



Dual Citizenship Arrangement for the Armenian Diaspora:

A Proposal

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Dual Citizenship Arrangement for the Armenian Diaspora: A Proposal

Background

- The Declaration of Independence adopted by the Supreme Council of the Armenian Soviet Socialist Republic in 1990 states that “Armenians of the Diaspora have the right of citizenship of Armenia” (Declaration of Independence, 1990, Article IV).
- The 1995 Constitution explicitly banned dual citizenship. The constitutional amendments adopted following the November 2005 referendum subsequently lifted this ban; The principal legal act of the Republic of Armenia governing citizenship issues is the 1995 Law on Citizenship.
- At present, about 5-6 million ethnic Armenians—constituting the new and old diasporas—reside outside of Armenia. While the official estimates place Armenia’s own population at just over 3 million, the unofficial estimates point to lower levels.
- Diasporan Armenians can apply for Special Residency Status (SRS), which can also be granted to foreign citizens who are involved in research, cultural, or business activities in Armenia. The SRS is valid for ten years and is renewable. While SRS grants a number of privileges to foreign citizens, it falls short of offering rights (and obligations) to its holders commensurate to those of Armenia’s citizens. In particular, the SRS holders do not have the right to vote or be elected, join political parties, accept employment that requires Armenian citizenship, or serve in the military. The principle benefit of SRS status is a visa-free entry to Armenia, and, since recently, also ownership of real estate.
- The principal international document providing a formal basis for the concept of dual citizenship is the 1930 Hague Convention on “Certain Questions Relating to the Conflict of Nationality Laws.”¹ A number of governments have since adopted the principles espoused in the Convention by allowing greater mobility via mechanisms of dual citizenship-type arrangements. A 2001 report by the United States Office of Personnel Management (OPM) lists 53 countries that fully or partially recognize dual citizenship.
- The current proposal aims at the following:
 - Addressing historical injustice—which resulted in dramatic loss of life and territories, and was the main factor behind the creation of the Armenian Diaspora—by providing Armenians around the world with a formal link to the country of their ancestors; and
 - Creating opportunities for repatriation and, through that, enhancing Armenia’s economic potential and strengthening national security.

I. Rationale behind a Dual Citizenship Arrangement for Armenia

It is in the best economic and national security interests of Armenia to engage its nationals—Diasporan Armenians and former citizens of Armenia—in Armenia’s development.¹ Actively engaging these groups would facilitate Armenia’s integration into the world economy; have a direct impact on the economy of Armenia through having both supply and demand effects; assist Armenia in having good relations with (and even political influence in) countries with large Diasporan populations; and strengthen the civil liberties and democratic processes taking place in Armenia. For Diasporan Armenians, this is likely to help preserve the national identity through having formal and more active relations with Armenia that would otherwise diminish with time and generations. These benefits on both sides compare strongly with any ideological and political-economy arguments against having an active engagement scheme in place. The notion that a person should have undivided loyalties to one state, while arguably outdated in this age of globalization is relatively easy to address, if carefully studied.

The need for a dual citizenship arrangement *specifically tailored* for Armenia is driven mainly by the fact that Armenia is one of the few countries in the world where the residents in the country are outnumbered by members of their national diaspora. Armenians living outside of Armenia outnumber Armenia’s population by a ratio of 2 to 1. For some, this raises a number of political issues, most notably whether voting rights for the holders of a dual citizenship status should be afforded. Others see the introduction of dual citizenship as dangerous from the point of view of Armenia’s military preparedness. The latter group argues that dual citizenship would facilitate emigration and encourage conscripts to undertake their military service in countries (of their other citizenship) where the risk of military conflict is lower.

This paper introduces a concept which in addition to capitalizing on the benefits of actively engaging the Diaspora also addresses the negative stigma associated with the notion of dual citizenship. As insightfully noted by Spiro (1998):

Perhaps ... understanding can also be facilitated by adopting "co-national" as a label for those who hold more than one citizenship. Where one confronts entrenched negative conceptions, changing labels may present an important step toward securing acceptance. Dual nationality suffers from long-standing disfavor, dictated once, but no longer, by the realities of the old international system. Co-nationality, by contrast, may become a defining feature of a new global dynamic.

For the time being, discussion in the Armenian society has focused mainly around the term “dual citizenship” and not on what it means or what various forms it can or should take given the peculiarities of Armenia.

