

Important notice: This information is provided for general guidance only. Specific legal advice should be sought prior to taking any action in respect of the matters discussed herein.

Every possible effort has been made to ensure that the information contained in this book is accurate at the time of going to press.

Azerbaijan Export & Investment Promotion Foundation (AZPROMO) would like to extend its gratitude to Baker & McKenzie for providing data and articles for the publication.

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1

business conduct
framework & fdi regime

The Republic of Azerbaijan is the leading FDI destination in the region. In the last decade the total FDI stock in Azerbaijan exceeded USD 35 billion. Azerbaijan has achieved gradual improvement in the overall legal framework for the investment activities in the country for last several years with a number of practical regulations liberalizing conduct of business and reducing red tape. It carried out a revolutionary legal reform several years ago with adoption of new Tax Code, Civil Code and Civil Procedure Code, Land Code, Labour Code, Customs Code, Foreign Exchange Law as well as Law on "International Arbitration" (the Arbitration Law) which made the system significantly more transparent and friendly for local and foreign businesses.

The Government managed to open up economy for the international business and introduce investment-friendly laws and regulations. Generally, the Azerbaijani legislation establishes a very open national regime for FDI (which means that FDIs are welcome in any sector where the local investor is allowed to invest). Such a regime also applies to the privatization of the state owned property. There are no special permissions or specific registration requirements for foreign investment. The licensing was substantially simplified with foreign investors' interests in mind.

A foreign investor in Azerbaijan enjoys a non-discrimination regime. The major economic policies include an FDI element: for example, the Government lifted limitations for foreign participation in the banking sector. Privatization process is open for foreign investors as well. Any FDI restrictions are strictly limited to national security matters.

The major factors that turned Azerbaijan into a leading FDI destination and provide sound justification for doing business here are:

Abundant resources

Azerbaijan is rich in mineral and climatic resources. The Caspian Sea oil & gas reserves are one of the major deposits globally. Azerbaijan also has substantial explored deposits of precious metals (including gold and silver), ferrous and non-ferrous metals, various construction raw materials deposits etc.

One of the major resources the country has is its natural diversity. Despite relatively small size, the Azerbaijani territory due to complex terrain and geography has a number of distinct climatic zones ranging from humid subtropical climate to semi-arctic. This creates unique opportunities in agriculture and tourism.

Favorable location

Azerbaijan is located on the very south-eastern border of the European continent and serves as the natural bridge between Europe and Central Asia as well as it is the most convenient route from the north-east of Europe to the Middle East. The country is the logistics hub for the Caspian region. Excellent infrastructure of Baku (including largest regional sea and air terminal) is the best choice for any business entering the markets of the Caspian Sea region.

Competitive cost of production

Azerbaijan has long lasting industrial and trade traditions. The industrial revolution has taken place here in the late XIX century due to expanding and advanced oil production and processing sector. Further industrial development led to growing Research and Development (R&D) base. A large R&D centre, the Academy of Sciences with circa 7,000 research studies, exists in Azerbaijan in parallel with a number of universities and colleges.

The country is rich in engineering skills yet the wages are still very competitive. Azerbaijani government's policies in respect of utilities tariffs are manufacturer-friendly.

FDI friendly laws

Azerbaijani legislation is evolving in accordance with the strategic goal of the Government which implements the "welcoming policy" for foreign businesses.

Foreign investments are protected by certain guarantees provided by the government and legislation, including:

- Guarantee against adverse changes in legislation - the general rule is that legislation in force at time of making an investment continues to apply to individual investor for subsequent 10 years, notwithstanding any adverse change in law;
- Guarantee against nationalization and requisition - foreign investments are not subject to nationalization (except in cases of detriment to population and state) and requisition (except in cases of natural disaster, epidemics, accidents, emergencies). Foreign investors are guaranteed immediate, adequate and effective compensation in case of nationalization and requisition. Compensation should be commensurate with the amount of the investment at the time of nationalization or requisition, payable in

- foreign currency and may be freely transferred abroad;
- Guarantee of compensation of damages - foreign investors are entitled to compensation of damages, including lost profits, incurred as a result of unlawful acts of state authorities;
- Guarantee of repatriation of profits - foreign investors are entitled to repatriate profits derived from foreign investments subject to payment of applicable taxes and duties.

The new Foreign Investment Bill currently under discussion in the Parliament is expected to reinforce the above guarantees as well as to introduce new legal instruments to protect foreign businesses.

The Government will continue the policy of support to industries with priority given for privately-held enterprises including foreign-owned enterprises.

There are no general trade barriers or prohibitions for import of any types of goods in Azerbaijan and a minimum non trade barriers level for international trade exists. The country is not a member of WTO yet, though the Government started the accession process. Exported goods are not subject to any customs duties and restrictions. Regulations exist for the export of strategic commodities such as electricity, petrol, cotton and non-ferrous metals.

A foreign investor is particularly welcome to enter the Azerbaijani market with a so called "green field project". This is particularly attractive bearing in mind the regional markets and the geographic location of the country as the transportation hub for the Caspian region and Central Asia.

The Government continues to introduce a number of initiatives aimed at the improvement of dialogue with the business community. Apart from the standard methods of communication with the government via its ministries and agencies, foreign investors can effectively deliver messages via such structures as the Azerbaijan Export & Investment Promotion Foundation (AZPROMO) aimed at the promotion of export & investment mainly in the non-oil sector (for more information please refer to www.azpromo.az).

