazia (important for Georgia).
 - o Short inspection period for the vessels, in order to ensure that no undue delay took place (important for Turkey).
 - o No stopping of the vessels in Georgian sea ports (important for Turkey).

Even though the parties were very close to the agreement, no agreement was possible due to various reasons, which can be summed up as follows:

- High-level political interest to seal the agreement on illegal trade with Abkhazia was lacking in both Turkey and Georgia. Negotiations were carried out at the bureaucratic level and the diplomats did well; however, without the necessary political will the issue could not be resolved.
- The cost of no agreement was very low for both sides, not just lower than the cost of the agreement. By the time the final round of negotiations took place in August 2010 in Batumi, most vessels had been released and the problem was not as acute as it had been in 2009. The Turkish leadership had been interested in releasing the vessels and concluding the agreement before the referendum of 2010 and general elections of 2011, possibly in order not to show weakness in relations with its neighbors or upset the ship-owners.
- While the lack of trust towards each other had contributed to bringing the sides to the negotiating table, it did not contribute to finding a mutually acceptable solution. The Turkish side did not trust that Georgia would refrain from arresting any more ships, and therefore was not sure that the proposed agreement would prevent the further loss of vessels. The Georgian side, on the other hand, was not sure that the Turkish side would abide by the agreement even if it agreed to, since the Turkish government maintained that it could not control interest groups that traded without permission from Ankara.
- Those who favored the proposed agreement could not prevail over those who did not care about the final outcome in both negotiating teams. From the Turkish team, it was obvious that the ship-owners' association was against the agreement, as it implied raised costs for sailing to Abkhazia. From the Georgian team, there were those who favored the full compliance of Turkey with Georgian legislation, or threatened to continue the arrests of the vessels if the Turkish side did not comply with Georgia's conditions.

In the end, an agreement was not reached, but both parties did get very close to a solution. Unfortunately, since 2010 no more talks have been held between the Georgian and Turkish sides on this issue, and the problem of illegal trade between Turkey and Abkhazia still has not been resolved.

Several Alternative Solutions

If Turkish and Georgian officials ever decide to go back to the negotiation table, they can build upon existing experience. In any case, they will need to take into account several fundamental issues in order to reach an agreement. Otherwise, all attempts will prove to be futile.

First of all, the parties will have to agree on several principles. For the Georgian side, the principles of territorial integrity, sovereignty, and independence are extremely important, especially when it comes to the occupied regions. In a similar way, endorsement of Georgia's strategy towards these regions is an important principle too. For the Turkish side, respect for the international legal principles governing the movement of vessels in the high seas is important. So is the principle of respecting the private property of the ship-owners and inviolability of the crew. If the parties ever secure an agreement, they will have to explicitly agree to uphold these principles.

In accordance with these principles, the parties probably have to agree to the rules of the game after the agreement is signed. In other words, Turkey will have to understand that Abkhazia is a part of Georgia, and whatever trade or movement of cargo that takes place needs to be in accordance with Georgian legislation. The Georgian side, on the other hand, needs to admit that it cannot exercise a similar degree of control over trade with Abkhazia as it does over the Tbilisi-administered territory. This might be unfortunate, but this is the reality, so proverbially asking the Turkish side to be more Catholic than the Pope would not make much sense.

Then the parties would have to agree on the modalities of trade. There are two possible alternatives. According to the first alternative, Turkish vessels could make a small detour from their traditional Samsun-Sukhumi, Trabzon-Sukhumi, or Istanbul-Sukhumi routes, stop in or near the Georgian port of choice (Batumi or Poti), have the Georgian side conduct a brief inspection, share the documents related to the trade with the Georgian side (such as a Bill of Lading), clear the designated route with the Georgian side, and continue sailing unrestrained. In this scenario the main idea is that the Georgian side formally exercises its control but, *de facto*, no such control will actually hinder the free movement of the vessels. In return, the Georgian side would have to refrain from using force or stopping Turkish vessels in the high seas. The Georgian side will also have to find a way to grant permission to Turkish traders to conduct economic activities in Abkhazia. Even though this seems complicated, in reality, a simple amendment to the legislation or even a government decree could resolve this issue.

