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المجلس الاقتصادي والاجتماعي



لجنة حقوق الإنسان

الدورة الستون

البند ١٠ من جدول الأعمال

الحقوق الاقتصادية والاجتماعية والثقافية

مذكرة شفوية مؤرخة ٣ آذار/مارس ٢٠٠٤ موجهة من البعثة الدائمة للمملكة
المتحدة لبريطانيا العظمى وأيرلندا الشمالية لدى مكتب الأمم المتحدة في جنيف إلى
القائم بأعمال مفوض الأمم المتحدة السامي لحقوق الإنسان بالإناة

تقدم البعثة الدائمة للمملكة المتحدة لبريطانيا العظمى وأيرلندا الشمالية ترحيباً إلى القائم بأعمال مفوض الأمم المتحدة السامي لحقوق الإنسان بالإناة، وتتشرف بأن تحيل عن طريقه رد المملكة المتحدة على الاستفسارات الواردة من المقررة الخاصة المعنية بما لنقل وإلقاء المنتجات والنفائات السمية والخطرة بصورة غير مشروعة من آثار ضارة في التمتع بحقوق الإنسان، والواردة في تقريرها المقدم إلى الدورة الستين للجنة حقوق الإنسان (E/CN.4/2004/46/Add.1).

وإلحاقاً بالتصويبات المدخلة على تقرير المقررة الخاصة (E/CN.4/2004/46/Add.1/Corr.1)، ترحو البعثة الدائمة للمملكة المتحدة لبريطانيا العظمى وأيرلندا الشمالية أن يجري ترجمة هذه المذكرة وتعميمها كوثيقة رسمية من وثائق لجنة حقوق الإنسان، هي والرد المذيل كمرفق.*

* مستنسخة في المرفق كما وردت وباللغة التي وردت بها فقط.

Annex



From the Ambassador and Permanent Representative

United Kingdom Mission

4 March 2004

To the Office of the
United Nations and Other
International Organisations at Geneva
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Mrs Fatma Zohra Ouhachi-Vesely
Special Rapporteur on the Adverse effects of the illicit
movement and dumping of toxic and dangerous products
and wastes on the enjoyment of human rights.

Fatma Zohra Ouhachi-Vesely

Thank you for your letter that we received in January 2004 on the Baku-Tbilisi-Ceyhan (BTC) pipeline and the impact of the Host Government Agreement (HGA) on human rights. We agree that it is important that the BTC pipeline is built and operated to the highest standards, including human rights and the environment.

Your letter notes that the project is excluded from certain important regulations by the State. Having consulted officials from various parts of the British Government, I can confirm that the project is in line with Turkish legislation and that the only circumstances under which it would be excluded from this is when Turkish legislation is more stringent than the project's own requirements, which themselves are in line with (evolving) EU legislation. The United Kingdom's Export Credits Guarantee Department (ECGD), in their due diligence assessment of the environmental, social and human rights aspects of the BTC, concluded that this is unlikely.

Specifically, the "Human Rights Undertaking" on this project (a legally binding document issued by the BTC Consortium, following discussions with Amnesty International) performs the following roles:

- Protects the right of the three Host Governments (the Republic of Azerbaijan, Georgia and the Republic of Turkey) to regulate in the areas of human rights, health, safety and the environment (including in times where the threat to the environment is **not** "imminent and material" providing that this does not exceed EU legislation, as above) without fear of claims by the BTC consortium that such regulation is a breach of the Host Government Agreement.
- Clarifies that the standards in the Host Government Agreements are not frozen as of the time the project agreements were signed, but are instead dynamic and will move over time as EU directives, EU standards, or international treaty standards evolve.

- Protects the right of third parties injured by the BTC project to bring claims in domestic courts without fear that the BTC consortium would argue that domestic courts do not have jurisdiction to hear such claims.
- Protects the three Host Governments from fear of paying compensation to restore the "economic equilibrium" of the BTC project as a result of legislation, or other action or inaction, reasonably required by international human rights, labour or health and safety standards, including evolutions of these.

I trust that the above fully answers your concerns. Please do not hesitate to let me know if there is further information that I can provide.



Nick Thorne