Another governmental initiative is the Azerbaijani Investment Company JSC, a state-owned joint-stock company, established by the Presidential Decree of 30th March 2006 with charter capital of AZN 160,000,000. The main objective of the AIC is to implement fixed-term equity investments in the private sector and to assist FDI in the non oil sector in Azerbaijan

For more information please refer to www.aic.az.

Steps aimed at simplifying the process of business start-up were undertaken recently. Azerbaijani legislation permits the employment of expatriate staff.

Other substantial comparative advantages of doing business in Azerbaijan include such important factors as macroeconomic and political stability in addition to Baku's reputation as being the only metropolitan capital on the Caspian Sea.

Pursuant to Law on "Protection of Foreign Investments" (Foreign Investment law) dated January 15, 1992, foreign investment may be in any of the following forms:

- Participation in enterprises and organizations established with legal entities and citizens of the Republic of Azerbaijan on a shared basis;
- Establishment of enterprises wholly-owned by foreign investors;
- Purchase of enterprises, property, buildings, structures, shares in enterprises, other shares, bonds, securities, and certain other property, which, under the law of the Republic of Azerbaijan, may be owned by foreign investors;
- Acquisition of rights to use land and other natural resources, and also other property rights; and
- Conclusion of agreements with legal entities and citizens of the Republic of Azerbaijan providing for other forms of foreign investments.

Enterprises with foreign investment include joint ventures, enterprises wholly-owned by foreign investors, and representations (offices and branches) of foreign legal entities.

Bilateral Investment Treaties. Azerbaijan has 41 bilateral treaties on the mutual protection of investments. More than twenty-five treaties are currently being negotiated with such countries as The Kingdom of the Netherlands, Bosnia and Herzegovina, Czech Republic, Spain, Russia and others. Azerbaijan is also a party to a number of multilateral treaties concerning foreign investment. Please see ANNEX 1 for the list of bilateral treaties on the encouragement and reciprocal protection of investments.



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company incorporation

A company may start operations in Azerbaijan from the moment of state registration. Currently, registration authorities for commercial legal entities are carried out by the Ministry of Taxes of the Republic of Azerbaijan.

Without a formal registration with the Ministry of Taxes a company may not open a bank account, clear goods through customs, etc. Effective from 1 January 2008 the new system of corporate registration is in place, which significantly simplified the registration process for legal entities. The registration of legal entities is now handled through a single state authority (“one-stop-shop”) – the Ministry of Taxes. Upon submission of all required documents, the Ministry of Taxes issues a certificate of incorporation, an extract from the state register and a unique tax identification number within 3 (three) business days.

There are numerous forms of how a legal entity/company can be incorporated in Azerbaijan. There are no specific rules for the incorporation of companies by foreigners apart from the standard legal and translation requirements. In general, foreign businesses tend to open representative offices/branches or register (incorporate) a local company.

The Law on “State Registration of Legal Entities and State Register” (Law on State Registration) sets out the requirements of the legal registration process.

One may start his/her own business in Azerbaijan with 100% of foreign investment or form a joint venture with a local partner. There are no specific requirements for the size of share or legal limitations for the foreign element in a company and investment. With the exception of certain licensed activities described below, there are no additional general approvals or permissions apart from state registration for the start up.

Certain but limited number of documents is required for submission to the Ministry of Taxes for registration purposes (for foreign participants / shareholders, these documents include, inter alia, notarized / apostilled extracts from the companies’ register, documents of statute and corporate governance). Azerbaijan is a party to the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents and legalization requirement ceased to exist in respect of documents produced and executed abroad in the convention member countries. The Law on State Registration determined the time frame of the entire process. The basic term for state registration of commercial legal entities is set as 3 working days.

The state register of legal entities includes general information on a legal entity and its founders. Any interested party is entitled to request a copy of the extract from a register.

The state duty for the registration of the banks, stock exchanges, insurance companies, representations and branches of foreign legal entities is 220 AZN, for the registration of legal entities involved in agricultural business - 3 AZN and that in respect of all other legal entities - 11 AZN.

Azerbaijani law generally recognizes the following types of commercial legal entities (commercial legal entities are defined as those operating for profit):

- General partnership ("GP")
- Limited partnership ("LP")
- Limited liability company ("LLC")
- Additional liability company ("ALC")
- Joint-stock company (openly-held or closely-held JSC)
- Cooperatives

LLCs and JSCs are the most popular choices of legal entities. Please see ANNEX 2 for a brief comparative analysis of these two types of legal entities.

General Partnership (GP). A general partnership is a legal entity comprised of at least two individuals and/or commercial legal entities. An individual may participate in the creation of a GP only if such individual is registered as an entrepreneur. Individuals and/or legal entities may only participate in one GP. General partners are jointly and separately liable for the partnership's liabilities. To the extent that the partnership does not have sufficient assets to cover its obligations, the partners are then personally liable for such obligations.

Limited Partnership (LP). A limited partnership has one or more general partners and one or more limited partners. General partners are personally liable for the partnership's obligations. Limited partners' liability is limited to the amount of their contributions. A person may only participate as a general partner in one LP. Similarly, a partner of a GP may not participate as a general partner in a LP.

Limited Liability Company (LLC). A limited liability company is an entity established by one or more individuals and/or legal entities contributing their participatory interests to the charter capital. An LLC having only one participant may not be a sole participant of another LLC or any other

company. The participants of an LLC are normally liable only to the extent of their contributions. An LLC is not normally liable for the obligations of its participants to third parties.

