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Letter dated 19 March 2008 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to transmit herewith the note by the Ministry of Foreign Affairs of the Republic of Azerbaijan addressed to the Ministry of Foreign Affairs of the French Republic, the Ministry of Foreign Affairs of the Russian Federation and the Department of State of the United States of America, the countries co-chairing the Organization for Security and Cooperation in Europe Minsk Group (see annex).

I should be grateful if the present letter and the note were distributed as a document of the General Assembly, under agenda item 20, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative

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Annex to the letter dated 19 March 2008 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

Note dated 19 March 2008 by the Ministry of Foreign Affairs of the Republic of Azerbaijan

The Ministry of Foreign Affairs of the Republic of Azerbaijan presents its compliments to the Ministry of Foreign Affairs of the French Republic, the Ministry of Foreign Affairs of the Russian Federation and the State Department of the United States of America and, with reference to the information published on the official website of the Ministry of Foreign Affairs of the Russian Federation and statements delivered by the Co-Chairmen of the OSCE Minsk Group and their high representatives accredited to Azerbaijan, which interpreted resolution 62/243, entitled "The situation in the occupied territories of Azerbaijan", adopted by the General Assembly on 14 March 2008, as one-sided and non-balanced, claimed that Azerbaijan allegedly rejected the proposals of the Co-Chairmen and failed to insert into the resolution a provision on "definition of status of the Nagorno-Karabakh region through conducting the plebiscite of its population", has the honour to convey the following.

With regard to the allegations that the resolution is one-sided and non-balanced, the Ministry would like to stress that the resolution is built on the principles and norms of international law and relevant resolutions of the United Nations Security Council, which have defined a common denominator for the settlement of the conflict in and around the Nagorno-Karabakh region of Azerbaijan in accordance with the principles of respect for the territorial integrity of Azerbaijan and inadmissibility of unilateral secession from the state boundaries.

Accordingly, General Assembly resolution 62/243 reaffirms the continued respect and support of the Assembly for the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders.

Rightfully, the resolution demands the withdrawal of Armenian troops from all the occupied territories of Azerbaijan, reaffirms the inalienable right of the population expelled from the occupied territories of the Republic of Azerbaijan to return to their homes, and stresses the necessity of creating appropriate conditions for this return, including the comprehensive rehabilitation of the conflict-affected territories.

A subject of extreme importance is the return of the Azerbaijani community to the Nagorno-Karabakh region of Azerbaijan, which is a basic condition for further definition of status of the region.

All the elements cannot be considered as one-sided since they are based on principles and norms of international law, necessary for creating objective conditions for definition of the status of the region, and are in compliance with the concept of the settlement, adherence to which has been stressed by the Co-Chairmen on a number of occasions. These principles of the settlement were completely justifiably introduced into the resolution.

Proceeding from the principles and norms of international law, the Azerbaijani side indicated that the territorial integrity of Azerbaijan, as a basis of the settlement of the conflict, is the only alternative.

It should be stressed that, based on international law, realization of the right to self-determination shall be carried out in accordance with the principle of territorial integrity and must not violate it.

Self-determination shall not be construed or considered as a right to secession since, on the one hand, it shall not undermine territorial integrity and, on the other, secession may not be based on a unilateral decision. The Azerbaijani side has not given its consent for secession of any part of the territory of the Republic of Azerbaijan, including the Nagorno-Karabakh region, and does not and will not give it.

By virtue of the official statements made in the course of the formal meetings in Baku, the Co-Chairmen of the OSCE Minsk Group have expressed their adherence to a solution of the status issue at the level of self-rule within the Republic of Azerbaijan. This, on one side, corresponds to the principle of respect for the territorial integrity of the state and, on the other, is the realization of the mechanism of self-determination.

Namely, this approach was chosen as a basis for the principles of settlement of the conflict declared at the OSCE Lisbon Summit in 1996.

In accordance with the norms and principles of international law, the 1975 Final Act of the Helsinki Conference on Security and Cooperation in Europe, which should form the basis of the Co-Chairs' draft basic principles on settlement of the conflict, and with the assurances made by the mediators to the Azerbaijani side, the adopted resolution included the element of definition of status on the level of self-rule within the Republic of Azerbaijan.

