

THE KARS TREATY--NEITHER FISH NOR FOWL

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NCWA's legal advisory board examines the controversial treaty

The Kars Treaty signatories were the Soviet Union, the Armenian, Georgian Soviet Socialist republics and Azerbaijan Soviet Socialist Republic, as well as the Turkish Assembly in Angora (Ankara), prior to the founding of the Republic of Turkey. The treaty is a crucial event in modern Armenian history. It's also controversial and often misunderstood. The legal advisory board of the National Congress of Western Armenians explains the shortcomings of the treaty. --Editor.



The Treaty of Alexandropol was signed on Dec. 2, 1920 between Turkish revolutionaries (before the declaration of the Republic of Turkey) and the Government of the Republic of Armenia. Article 11 of the treaty declared the Sèvres Treaty "null and void". The territory of the Republic of Armenia was reduced by more than 50%. The treaty was supposed to have been ratified within one month by the parliament of the Republic of Armenia. It was, however, never ratified due to the occupation of the RoA by the armies of the Russian Soviet Federative Socialist Republic (RSFSR). It was eventually replaced by the Kars Treaty as stipulated in Article I of the Kars Treaty.

The Treaty of Kars was signed on Oct. 23, 1921 and ratified in Yerevan on Sept. 11, 1922. While all signatories had the necessary powers to negotiate and sign the treaty, doubts have always been expressed about its validity and applicability for two main reasons: at the time only the RSFSR was a sovereign state in accordance with international law. The three other entities, namely the Armenian Soviet Socialist Republic, the Georgian Soviet Socialist Republic, Azerbaijan Soviet Socialist Republic were not independent sovereign states and recognized as such by international law or the international community (the League of Nations). Furthermore, the Turkish delegation represented the Grand National Assembly of Turkey (GNAT) founded in Ankara on April 23, 1920 and not the government of Turkey. The GNAT declared the Turkish Republic in 1923, two years after the signing the Kars Treaty.

A treaty is valid if all of its provisions are put into effect and implemented. Articles XIII, XIV, XV XVII XVIII and XIX , concerning the relations between the Soviet Republic of Armenia and Turkey, have never been implemented. Signatories cannot pick and choose which provisions of a signed treaty will be implemented and which will not. Hence the reference only to the borders provided for in the treaty and not applying the remaining provisions is not in accordance with international law.

In accordance with Article V the region of Nakhichevan constitutes an autonomous territory under the protection of Azerbaijan and not an integral part of Azerbaijan. All inhabitants of territory that was part of Russia before 1918, and over which the sovereignty of Turkey is affirmed, shall have the opportunity, if they desire to relinquish their Turkish nationality, to leave Turkey freely, taking with

them their possessions and goods, or the proceeds of their sale (Article XIII). In accordance with the provisions of Article XVII the contracting parties agree to take all necessary measures necessary to maintain and develop railway, telegraphic, and other communications, as well as to assure free transit of persons and commodities without any hindrance.

Consular conventions were supposed to be concluded within three months in accordance with Article XIX. None of the foregoing was implemented. After the Second World War the USSR attempted to annul the Kars Treaty.

On 7 June, 1945 the Foreign Minister of the USSR, Vyacheslav Molotov requested, on behalf of the Armenian and Georgian SSRs, from the Turkish ambassador in Moscow that the provinces of Kars, Ardahan and Artvin be returned to the USSR. Ultimately Churchill convinced the United States not to accept the request of the USSR. There was no further follow up.

To ensure the validity of the Kars Treaty it is necessary either to implement all the provisions of the treaty or negotiate a new one. A non-implemented treaty remains null and void.