Additional Liability Company (ALC). An additional liability company is an entity established by one or more individuals and/or legal entities contributing their shares to the charter capital. The legal structure of ALC is similar to LLC, except that the participants in ALC may assume liability for the company in excess of their contributions, as regulated by the charter.

Joint Stock Companies (JSC). A JSC is a legal entity with charter capital divided into a certain number of shares. JSC shareholders are liable for the obligations of the JSC only to the extent of their shares' par value. A single individual or legal entity may be the founder or the shareholder of JSC. The charter capital of JSC is divided into a fixed number of shares of stated par value. JSC has a Board of Directors comprising at least three individuals who are either shareholders or independent directors. The Supervisory Board is mandatory for JSCs with more than 50 shareholders. General Meeting of Shareholders (GMS) is the supreme body in JSC. Azerbaijani law sets a minimum amount of share capital required for the establishment of JSCs, which ranges from 2,000 AZN for closely-held JSC and 4,000 AZN for openly-held JSC. Additional statutory requirements exist for the establishment of banks and insurance companies in the form of JSC.

Cooperative (Cooperative, a concept close to a Building Society). A Cooperative is a voluntary union of at least five individuals and/or legal entities, for the purpose of satisfying needs of its members through the consolidation of their financial or in-kind resources. Depending on the purpose of their activity, cooperatives may be of different kinds, such as consumer or housing cooperatives.

Non-Commercial Organizations. An Azerbaijani non-commercial or not-for-profit organization is an entity created to engage in various public, social and economic activities, not related to the generation of profit and distribution of such profit to its equity holders. Since an Azerbaijani non-commercial organization is treated as a legal entity, it may own property, enter into contracts, acquire ownership and intellectual property rights, incur obligations in its own name, maintain an independent balance sheet, maintain settlement and other bank accounts, and act as a claimant and defendant in courts and arbitration. Azerbaijani non-commercial organiza-

tions are presumed to engage in non-commercial activities.

Under the Civil Code, non-commercial organizations may be created in any of the following forms: public association, foundation and union of legal entities. Other forms permitted include federations, schools, universities and clubs.

Public Associations. A public association is a voluntary, not-for-profit organization created by its members to engage in activities of their mutual interest. Azerbaijani law authorizes both individual and corporate membership in public associations. A member in a public organization loses any ownership or other rights to property transferred to the public association, including their membership contributions. Members of the public association are not responsible for its obligations and, likewise, the public association is not responsible for the obligations of its members.

In the event of the liquidation of a public association, any property remaining after liquidation is allocated for the purposes specified in the charter. If this is not possible, such property is remitted to the state budget.

Foundations. A foundation is a not-for-profit organization created by individuals and/or legal entities to engage in public, charitable, educational and other kinds of social activities. Since an Azerbaijani foundation is not subject to a minimum requirement for the number of founders, it may be created by one individual or legal entity. Moreover, they are not based on membership, i.e. the founders do not become its members. A foundation's founders are not responsible for its obligations. Likewise, a foundation is not responsible for the obligations of its founders.

Unions of Legal Entities. A union of legal entities is created by business or non-commercial entities to provide for the cooperation and coordination of their entrepreneurial or non-commercial activities, representation, and the protection of their common interests. A union is not responsible for the obligations of its corporate members. Corporate members, however, are responsible for the unions' obligations to the extent provided under the union's charter.

Subsidiaries. A legal entity, whether or not established in Azerbaijan, may form a subsidiary in Azerbaijan in one of the three legal forms available for commercial purposes, i.e. JSC, LLC or ALC. A subsidiary is a separate and distinct legal entity; the parent enterprise may contribute property to its subsidiary but, typically, is not liable for the obligations of the subsidiary.

A parent company, however, may be held liable for the obligations of its subsidiary in bankruptcy if such bankruptcy was caused through the fault of the parent company in connection with the execution of its instructions. Additionally, a parent company and its subsidiary are jointly liable for obligations incurred by the latter as a direct result of the implementation of instructions of the former, even if the former is not bankrupt.

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acquisition & ownership
of land and property

A progressive land reform was implemented in Azerbaijan in the 1990's. The country was one of the first among the former USSR republics to introduce private ownership of land as well as free trade and transfer of titles to land and distributed the large portion of land to the population. A lot of formerly state owned real estate was also either sold or distributed to population and businesses.

Azerbaijani law provides for the following basic rights in land: (I) ownership; (II) lease; and (III) use. The real estate in the Azerbaijani legislation is best matching the term "immovable property". Pursuant to the Law on "State Register of Immovable Property" (the "State Register Law"), creation of rights in property (ownership and other rights), transfers and termination of rights are subject to state registration with the register of immovable property.

The State Register Law recognizes registration of the rights in immovable property carried out by various state authorities prior to the date of the law and provides for data transfer to the register from various state authorities engaged in registration of rights in immovable property in the past. The register in accordance to the State Register Law shall be available to a limited list of persons entitled to receive information on data maintained in the Register. As a general rule, registration of property rights over immovable property shall be accomplished within 20 days.

The State Register Law contains special provisions in respect of registration of certain rights in immovable property:

- Ownership and other property rights regarding unfinished construction of immovable property can be registered in advance.
- Property right regarding individual apartments in unfinished buildings or non-residential properties and mortgages thereon can also be registered in advance.
- In the event immovable property is leased or given for use for a period exceeding 11 months, such right shall be registered by either party of a lease or use agreement.