In this scenario several problems would still persist for the Georgian side; however, these issues could be resolved in a constructive manner if there is sufficient political will. The first of such problems is related to the route of the Turkish vessels on the way back from Abkhazia. If they are also requested to stop in Georgian ports, there is a likelihood that the vessels will not comply and that the Turkish side would not

accept such a deal because of the extended route. What the Georgian side could potentially agree to, however, is the notification on the kind of cargo through an online transmission of relevant documentation, as well as the communication with the vessel through hailing.

“Georgian authorities never fully trusted, or trust, Turkey’s intentions with Abkhazia.”

According to the second scenario, Georgian customs officials would be stationed in the Turkish ports of Samsun, Trabzon, and Istanbul. All vessels that go to Abkhazia would first go through the initial clearance procedure with Georgian officials, provide all documents to the Georgian side, and then pursue the initially agreed-upon route. This scenario solves the problem of extending the routes for Turkish vessels traveling to and from Sukhumi.

In both of these alternatives two further issues need to be resolved. First of all, the Georgian and Turkish sides have to agree on whether these economic activities are taxed by Tbilisi. Currently, all economic activities are banned in Abkhazia; however, as mentioned above, a special arrangement could be sought. As for the tax breaks, this could be arranged as well if there is sufficient political will from both governments. What is clear at this stage is that if official Georgia insists that taxes are paid by Georgian laws, the possibility of arrangement is highly unlikely.

The second issue that needs to be resolved is the scope of the vessels that Turkey and Georgia could agree to cover under such agreement. Most of the vessels that the Georgian side has arrested in the past years flew the Turkish flag, but there were also other vessels that were owned by Turkish companies and had a Turkish captain and crew, but flew the flag of another country. Turkey cannot possibly extend the agreement to those vessels that do not fly the Turkish flag, as its jurisdiction does not encompass such vessels in the high seas. What Turkey can do, however, is to oblige all vessels leaving Turkish ports to follow the procedure agreed upon with Georgia. And if the vessels take a risk and do not comply with the regulations, they can risk facing Georgian law enforcement or getting away with the wrongdoing.

Why Would the Sides Agree to Such a Deal?

Such a deal was very close to being approved in August 2010, but due to various circumstances the deal failed. Despite this, I am still convinced that if sufficient political will is present in both capitals, the issue could be resolved once and for all.

Here are some of the benefits that such an agreement could entail for all sides.

- The legal regime governing trade with Abkhazia would be established. Thus, the current practice of shady, illegal economic activities would be legalized. This would mean that the vessels carrying cargo could increase their activity without being afraid of being arrested or fined. Also those vessels and companies that trade with Abkhazia do not trade with Georgian ports, as they are afraid of fines and legal consequences. Such an agreement would open Georgian ports to these companies and vessels, thus increasing the scope of their business activities.
- Trust would be restored between Georgia and Turkey on the latter's role in Abkhaz-related matters. This could potentially pave the way towards Turkey playing a bigger role in confidence building and conflict resolution initiatives in Abkhazia. As Abkhazia strives to diversify its economy and trade and the EU considers further economic ties with Sukhumi, the Turkish political role in conflict resolution and confidence building could be a game-changer. However, without Tbilisi on board, unilateral Turkish actions would only increase the friction and alienate Georgia.
- No further potentially explosive incidents would take place in the Black Sea, thus decreasing the risk of complicating otherwise excellent relations between Georgia and Turkey. The Russian military presence in the Black Sea is already a sufficient problem for other littoral states, not to mention seeking new complications in maritime matters.

While these are the obvious positive aspects of the possible agreement, negative aspects persist too. For Georgia, such a step could open a Pandora's box of various *ad hoc* arrangements with regard to trade between Abkhazia and European countries. It could also potentially open a contraband loophole from Abkhazia to the rest of Georgia. For Turkey, such an arrangement could risk angering the Abkhaz leadership and potentially upsetting some of the powerful diaspora representatives in Istanbul and Ankara. But this is a price tag. In 2010, the parties appeared unwilling to pay such a price, and these are indeed serious issues to take into consideration.

Currently, it seems that both sides have forgotten about the problem of vessels and how close they got to an agreement just four years ago. Tbilisi and Ankara should resume brainstorming to gauge whether an agreement is needed at all. If they have the will, a small push by the politicians on both sides could bring the negotiations to place the illegal trade with Abkhazia in a legal framework back on track.