In a world where reaction to dual citizenship ranges from acceptance to outright rejection, Armenia needs to adopt a status that allows for enough flexibility in dealing with various

¹ The latter were required to abandon their Armenian citizenship upon accepting a citizenship of another country. Hereafter this group would be referred as “new Diaspora.”

countries that host Diasporan Armenians.² Adopting a status that is not accepted by some countries where Diasporan Armenians have their primary citizenship risks creating a situation where only a sub-group of Diasporan Armenians would legally have the right to hold that status. The rest of this note, therefore, focuses on a special type of dual citizenship arrangement—**Affiliate Citizenship (AC)**³—that addresses the above concerns and allows Armenia to benefit from the economic and social impact of any resulting repatriation.⁴

The AC status offers a mechanism for Diasporan Armenians (old and new) to engage actively in Armenia without forcing them to forfeit citizenship arrangements they may have in other countries. It differs from the Special Residency Status (SRS) currently allowed by Armenian legislation, which—in addition to Diasporan Armenians—can be issued to anyone who is involved in research, cultural, or business activities in Armenia, irrespective of ethnic and national origin.⁵ The AC status specifically targets Diasporan Armenians and Armenians from Armenia who naturalized elsewhere and were required by the existing Armenian legislation to renounce their Armenian citizenship. The AC status is expected co-exist with other laws and regulations governing citizenship issues in Armenia. The provisions discussed below will constitute the foundations of the Law on Affiliate Citizenship, the main legal act to govern dual citizenship in Armenia.

2 An example of flexibility in citizenship-related matters is the US, where naturalized citizens are not required to renounce the citizenship of their country of origin, because it would have greatly diminished the numbers eligible to naturalize.

3 Depending on the context, the abbreviation “AC” will hereafter mean one of the following: Affiliate Citizen, Affiliate Citizenship, or Affiliate Citizenry.

4 This does not exclude the possibility of bilateral agreements on dual citizenship between Armenia and countries with large Armenian Diaspora population. Instead, this offers a systemic way of granting Armenian Diaspora members an arrangement with Armenia without contradicting the laws of the countries where the latter reside.

5 The SRS is, therefore, not seen as a dedicated mechanism to correct historical injustices imposed on the Armenian nation and to engage its own nationals in a proactive way.

II. Terms and Conditions of the Proposed Arrangement

General

Under this arrangement, AC status would be issued to:

1. Diasporan Armenians;
2. Former citizens of Armenia who since independence in 1991 relinquished their Armenian citizenship upon naturalizing elsewhere (as required by the Armenian Constitution); and
3. Citizens of Armenia that choose to naturalize in another country in the future.

The granting of AC status would occur upon the applicant's visit to Armenia.

To maintain the status, the ACs will be required to visit Armenia for a total of [2] weeks for every [2] year period.⁶

These requirements are seen as a possibility to strengthen economic and cultural ties with Armenia, and to solidify the ownership of processes and policies taking place in Armenia. In addition, these will have a fiscal impact described on page 9 below.

The ACs will have the right of unlimited residency and unrestricted employment in Armenia. This will facilitate the attachment to Armenia and be a step towards equating the rights of the ACs with those of full-fledged citizens of Armenia.

AC status will be transferable. This reflects the need to create formal ties not only with the current but also with subsequent generations of Diaspora Armenians. The design of the transfer rule also addresses Armenia's need for a stable and growing resident/citizenship base. One possibility would be for children born of AC parents (one or both, with the other one not having Armenian citizenship) automatically receive the AC status. However, children with at least one parent citizen of Armenia would have the full-fledged citizenship as the only option at his or her disposal (i.e., the AC status will not be available for this child to take). This would require the male children to fulfill military service upon reaching the military conscription age (see below).

Citizens of Armenia naturalizing elsewhere will not receive AC status automatically, but instead would be required to apply formally to receive it.

Figure 1 below summarizes the right and responsibilities of AC status (discussed here), and places it in the context of already existing full-fledged citizenship and SRS arrangements.

⁶ Exceptions to this requirement could in principle be built in to exclude people with disabilities and those beyond a certain age who would have difficulties traveling to Armenia.

Legal Basis and Related Issues

In terms of domestic law, the *jus sanguinis*—or citizenship right acquired by *parentage*—will be employed to be the basis for AC status.⁷ This principle is, however, extended for the purpose of the AC to include the right to hold this status based on *heritage*, which does not necessarily require an individual's immediate parents to carry Armenian citizenship, but instead requires proof of Armenian heritage.⁸ This version of the *jus sanguinis* principle is applied in Israel, Greece, Ireland, and Germany, among other countries.