The concept of ownership in Azerbaijan includes rights to exercise possession, right to use/benefit and the right to dispose of the land (transfer ownership or other rights in land to third parties). It should be noted that ownership right in land is a privilege of (I) the Republic of Azerbaijan, (II) municipalities, and (III) Azerbaijani individuals and legal entities. Foreigners

(individuals and legal entities) and stateless individuals may not own land in Azerbaijan and may not be granted a purchase option on a lease. However, international organizations, foreign legal entities and foreign citizens and states may lease land in Azerbaijan. Foreigners who acquired ownership rights in land through general legal procedures such as enforcement of security interest, grant or succession shall dispose of their ownership (e.g. through a sale) within one year; otherwise the land shall be acquired by the state or relevant municipality. There is no legal limitation for ownership of buildings, constructions etc. by foreign individuals and legal subjects.

Certain categories of land plots are in the exclusive ownership of the state or municipalities, and may only be leased by or granted for the use of private persons.

In addition to ownership, the Land Code recognizes perpetual and temporary land use rights, lease rights and easements.

Temporary land use right is granted for up to 99 years and may be extended by the parties. A perpetual land use right is granted for an indefinite period. The holder of such rights is liable only for the land tax for the land use. Perpetual and temporary land use rights are granted by the state and municipalities only in exceptional circumstances to a limited number of persons listed in the Land Code. Landowners may grant perpetual or temporary land use rights under an agreement with the land user. Land use terms are defined by an agreement between the landowner and the land user.

Land lease is the use of land for a definite period, for a charge. Leases are concluded for a period agreed by the parties. Rent payments for the lease of privately held land parcels are freely negotiable. Rent payments for state or municipally owned land parcels are determined according to market conditions, but cannot be less than specified statutory rents. With regard to agricultural land, discounts from statutory rents are available depending on market conditions in the agricultural sector.

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obtaining licenses*

Under Azerbaijani law: License is an official record permitting relevant types of entrepreneurial activities to a legal person irrespective of its organizational and legal form, as well as to a natural person engaged in entrepreneurial activities without creation of a legal entity.

A license is granted without discrimination to any entity that satisfies the requirements for that specific license. Thus (with certain exceptions), foreign investors may obtain licenses under the same conditions and in accordance with the same procedure as Azerbaijani nationals. Normally, a licensee may not transfer a license to another legal entity or individual.

Licensing in Azerbaijan is regulated by the laws, presidential decrees and orders of the Cabinet of Ministers of the Republic of Azerbaijan. The Ministry of Economic Development is the government agency entrusted to exercise overall control in the field of licensing and to maintain a single register of licenses. However, the right to issue a specific license is given to respective state authorities who control the licensed activity (the Ministry of Transportation, the Ministry of Emergency Situations, the Ministry of Economic Development, etc).

Regulations on procedures for the licensing of specific types of activities are generally issued by the Cabinet of Ministers. An applicant is required to submit all documents specified in the regulations and pay the required fee, upon which (subject to the application meeting all requirements) a license is issued within 15 days. The basic term of most licenses is five years (for production of alcoholic beverages and ethyl (drinking) alcohol - 3 years, for their import - 1 year).

The Azerbaijani licensing system was reformed in 2002. The number of business activities requiring a license was reduced from more than 200 to 57.

As the result of the reform, the licensing system in Azerbaijan was liberalized. Licensing differs from the permitting procedure related to special "hazardous" activities such arm trade or nuclear materials storage. In Azerbaijani terms this type of permits is called "special permit".

A person who wishes to obtain a license to carry out specified entrepreneurial activity should either create a legal entity or register as an individual entrepreneur, i.e. become a "sole proprietor".

In ANNEX 3 you may see the list of business activities requiring a license. No other business activities require special permits as of the date this publication went to press.

The list of documents required for obtaining a license is exhaustive. No other documents may be demanded from a business to issue the license.



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hiring & firing

Labour relations governing the employment of all employees in the Republic of Azerbaijan are regulated by the Labour Code, effective from July 1, 1999 (the "Labour Code"), together with other laws issued pursuant to the Labour Code.

The Labour Code codified the legislative acts adopted in the early years of independence and number of lower tier normative legal acts.

Employment relations are established by virtue of execution of a written employment contract, which is concluded without a fixed term in most cases. In limited cases (such as seasonal works, work under a fixed term project or assignment, agreement of employer and employee) employment contract can be made for a fixed term up to 5 years.

Fixed-term contract will be deemed to be extended for the same period unless terminated by a notice within 7 days of the expiration of the original term of the contract.

A contract without a fixed term can be terminated by employer only in cases specified in the Labour Code such as gross violation of labour duties by an employee, redundancies, determination by a competency assessment body of an employee's qualification as inadequate for performance of his/her duties, change of labour conditions etc.

An employer is under a duty to give a termination notice. The general term of such a notice is 2 months (e.g. redundancies). However, certain exceptions apply (e.g. in case of gross violation of labour duties when no notice is required). An employee can terminate a contract at any time upon giving a 1-month notice. When employment is terminated by the employer due to redundancy, for a period of 2 months prior to termination the employer shall allocate to an employee a fixed number of days in a working week to allow an employee look for a different workplace.

Termination of employment with certain categories of employees (e.g. pregnant women, women with children below 3 years of age) is prohibited, unless employer is being liquidated.

In cases of termination of employment due to redundancy or liquidation of an enterprise employer shall pay to the employee severance payment, which may total to up to three months of employee's average salary.

