



**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 Office of the High Commissioner for Human Rights and with reference to the report of the fourth session of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights (A/HRC/40/48) has the honour to submit its comments and proposals on the draft legally binding instrument.

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 Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Enclosure: 3 pages



Office of the High Commissioner for Human Rights

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**Comments, proposals and requests of the Republic of Azerbaijan regarding the draft  
“Legally Binding Instrument to Regulate in International Human Rights Law, the  
Activities of Transnational Corporations and Other Business Enterprises”.**

The following document reflects comments of the Republic of Azerbaijan on certain provisions of the draft Convention, proposals to the text and requests regarding some issues ensuing from the draft Convention.

Concerning the Article 2 paragraph 1 (a) of the draft Convention the Republic of Azerbaijan notes that taking into account the fact that Transnational Corporations and such business entities have their business activities in different countries which makes more difficult the legal regulation of their activity, this draft Convention should be aimed at the prevention of the violations of human rights regarding this kind of activities and not of those legal persons which do not have the same nature.

The Republic of Azerbaijan welcomes the reflection of such principles of international law as the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States in Article 13 as this should be the basis for the proper legal assistance which can be provided within the framework of cooperation on such a legal instrument.

Regarding the paragraph 2 of the Article 13 the Azerbaijani Side also welcomes the provision concerning the impossibility for any State Party to exercise its jurisdiction on the territory of another State Party as this is the major principle which should be observed when realizing the jurisdiction over particular cases of human rights violations by business activities of transnational character.

The Republic of Azerbaijan makes proposal to indicate reference to the principles of international law in the Preamble of the Draft Convention as it should provide the commitment of State Parties to them within the framework of cooperation in the field of human rights as following: “Adhering to the generally recognised norms and principles of international law, in particular the principles of sovereign equality, inviolability of frontiers, territorial integrity and non-intervention in the domestic affairs of other States and confirming their intentions to continue the development of multilateral cooperation in the

field of human rights law based on these principles, as well as purposes and principles of the United Nations Charter”.

Along with that the Azerbaijani Side proposes to indicate reference to universal multilateral treaties in the field of protection of human rights (particularly the International Covenant on Social, Economic and Political Rights) and to the “Guiding Principles on Business and Human Rights” in Preamble as this document is also groundwork of cooperation between States in this field.

The Republic of Azerbaijan notes that not all of the State Parties are parties to all legally binding instruments in the field of human rights and in this regard proposes to change the Article 3 paragraph 2 of the draft Convention as following: “This Convention shall cover international human rights and those rights recognized under domestic law”.

Concerning Article 8 paragraph 7 there is a need to indicate the establishment of the Fund in a separate article and give references to possible documents of such Fund including the terms of its activity, management and etc. or provide this information directly in the draft Convention.

The Azerbaijani Side appeals to the States to prevent the economic and business activities held by enterprises of transnational character on the occupied territories of a State Party. In this regard the Republic of Azerbaijan proposes to include a provision concerning that State Parties reiterate that their cooperation is based on fundamental norms and principles of international law, in particularly the respect for each other’s sovereignty and territorial integrity and in this regard, agree to advise to their nationals to conduct business activities of transnational character in accordance with these principles and the national legislation of the respective State Party.

The Republic of Azerbaijan makes requests to clarify some provisions of the draft Convention. In this regard:

- 1) the provision in Preamble concerning “Upholding the principles of non-discrimination, participation and inclusion, and self-determination” needs clarifying in order to understand how these principles are going to be applied in the implementation of the Convention;

- 2) in the Article 2 paragraph 1 (b) there is a need to clarify the term of "violations" in order to understand what kind of violations are going to be subject to the jurisdiction of Courts according to this draft Convention;
- 3) in the Article 3 paragraph 2 there is a need to clarify how is the issue regarding the conflict between different countries' national legislations going to be resolved as different aspects of human rights law can be interpreted variously in different states;
- 4) regarding the Article 5 paragraph 2 of the Draft Convention it is important to clarify how these provisions can effect the sovereignty of a State taking into account the possibility of exercising extraterritorial jurisdiction;
- 5) concerning the Article 8 there is a need to clarify some provisions such as paragraph 5 (c) and paragraph 6 of the same article in order to avoid differences in the implementation of the Convention as this presumes direct rights of victims in case of violation of their rights by the business activity of transnational character;
- 6) regarding the reporting mechanism to the Committee which can be established by this Convention there is a need to clarify what kind of information is a State Party supposed to provide for the view of the Committee as there are various aspects of the implementation of this draft Convention; how the recommendations and concluding observations on different issues regarding the application of the Convention are going to be accepted and implemented by States within the framework of the Convention.