From the point of view of international law and international relations, AC status should not pose any problems. In principle, AC is a special status and not full-fledged citizenship and, therefore, it should not conflict with the citizenship laws and regulations of other countries. One may be a citizen of another country and hold AC status, which does not require becoming a full-fledged citizen of Armenia. Importantly enough, AC is unlikely to be viewed as problematic for Armenia's current obligations and future aspirations vis-à-vis European structures, because the European Convention on Citizenship adopted in 1997 is neutral with respect to dual citizenship-type arrangements (Council of Europe, 1997).

The issue of diplomatic protection of the ACs is likely to be contentious, but could be handled using established international norms. It is proposed that ACs will not be given diplomatic protection by the Republic of Armenia in the ACs country of citizenship.⁹ While in Armenia, the ACs will be provided the diplomatic protection of the country whose passport was used to enter Armenia. Finally, Diplomatic protection will be available to ACs when traveling outside of Armenia and of the country of their citizenship. The extent of this protection could be outlined by a Law on Affiliate Citizenship and be made equivalent to the full diplomatic protection enjoyed by the citizens of Armenia.

The AC status will entitle the holders to receive an Armenian passport, not distinguishable from that held by Armenian citizens, except by the immigration authorities of Armenia (via electronic system installed at entry points). This would allow AC holders the same international travel privileges as the ones enjoyed by citizens of Armenia.

The Right to Vote

One of the more innovative (and arguably unusual) features of the AC arrangement—designed to address the political and national security-related concerns emphasized throughout the paper—is an asymmetry between the AC's right to vote and be elected into a public office. It is proposed that, while ACs will have the right to be elected into a public office, they will not automatically

⁷ The Constitution of Armenia (Article 30.1) recognizes this principle as the one determining the citizenship.

⁸ See page 11 below for a specific proposal on this issue.

⁹ This is the case for dual citizens in Sweden, as highlighted in the 2001 Dual Citizenship Law and discussed in Gustafson (2002).

acquire the right to vote in Armenia.¹⁰ The roots behind this asymmetry lie in the common concern expressed in the Armenian context that people not residing in Armenia and, therefore, having a poor understanding of Armenia’s social and developmental needs and political landscape, should not be allowed to vote and to determine who will guide the country’s public and foreign policy.

The design of AC status in principle addresses this concern by enabling only those ACs that have had reasonable exposure to Armenia to vote (see below). It also allows an AC to stand for office in Armenia if voters in Armenia find him/her professionally qualified and otherwise suitable to do so.

The AC will thus have the right to vote (permanently) at the state level only if either one of the conditions below (hereafter, “qualifying conditions”) is met, each of which constitutes a “reasonable exposure” to Armenia:

Condition 1: [1] year military service or corresponding amount of community work for both men and women; or

Condition 2: [3] years of residency in Armenia to qualify for voting;¹¹

Granting the ACs (who pass the *qualifying conditions*) the right to vote in the Armenian elections should not generally conflict with any foreign laws in countries where ACs hold their primary citizenships. And while allowing voting in more than one country may be viewed by some as undesirable, it certainly allows the individuals who earned that right in Armenia to exercise their political and civil rights in full. In Sweden, for instance, the commission investigating the feasibility of dual citizenship concluded that dual voting rights were an “undesired consequence of dual citizenship, which cannot be avoided” (Gustafson, 2002).¹²

The ACs who earned the right to vote through satisfying one of the *qualifying conditions* but chose to reside outside of Armenia will be allowed to cast their votes in the Armenian diplomatic missions abroad.

For those ACs, who were former citizens of Armenia and obtained the status through a formal application process, the time to satisfy the qualifying conditions begins from the day of their receiving the AC status (e.g., they cannot use the time in residence when they were citizens of Armenia towards satisfying Condition 2).

¹⁰ While this element of the AC status could be in contradiction with the requirements of the Article 25 of the International Convention on Civil and Political Rights (ICCPR)—which states that individuals holding a dual citizenship should be guaranteed the right to vote if they are allowed the right to be elected—there are exceptions in the world where this is not reflected in governing legislation.

¹¹ Article 30 of the amended Constitution allows non-citizen residents to vote in elections of local self-governing bodies.

