

**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

With reference to the information note 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, to be held on 23-27 October 2017 in Geneva, the Republic of Azerbaijan would like to draw the attention of the distinguished Group members to following elements for consideration.

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 expresses 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 “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 course of the conflict, as a result of *inter alia* ethnic, religious or racial discrimination. The TNCs and OBEs should refrain from establishing their presence and conducting activities in such uncontrolled conflict-affected areas and thus further exacerbating human rights situation in the regions concerned. It is important to note that the people forcefully expelled from their lands are deprived of their right to participate in a day to day decision making processes that are affecting their livelihoods and is prevented from utilizing the economic potential of the territories that they have been expelled from.

As we know there are many TNCs and OBEs acting only online, such as those providing travel agency, financial or consultancy services. Sometimes activities of such enterprises also lead to the violation of human rights. Therefore, we deem it necessary to insert a relevant qualifier at the beginning of the elaborated international instrument to cover the activities of TNCs and OBEs performed both online and offline.

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 articles 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”.