Generally, legal entities are required to make monthly social insurance contributions in the amount of 22% of the salary fund of its employees. Legal entities are also under an obligation to withhold employees' social

insurance contribution in the amount of 3% of employees' gross salaries and transfer same on behalf of the employees to the State Social Protection Fund.

Individual entrepreneurs are, generally, required to pay social insurance contributions in the amount of 20% of the minimum salary. Different rates are provided for certain regions and categories of individual entrepreneurs (such as auditors, private notaries, , accountants etc.)

Azerbaijani law also provides for obligatory medical insurance to be procured by employers.

Compensation in Foreign Currency

All salaries paid in Azerbaijan must be paid in manats unless there is a special agreement (for example, Production Sharing Agreement for development of hydrocarbon reserves) with the Government of Azerbaijan allowing payments in other currencies.

Probationary Period

A probationary period of up to 3 months is allowed in most cases and, if the probationary period is included in the employment contract, the contract may be terminated by either party upon giving a 3-day notice. To be enforceable, a probationary period must be stated in an employment contract and may not exceed three months. A probationary period may not be imposed on certain categories of staff listed in the Labour Code.

Minimum Wage

Employee remuneration may not be lower than the minimum monthly wage, currently 85 manats (approximately US\$ 107) per month.

Work Week

The regular work week is 40 hours, reduced for certain groups of people and workplaces. Overtime work is not allowed unless necessary for state defence, public safety, ensuring the supply of public utilities, and in certain other situations. The duration of overtime work may not exceed a certain limit established by the Labour Code. For each hour of overtime work, an employee must be compensated at a rate at least twice his or her normal hourly rate.

Holidays

There are 21 public holidays. Employees are entitled to 19 official public days off, 18 of which are public holidays and one is a day of mourning, 3

public holidays are working-days. The minimum paid annual leave is of 21 calendar days, more for certain groups of employees and in certain workplaces. Overtime and work during days-off (which are Saturdays, Sundays, public holidays and a mourning day) are compensated in the manner provided for in law.

Sick Leave

Except for the first 14 days of any absence, compensation for sick leave is provided by the State Social Protection Fund, not the employer.

Maternity Leave

Women are entitled to be paid maternity leave for 70 calendar days prior to and 56 days (70 or 110 days in certain cases) after the birth of a child. Maternity pay is provided by the State Social Protection Fund.

Dismissal

Grounds for dismissal include, among other things: staff redundancy; employee's failure to meet required competency standards as determined by the decision of a competency assessment body; liquidation of an enterprise; and violation of employment duties as determined by the employment contract or labour law. There are statutory restrictions relating to the dismissal of certain categories of employees. In certain cases, an employer is required to report an employee's dismissal to the appropriate state authorities and/or trade unions.

Cost of Employment

Employers are required to pay social security contributions on behalf of their employees.

Income Tax

The employer is obliged to withhold income taxes for its employees and certain social contributions.

Foreign Workers in Azerbaijan

Foreign employees who are employed by enterprises (affiliates or representative offices) operating in Azerbaijan are subject to Azerbaijani labour law, except for those working in enterprises, branches or representative offices located in Azerbaijan under employment contracts concluded in the foreign state where the employer is located.

Foreign nationals wishing to work in Azerbaijan are required to register at their place of residence and obtain a work permit. Work permits are issued by the State Migration Service. Heads of representative offices and branches of foreign legal entities (and their deputies) and certain other categories of foreign employees are not required to obtain a work permit in Azerbaijan.

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foreign trade regulation

Azerbaijan has started negotiations with WTO on accession to the organization. The government has undertaken a number of steps to liberalize foreign trade. As of the end of 2010, the weighted average import tariff in Azerbaijan was 5.8 % i.e. significantly below the international average. Import and export is one of the most rapidly developing business segments in Azerbaijan. The average annual growth in foreign trade in recent years is approximately 15%.

Azerbaijan is developing trade relations with a number of countries. In 2010, there were trade operations with 147 partners. The European Union remained the major destination for export of Azerbaijani goods. Russia and CIS are the major importers.

The main export commodities are oil and petrochemicals, agricultural products. The import includes machinery and luxury goods, constructions materials etc.

Azerbaijani law recognizes several customs regimes applicable to goods imported in Azerbaijan, of which most important to foreign investors being transit, customs storage, bonded warehouse, temporary import, processing on and outside customs territories.

In the case of temporary import, no duties are applied and the goods must be re-exported from Azerbaijan until the deadline established by the customs authorities. The goods brought under the temporary import regime should be re-exported without substantial changes in their nature.

Import of goods into Azerbaijan is subject to imposition of imports duties (ad valorem duties ranging from 0% to 15%, per unit duties, duties per metric units).

Excise tax applies to certain types of goods (e.g. tobacco and alcohol products). Azerbaijan adopted "destination VAT" principle and VAT (currently set at 18%) is payable (subject, of course, to applicable customs regime) on the declared value of goods (including assessed import duties and excise tax). Certain categories and types of goods are import exempt and to some others 0% VAT applies.

0.15% customs clearance fee is applicable to all imports/exports with certain minor exceptions.

Exports are exempt from customs duties, except for certain types of metals and metal products.

Under PSA (Production Sharing Agreement) regime, contractors, its

agents and sub-contractors are entitled to import and re-export from Azerbaijan free from import duties and restriction goods employed for hydrocarbon activities. Imports under PSA regime are subject to zero rate VAT. Similar regime applies under HGAs (Host Government Agreement).