¹² There are exceptions, however, where countries insist that civil and political rights should be exercised only in the country where dual nationals have chosen to reside (rendering the other citizenship as inactive). (See the discussion on Spain and Latin America in Hammar (1985), p. 447). Some countries also do not allow for absentee voting, thus effectively forcing their citizens residing abroad to arrive in the country to cast a vote.

The Right to be Elected and Appointed to Civil Service Positions

Every AC will have the right to occupy an ***elected*** public office, with the exception of the office of the President. The latter would be possible upon fulfilling additional requirements.¹³ This aspect of the AC's status will be governed by existing regulations that outline the requirements for registering for elections to a public office.¹⁴

Affiliate Citizens could also occupy ***appointed*** civil service positions and their placement will largely be governed by typical conflict-of-interest-type frameworks, rather than by rules preventing the ACs from holding certain categories of employment. For example, an AC who holds French citizenship should probably not be appointed to the French desk at the Ministry of Foreign Affairs in Armenia. Countries vary in their approach to this issue, with some not imposing any restrictions on their dual citizens occupying any appointed or elected position (*e.g.*, the US), to others that would bar dual citizens from assuming certain elective and civil service jobs (*e.g.*, Mexico).

Tax Liability

The ACs will be taxed according to the internationally acceptable norms of taxation, which largely require taxation in the country of residency and/or location of the main productive assets. Bilateral agreements may be necessary to avoid double taxation in cases where income not earned in Armenia will be subject to taxation in Armenia.

Income from sources within Armenia will be taxable whether ACs earned it while being a resident or a non-resident (and irrespective of the length of residency) unless specifically exempt under tax treaty provisions. These tax treaty provisions would typically apply only to the part of the year that the AC was a non-resident and to cases of foreign earned income.

The following would thus be the main sources of income for the Armenian Treasury from the introduction and maintenance of the AC status:

- Indirect taxes levied on business activities associated with the required [2] week stay in Armenia to maintain the AC status (*e.g.*, air travel, lodging, food, services used, etc.);
- Direct taxes levied on income earned in Armenia; and

¹³ Once an AC—who has been in residence for 10 years, as required by the current constitution—is elected to become a President, he/she should be required to relinquish the citizenship of the other country(ies) he/she holds.

¹⁴ These requirements—while varying by country and the level of the public office in question—include securing a pre-specified number of signatures to qualify, satisfying certain educational and income/asset requirements, etc.

- Direct taxes levied on some foreign earned income.¹⁵

It is possible to envision (and to facilitate via tax treaties) that a liberal tax regime in Armenia could encourage the ACs to remain in residency in Armenia long enough to be able to pay taxes on their foreign earned income in Armenia.

The ACs will have limited access to pension benefits in Armenia, depending on the extent of their contribution to pension schemes. It is proposed that the ACs residing in Armenia will be allowed to open individual retirement accounts and have access to some form of basic benefits from the state. These issues could be flashed out within the framework of the new Pension Law currently in preparation in the government.

Military Obligation

The issue of military obligation is one of the most heavily debated ones in the context of the dual citizenship reform in Armenia. While many countries became signatories of bilateral and multilateral agreements to allow the military service to be done in relation to only one state, either that of residency or citizenship, there are other states who do not allow exemptions in this regard (see Hammar, 1985). The latter require their citizens to serve in their army no matter what the circumstances of their other citizenship(s) or military obligations.

It is conceivable to expect that, by the virtue of its philosophy and design, the AC status will be on the liberal side of the spectrum on this issue. Indeed, it is proposed that the ACs will have no military obligations to fulfill, irrespective of age and gender. This rule, however, has two important exceptions, one of which—as discussed above—has to do with allowing the AC more rights, if desired, while the other has to do with the geopolitically enforced need for a contingency-proof, battle-ready army in Armenia. Therefore, the exceptions to the AC's military conscription rule will apply only in cases if:

- ACs *choose* to serve in the army to earn the right to vote (as explained above); or
- A war is declared on Armenia.

The second channel above would be activated only in exceptional circumstances of imminent danger for the Armenian statehood, and would require:

- A two-thirds majority vote of the National Assembly;
- The order of the Commander-in-Chief; and
- Universal draft declared in Armenia.

¹⁵ While precise estimates of these flows would require specific assumptions and are outside of the scope of this paper, preliminary calculations suggest that \$1 million per annum per 1,000 ACs is well within the possible range of additional fiscal revenues. Thus, if this estimate is of any guidance, every 100,000 ACs will generate \$100 million of additional revenues per year for the Armenian budget (i.e., approximately one-ninth of Armenia's current fiscal revenues), a truly sizable sum by present standards.