The Ministry would like to respond to the statement by the Co-Chairmen that Azerbaijan should have included in the resolution a reference to the so-called plebiscite, which is allegedly presented as a principle of the settlement. The Co-Chairmen are well aware of the fact that the Azerbaijani side has not given its consent to their proposal on conducting a plebiscite or referendum. Co-Chairs are informed that the Azerbaijani side will not allow conduct of any voting until, firstly, the Azerbaijani community returns to the Nagorno-Karabakh region; secondly, equal conditions are established for participation of both the Azerbaijani and Armenian communities in the legal and democratic process of definition of status; and finally, thirdly, the status of the region shall be considered and enjoy the approval of the entire population of Azerbaijan. Therefore, reference by the Co-Chairs to the proposal on a so-called plebiscite, which was already rejected by the Azerbaijani side as one of the principles of the settlement, as the one that should have been included in the resolution, has no ground.

The Ministry is of the view that the OSCE Minsk Group Co-Chairmen exploit their position of mediators when they introduce the provisions which are contradicting the norms and principles of international law, in particular the principle of territorial integrity of the state, as well as when they make public statements based on false assumptions, which lead the international community astray.

The Azerbaijani side draws attention to the fact that the Co-Chairmen do not propose in their draft basic principles measures for guaranteed complete liberation of all occupied territories of Azerbaijan, return of the Azerbaijani population to the Nagorno-Karabakh region, ensuring equal rights of both communities of the region and solution of the issue of transport corridors with due regard to the necessity of restoring the territorial integrity of Azerbaijan and providing evenly balanced opportunities for the sides to use transport communications. Against this background, the draft basic principles can hardly be considered a balanced package.

The Azerbaijani side has continuously drawn the attention of the Co-Chairs to the shortcomings in the draft basic principles, and on numerous occasions presented its analyses, comments and proposals on the draft.

The statements by Co-Chairs that the Azerbaijani side allegedly did not discuss with them and the Armenian side the draft resolution and did not accept their proposals look somewhat awkward. The Azerbaijani side remembers when in 2006 Azerbaijan, acting in the spirit of compromise, agreed to revise the General Assembly draft resolution submitted under the same agenda item on the issue of fires in the occupied territories of Azerbaijan in order to accommodate the concerns of Armenia. As a result of consultations, at the price of serious compromises on the draft, the consent of the Armenian side was received. Despite this fact, right after adoption of the resolution by the Assembly without a vote, the Armenian side disassociated itself from it. Against this background, what else could have been expected from the Armenian side in the case of the present resolution, which is related to the principled basis of the settlement process? Moreover, the Permanent Representative of Armenia to the United Nations, in his letter distributed in response to the draft resolution submitted by Azerbaijan, indicated that “No amount of editing or collaborating will make it acceptable” to Armenia.

As for the Co-Chairmen, the Azerbaijani side informed them well in advance about the draft resolution being prepared. They had enough information on the essence of the draft. They were aware that the Azerbaijani side, in order to get the support of the Co-Chairs for the draft resolution, was ready to consider their drafting suggestions. The proposals put forward by the Co-Chairs seriously infringed upon the territorial integrity of Azerbaijan and created conditions for consolidating the results of the ethnic cleansing carried out against the Azerbaijani population in the Nagorno-Karabakh region. Azerbaijan informed the Co-Chairs about the unacceptable nature of their proposals, and necessary clarifications were made to that end. Moreover, the Azerbaijani side responded with the maximum possible constructive suggestions, but they were not accepted for unknown reasons, and the draft resolution was put to a vote in the Assembly in its original version.

Against the above-mentioned background created by the Co-Chairmen, under the conditions of deliberate ignorance of the norms and principles of international law by the Co-Chairmen, their attempt to limit it just to a formal short reference in the draft basic principles, within the context of a public campaign launched by the Co-Chairmen with a view to persuading the international community that the draft basic principles are almost agreed, whereas in reality disagreements and contradictions prevail in there, Azerbaijan submitted the draft resolution to the General Assembly and received the Assembly’s support and guidance.

Further statements by the Co-Chairmen, which followed the adoption of the resolution, prompted Azerbaijan to respond with this note.

In their search for a solution, the Co-Chairmen overexploited the possibilities for compromise and flexibility, stepping beyond the frameworks of the territorial integrity of the Republic of Azerbaijan and running contrary to international law, whereas compromises should be based on the principles and norms of international law.

The Azerbaijani side demands that the Co-Chairmen stop disseminating information and assessments of the position of Azerbaijan which are contrary to reality.

The Ministry calls on the Co-Chairmen to review the draft basic principles, taking due account of the comments and proposals presented by the Azerbaijani side in January of this year and in accordance with General Assembly resolution 62/243 as well as the present note.