One of main steps on this way is Azerbaijan's GSP membership.

Date of joining the GSP+: December 2008- GSP+ USA and GSP+ EU

Advantages for Azerbaijan:

Access with preferential duties to the markets controlling 53% of all import operations

Exemption of duties for export of more than 7200 names of goods produced in Azerbaijan to EU states, as well as 3400 names to the US.

Diversification of economy and growth of non-oil sector

The GSP USA state program makes possible the duty-free import of about 5,000 products from 132 countries to the United States.

From early 2009 until late 2011 Azerbaijan get special trade privileges in the framework of the GSP+ EU plan, proposed in addition to standard privileges, provided in the framework of the generalized system of preferences GSP.

Another important development worth mentioning is a number of regional trade initiatives including Central Asia - Caucasus - Europe transport corridor (TRACECA) and Russia-Azerbaijan-Iran transport corridor (North-South Transport Corridor). The projects are directed at stimulation of international trade along the above routes via coordination of trade policies and tariffs, upgrade of infrastructure, simplification of customs procedures etc. The impact of the above initiatives on international trade of Azerbaijan and on its status of a regional transportation hub is substantial.

Imports and Exports by countries in 2010 (mln US dollars)

	Import		Export		
	mln US\$	ratio %	Total	ratio %	
Total	6 599,35	100.0	21 324,7	100.0	
Russia	1144,86	17,35	Italy	7 097,22	33,28
Turkey	771,19	11,69	France	1 856,52	8,71
Germany	607,18	9,20	Israel	1 744,82	8,18
China	587,19	8,90	USA	1 538,58	7,21
Ukraine	465,45	7,05	Ukraine	888,64	4,17
Great Britain	302,75	4,59	Croatia	787,17	3,69
Kazakhstan	293,43	4,45	Indonesia	782,16	3,67
USA	206,27	3,13	Russia	773,53	3,63
Singapore	173,89	2,63	Malaysia	740,78	3,47
Brasil	161,62	2,45	Singapore	510,88	2,40
Other countries	1 885,52	28,57	Other countries	4 604,48	21,59

Source: The State Customs Committee.



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currency regulation
& repatriation of profit

Foreign exchange

Foreign exchange transactions are governed by the Law on Currency Regulation. The Central Bank of Azerbaijan (CBA) administers the overall enforcement of currency regulation. Various aspects of foreign currency regulation also cover precious metals and foreign securities, among other matters.

Azerbaijan's currency control legislation distinguishes between "residents" and "non-residents", with more stringent requirements currently applying to residents. The definition of "resident" includes private individuals having a permanent place of residence in Azerbaijan and legal entities established in accordance with Azerbaijani legislation. Branches and representative offices of foreign entities established in Azerbaijan do not fall within the definition of a resident.

Currency operations are divided into routine currency operations and operations involving the movement of capital. Routine currency operations include:

- Transfers for payment of goods and services under import/export contracts with a term of payment not exceeding 180 days;
- Transfers in connection with the financing of export/import transactions with a term not exceeding 180 days;
- Transfers of dividends, interest, and other income from deposits, investments, credits and other operations; and
- Non-commercial transfers, for example including transfers of inheritances, wages, pensions or alimony.

Operations involving the movement of capital are deemed to include all other non routine currency operations, e.g.:

- Direct investment in entities for the purpose of deriving profit and obtaining control over the entity;
- Purchase of securities;
- Payments for ownership and other rights to immovable property;
- Import/export transactions under credit terms of more than 180 days;
- Deposits by banks of currency values for more than 180 days; and
- Any other currency operation not deemed as a routine currency operation.

Currency operations involving the movement of capital must be performed in a manner approved by the CBA. No procedure, however, has been established by the CBA on this point and, in effect, no licensing of the currency operations involving the movement of capital is required at present.

Foreign exchange regulations are comparatively less restrictive for non-residents. Non-residents are permitted to hold offshore bank accounts without restriction, may deposit their funds offshore, and are not bound to sell foreign currency proceeds or submit a report upon withdrawal of foreign currency. Non-resident legal entities may purchase foreign currency on the domestic foreign currency market for routine currency operations and in other cases stipulated by legislative acts.

Import/Export of Foreign Currency in cash by Individuals.

Resident and non-resident individuals are treated equally with regard to the import/export of foreign currency in cash. There are no limitations on the amount of foreign currency an individual may bring into Azerbaijan, provided that such amount is declared to the Azerbaijani customs authorities. Azerbaijani customs authorities are required to issue a certificate to an individual importing more than USD 10,000 or its equivalent into Azerbaijan.

Residents can export hard currency in the amount up to the equivalent of USD 10,000 free of tax without any documentation except the tax declaration. Non-residents, however, are required to submit some documents. Residents must pay a 1% fee for the amount from USD 1,000 up to USD 10,000. In case the USD 10,000 threshold is exceeded, supporting documentation must be provided in any event.

Pursuant to the newly-issued regulations of the Azerbaijani Central Bank, residents may transfer currency (movement of capital) to certain states (member states of the Organization of Economic Development and Cooperation, Russia and those having bilateral investment protection treaties with Azerbaijan) for the purposes stated in the regulation: direct investment, acquisition of securities, real estate purchase, transfer of currency to the resident's deposit in foreign bank. There is no specific limitation as to the amount allowed for transfer.

