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ECONOMIC, SOCIAL AND CULTURAL RIGHTS

**Note verbale dated 3 March 2004 from the Permanent Mission of the
United Kingdom of Great Britain and Northern Ireland to the
United Nations Office at Geneva addressed to the Acting
High Commissioner for Human Rights**

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Acting High Commissioner for Human Rights and has the honour to transmit through him the response of the United Kingdom to inquiries received from the 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 and contained in her report to the sixtieth session of the Commission on Human Rights (E/CN.4/2004/46/Add.1).

Further to the corrigendum to the Special Rapporteur's report (E/CN.4/2004/46/Add.1/Corr.1), the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland requests that this note be translated and circulated as an official document of the Commission on Human Rights, with the enclosed response appended as an annex.*

* Reproduced as received, in the language of submission only.

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