



**Permanent Mission
of the Republic of Azerbaijan
to the UN Office and other
international organizations**

GENEVA

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The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva presents its compliments to the United Nations Human Rights Office of the High Commissioner and with reference to the letter TESPRDD/DESIB/HRESIS/LW/NS dated 25 January 2018 has the honour to submit its contribution on the draft elements document for Legally binding instrument on Transnational Corporations and Other Business Enterprises with respect to Human rights.

The Permanent Mission of the Republic of Azerbaijan to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the United Nations Human Rights Office of the High Commissioner the assurances of its highest consideration.

Enclosure: 4 pages

Geneva, 28 February 2018



United Nations
Human Rights
Office of the High Commissioner

Geneva

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**Contribution from the Republic of Azerbaijan on the draft elements document for
the Legally binding instrument on Transnational Corporations and Other
Business Enterprises with respect to human rights**

28 February 2018

Geneva

With reference to the letter TESPRDD/DESIB/HRESIS/LW/NS dated 25 January 2018 and recalling the contribution (*attached*) submitted by the Republic of Azerbaijan in preparation to the third session of the Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with respect to human rights and in addition to the statements made by the representatives of the Republic of Azerbaijan during the third session of the Working Group the Republic of Azerbaijan would like to provide the following elements.

The Republic of Azerbaijan continues to support the process of elaborating international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

The resolution 26/9 adopted by the HRC “decides to establish an open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights” with a clear mandate “to elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises”.

The Republic of Azerbaijan is therefore expressing its commitment to the process until the fulfillment of the mandate that shall end with the adoption of the legally binding instrument.

The Republic of Azerbaijan reiterates its readiness to engage in constructive deliberations on the content, scope, nature and form of a future international legal instrument with the Chair-Rapporteur and interested Parties.

The Republic of Azerbaijan is of the view that although non-binding, voluntary rules aimed at the protection of human rights have been valuable they have not been able to ensure access to effective remedy, particularly in conflict and post conflict situations.

The elements document shall reflect the necessity to protect the human rights in cases when the population (certain group of people) has been expelled from its native lands in the cause of the conflict, *inter alia* as a result of ethnic religious or racial discrimination. The TNCs and OBEs should refrain from establishing their presence and conducting activities in such areas and thus further exacerbating human rights in the region.

Furthermore, we believe that listing Internally Displaced Persons (IDPs) under the category of vulnerable groups and victims will contribute to the inclusive character of the draft document.

It is crucial to explicitly list the obligations of states in regard to the TNCs and OBEs registered on their territories to ensure the respect of human rights by TNCs and OBEs.

The Republic of Azerbaijan strongly supports the reaffirmation of the principle of sovereign equality and territorial integrity of States in the elements document.

The obligations of states should not be limited to ensuring the respect of human rights domestically. Those states that own TNCs and OBEs shall ensure their compliance with domestic laws of the states on the territories of which they operate along with universal human rights documents to which the states are parties.

The legally binding document shall also be responsive to modern trends and challenges and cover emerging global players such as TNCs and OBEs that are operating online – e-TNCs or Electronic Business Enterprises - EBEs. The Republic of Azerbaijan is of the view that it is important to clearly identify both online and offline dimensions of TNCs and OBEs in order to prevent any possible future challenges and confusion in the application of the future legal instrument under discussion.

Contribution from the Republic of Azerbaijan in the view of the third session of the Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with respect to human rights

23 - 27 October 2017

Geneva

Following the Note Verbale dated 28 August 2017 requesting written contributions in preparation of the third session of the Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with respect to human rights, scheduled to take place on 23-27 October 2017 in Geneva the Republic of Azerbaijan would like to provide the following elements.

The Republic of Azerbaijan supports the process of elaborating international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises.

The Republic of Azerbaijan is ready to engage in constructive deliberations on the content, scope, nature and form of a future international legal instrument with the Chair-Rapporteur and interested Parties.

The “UN Guiding Principles on Business and Human Rights (UNGPs)” endorsed by consensus by the UN Human Rights Council in 2011 and the “Elements for a draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights” reflect the necessity of the observation and protection of human rights in conflict areas. However, the draft document does not refer to the necessity to protect the human rights in cases when the population (certain group of people) has been expelled from its native lands in the cause of the conflict, *inter alia* as a result of ethnic religious or racial discrimination. The TNCs and OBEs should refrain from establishing their presence and conducting activities in such areas and thus further exacerbating human rights in the region. It is important to note that the population expelled from its lands is deprived of the right to participate in a day to day decision making processes that are affecting their livelihoods and thus, prevented from benefitting from the economic activities conducted by TNCs and OBEs and utilizing the economic potential of the territory that they are expelled from.

Furthermore, we believe that listing Internally Displaced Persons (IDPs) under the category of vulnerable groups and victims will contribute to the inclusive character of the draft document.

We welcome the reflection of article 4 of the United Nations Convention against Corruption (UNCAC) and the United Nations Convention against Transnational

Organized Crime (UNTOC) in the “Elements for a draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights”.

We consider it important to include the following elements in the “Elements for a draft legally binding instrument on transnational corporations and other business enterprises with respect to human rights”:

- in article 1.1 under “The content of the instrument may include the following:” - “Reaffirmation of the relevant UN General Assembly and Security Council Resolutions”;
- in point 3 of article 1.1 under “The content of the instrument may include the following:” after “the right to non-discrimination” - “the right to property” (stressed in article 17 of the Universal Declaration of Human Rights) and “the rights to the permanent sovereignty over natural resources” (stressed in UNGA Resolution 1803 adopted on the 14 December 1962);
- in point 9 of article 1.2 after “and non discrimination” - “and the right to property”;
- in point 10 of article 1.2 after “refugees” - “victims of armed conflict and IDPs”;
- in article 2.1 after “environment” - “property rights and”;
- in point 2 of article 3.1 after “throughout their activities” - “both within and / or beyond its territory”;
- in point 8 of article 3.1 after “under their jurisdiction” - “respect the sovereignty and territorial integrity of other states and”;
- in point 1 of article 3.2 after “shall comply with all applicable laws” - “and domestic legislation of states on the territory of which they operate”;