Foreign companies and individuals may have both Manat and foreign currency accounts in a local bank. All settlements within Azerbaijan including payments of employee salary should be made in Manats with a few exceptions. A permission of the Central Bank of Azerbaijan is required to conduct certain transactions in foreign currency.

From 1st January 2006 new Azerbaijani manats were introduced to replace the old ones. The exchange of banknotes is accompanied by denomination of the currency at a rate of 1 to 5,000. The international abbreviation for the new manat is AZN.



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taxes

Tax policy and collection of taxes in Azerbaijan is carried out by the Ministry of Taxes. For the purposes of this review we will concentrate on corporate taxation.

Currently, there are two different types of tax regimes in Azerbaijan. The companies that work predominantly in the oil & gas sector under the Production Sharing Agreements (PSA) are subject to the oil consortia tax regime. The statutory tax regime is applicable to all other legal entities. The statutory tax regime is regulated by the Tax Code and numerous normative legal acts. The tax legislation in force is regarded as one of the best pieces of legislation among the transition economies.

All Azerbaijani enterprises, representative offices, branches, and individuals engaged in business activities (as well as foreign entities and individuals conducting business activity in Azerbaijan through a “permanent establishment” (“PE”) as defined under the Tax Code) must register with the tax authorities regardless of whether or not their activities are taxable in Azerbaijan. Divisions which have not established a PE are subject to a separate regime.

Double Taxation Treaties

Azerbaijan has signed bilateral treaties for the avoidance of double taxation with 40 countries. Double taxation treaty negotiations are currently underway with Denmark, India, and Kyrgyzstan. Please see ANNEX 4 for the list of double taxation treaties.

Road Tax

Legal entities and individuals of foreign states as well as persons owning vehicles in Azerbaijan Republic must pay this tax when using the territory of the Azerbaijan Republic. Taxes are assessed on cars, buses and trucks depending on seat number, days spent in Azerbaijan and number of other conditions (e.g. \$15 - \$25 per day for buses, etc.)

Simplified Tax

This tax is intended to ease tax burden for small size businesses and is in lieu of general profit tax. Simplified tax is charged at the following rates on the gross revenue of the taxpayers:

- 4% for taxpayers operating in Baku
- 2% for taxpayers operating in other regions of Azerbaijan and Nakhchivan Autonomous Republic

In order to qualify for this tax, the total revenue of the legal entity should not exceed 150,000 Azerbaijan manats (approximately 190,000 USD at the current exchange rate) for the previous 12 months period. The payers of the simplified tax are also exempt from VAT, profits tax and property tax.

Simplified tax is payable on a quarterly basis.

Dividend Withholding Tax

Dividend withholding tax of 10% applies to both domestic and foreign shareholders. Tax is withheld in the currency in which the dividend is paid. Double Taxation Treaties ("DTT") may reduce the rate at which dividend tax applies.

Land Tax

Land tax is imposed on the owners and users of land in an amount (defined under the Tax Code) dependent on the location, quality, and size of the land plot. The tax is payable by both resident and non-resident individuals, as well as resident and non-resident enterprises.

Other Withholding Taxes

Foreign legal entities with no permanent presence (permanent establishment) in Azerbaijan are subject to withholding tax on income derived from sources in Azerbaijan at the following rates.

- 10% Interest
- 14% Rent and Royalty
- 6% Freight income
- 6% Telecommunication services
- 4% Insurance payments
- 10% Interest element of financial lease payments
- 10% Other income

For detailed information on Tax rates please see ANNEX 5.

From 1 January 2010 the corporate profit tax was reduced from 22% to 20%. There are 0% tax in Agriculture (except land tax; rates depend on location and type of land plots).

Losses and bad debts

Losses may be carried forward over the next five years without any limitations. Losses cannot be carried back. Bad debts may be deducted from taxable income only if recognized as having no value in the accounting books

of the company and if they were reflected as income in previous periods.

Losses and bad debts recovered in the future periods shall be recognized as income in the period of their recovery.

VAT registration

There are detailed requirements for registration and accounting for VAT, with penalties for non-compliance. Companies with taxable transactions exceeding a certain threshold (currently 150,000 AZN (187,500 USD) during previous 12 months must register as VAT payers. Other companies carrying out business activity in Azerbaijan may voluntarily register. Only registered VAT payers may charge VAT or claim a credit for input VAT that they pay.

Interest and penalties

There are certain interests and penalties applicable for failure to comply with the tax legislation. For example, interest on outstanding tax liabilities accrues at a rate of 0.1 percent per each day of delay. The following penalties may also be applicable:

Interest and penalties

Breach*	Fine
Failure to register as a taxpayer with the tax authorities	AZN 40
Failure to file declarations	AZN 40
Understatement of tax liability	50 percent of understated tax
Payments from petty cash while bank accounts are imposed tax sanctions or penalties by the tax authorities	50 percent of expenses paid from petty cash
Failure to notify tax authorities on changes in a taxpayer's registration documents	AZN 40
Failure to obtain the certificate-duplicate from the tax authorities	100% of money transferred to accounts opened in non-resident banks and other non-resident credit institutions for entrepreneurial activity purposes without obtaining a certificate-duplicate from tax authorities.
Failure to remit VAT amounts in accordance with the procedure determined by the Tax Code and a relevant executive authority.	50% of the outstanding VAT amount

*The statute of limitation period for a tax law violation is set as three years.