Those ACs called to serve in the military at time of war but refusing to be conscripted would be answerable to the military tribunal without any statute of limitations and regardless of their citizenship.¹⁶ While this factor may limit the number of Diasporan Armenians willing to apply for the AC status, the clause would bring the obligations of ACs to the Armenian state closer to those of its full-fledged citizens.¹⁷ Moreover, the clause should be activated only in extreme circumstances that threaten Armenia's statehood (*i.e.* ones that require a nation-wide effort to mitigate or eliminate).

While many bilateral and multilateral agreements¹⁸ provide the dual nationals with the opportunity to serve in the army only in countries where they "ordinarily reside" (thus prohibiting double drafting), there are countries that allow no exceptions. There are countries that would only credit for the compulsory (but not voluntary) military service and in specific countries (and not in others),¹⁹ while there are countries require that the military service be completed by young men regardless of the military conscription rules in other countries where the conscripts hold citizenship or reside. In addition, some international treaties allow parties to authorize removal of the double drafting prohibition in cases of emergency, mobilization, or war (see Legomsky (2002), page 26). Finally, in most cases joining the Armenian army will not automatically trigger a loss of the draftee's other citizenship(s). Therefore, it is expected that the provision of universal drafting of the ACs in cases of declared war will not contradict internationally accepted norms. Furthermore, on a positive side, in some cases this (compulsory) service could be credited towards the military obligations in the draftee's other country.

Administering the AC Status

The administration of AC-related procedures should not constitute a major challenge for the Armenian authorities. A centralized database linking the agency in charge of granting the AC status (*e.g.*, Ministry of Foreign Affairs) with implementing agencies (*e.g.*, Customs Office, Tax Administration, Central Election Committee, *etc.*) could be put in place to minimize administrative errors, enhance transparency, and limit rent-seeking opportunities. This electronic system should have internet access and banking features to enable the ACs to: (1) obtain print-outs of records as proofs of specific transactions (*e.g.*, visiting Armenia within the past 2 years, or payment of the fixed fee/tax, *etc.*), and (2) make payment of the fixed annual fee necessary to maintain the AC status. In this regard, where applicable, the experience with administering the SRS as well as web-based electronic visa issuance system (in which Armenia is a pioneer) should be drawn upon.

Issues concerning the definition and the threshold level of Armenian ancestry (*i.e.*, the *Armenian Ancestry Test*) are likely to be some of the most controversial ones in terms of administering the

¹⁶ While extradition would not be pursued, the ACs renege on their obligation to be conscripted will not be allowed to return to Armenia without facing legal charges.

¹⁷ Not having a similar clause would seem to be unfair given the steps taken in the current proposal to equate the rights of the ACs with those of full-fledged citizens.

¹⁸ Most notably this includes the "Convention on the Reduction of Cases of Multiple Nationality on Military Obligations in Cases of Multiple Nationality" (Strasbourg, June 1963).

¹⁹ Example of this is Turkey, which would not credit its double citizens the compulsory service in Iran and Greece.

proposed concept. It is proposed that the definition of Armenian ancestry be associated with at least having [two] Armenian grandparents, on either side (i.e., the equivalent to having [50] percent of Armenian blood). Exceptions to this rule should be made (and regulated) to allow applicants below that threshold who have a solid record of involvement in Armenian affairs in the Diaspora to apply for the AC status.

Having a clean criminal record is another requirement for securing the AC status (in addition to satisfying the Armenian Ancestry Test).

III. Impact of the Proposed Status on Current Citizens of Armenia

The introduction of AC status will result in no *direct* additional rights, privileges, or obligations to the current citizens of Armenia.

The only *indirect* impact of the proposed concept on citizens of Armenia would be the right of the citizens of Armenia to have a formal status vis-à-vis Armenia (i.e., the AC status) upon naturalizing elsewhere.²⁰ While allowing former citizens to carry AC status could potentially increase the number of Armenian citizens willing to naturalize elsewhere (because they will no longer permanently be severing their formal ties with Armenia), the extent of this effect is likely to be reduced as Armenia makes further progress in economic and social development and offers a better environment for human and property rights protection for their citizens.

²⁰ As noted above, under the existing legislation, citizens of Armenia naturalizing elsewhere were required to abandon their Armenian citizenship.

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Figure 1: Responsibilities and Limitations under Various Engagement Schemes