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accounting

The new Accounting Law 2004 stipulates gradual transition to the new accounting standards by the year 2008. Thus the Soviet-era accounting principles will eventually cease to regulate the financial reporting in Azerbaijan. It should be noted however, that Azerbaijan has already made substantial advancement towards new financial reporting philosophy. The banks as well as the companies under Production Sharing Agreements and similar commercial structures are not regulated by the 1995 Law on Accounting.

The new Law charges the Cabinet of Ministers with the task of publishing new National Accounting Standards ("NAS"). The Law stipulates that all significant entities including credit institutions, insurance companies, investment funds and commercial organizations which meet certain criteria are be subject to International Financial Reporting Standards ("IFRS"). Others (except for small private businesses) have the choice of using either the IFRS or NAS. Small private businesses also have the right to choose between the NAS or a simplified method of accounting.

All entities registered in Azerbaijan which includes Azerbaijani Legal entities, representative offices and any branches of companies within the territory of Azerbaijan are required to maintain their accounting books and records in local currency, and in accordance with the Azerbaijan accounting legislation ("AAL"). This includes the use of a mandatory, and quite rigid, chart of accounts which, in most cases, will also necessitate the employment of a Full-time, experienced Azerbaijani chief accountant.

The Civil Code 2000 contains general provisions regarding financial reporting and audit requirements for legal entities. Joint stock companies and Limited liability companies are required to use independent auditor to audit their annual financials. Similarly, Joint-stock companies are required to publish their annual accounting reports and balance sheets. Any legal entity with the value of balance sheet exceeding 1 million AZN (1.2 million USD) or annual revenues exceeding 500 thousand AZN (625 thousand USD) is required to conduct an audit of its balance-sheet. Legal entities with balance-sheet value of below 1 million AZN or annual revenues below 500 thousand AZN are permitted to prepare a simplified balance sheet.

Tax Code 2000 also contains certain provisions dealing with accounting matters, such as depreciation. Depreciation is made in accordance with a declining balance method and the following rates apply to these selected categories of assets:

- Buildings, facilities and installations—up to 7%;
- Machines, equipment and computers—up to 25%;
- Vehicles—up to 25%;
- Intangible assets—up to 10% when life time is not defined or in accordance with life time when life time is defined;
- Other fixed assets—up to 20%.

Actual capital expenditures for production purposes made in a current tax year in form of buildings, facilities, installations, machines, equipment, computers vehicles and other assets may be depreciated at a rate of up to 2 times of standard rates, i.e. depreciated in an accelerated manner. A similar accelerated depreciation rate was also recently introduced for leased equipment in order to stimulate this leasing financial service.

As mentioned above separate chart of accounts based on western accounting principles has been adopted by Azerbaijani commercial banks few years ago.

AAL differs from IFRS and generally accepted accounting principles in other countries (e.g., the United States). A summary of the most significant differences is as follows.

Accounting policies. AAL do not require detailed disclosure of accounting policies used in the preparation of the financial statements or footnote disclosures that provide additional information, analysis and clarification relating to the financial statements.

Property, plant and equipment (“PPE”). Property, plant and equipment is maintained under the historical cost convention (at acquisition price or at the cost of production including transportation and assembly costs) as modified by the revaluation of these assets, if re-valued. At various times since 1992, PPE in Azerbaijan have been re-valued in accordance with Government decrees (the latest such revaluation occurred in 1996).

Indexes used for these revaluations did not properly account for the changes in the value of Azerbaijani Manat nor did they result in providing a market value for the fixed assets to which they were applied. Revaluations of property, plant and equipment are generally not required under IFRS and US GAAP under certain circumstances.

Impairment of assets. AAL does not permit the recording of an allowance against the carrying value of an impaired asset. This includes setting up an allowance for tangible assets as well as inventories, accounts receivable and other assets.

IFRS requires, among other things, that long-lived assets and certain identifiable intangibles that are held and used by an entity be reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. In addition, allowances may also be made upon the carrying value of short-term assets (for example, accounts receivable) when it is likely that the full carrying value of the asset will not be recovered.

Deferred taxes. Deferred tax assets and liabilities under IFRS are recorded for the expected future tax consequences of existing differences between financial reporting and tax reporting basis of assets and liabilities, and loss or tax credit carry forwards. Under AAL rules, there are no such provisions dealing with deferred tax accounting.

Equity. In the balance sheet of an Azerbaijani company equity is generally represented by charter capital, paid-in-excess capital, reserve capital, appropriated earnings, social funds and retained earnings for the current and previous years. Deductions can be made directly from reserve funds for non-tax deductible expenses.

Under IFRS, equity is generally represented only by Share capital, additional paid-in capital and retained earnings for the current and previous years.



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intellectual property

In 1996 and 1997 Azerbaijan started implementation of the national system for registration and protection of intellectual property rights. Intellectual property rights in Azerbaijan include: all rights to industrial property (including inventions, industrial designs, utility models, trademarks, and geographic names); and copyright and related rights. Current legislation pertaining to intellectual property includes the Law On Copyrights and Related Rights (the Copyright Law), the Law On Trademarks and Geographic Names, the Law On Patents, and the Law On Topology of Integral Schemes.

Under existing legislation, the Cabinet of Ministers is empowered to authorize various state agencies to register and protect intellectual property rights in respective areas. The State Committee for Standardization, Metrology and Patents is responsible for the issuance of patents and trademark registration. There is also the State Copyright Agency which is responsible for the registration of the copyrights. Beyond this however, procedures for the registration and protection of various intellectual property rights differ from one state agency to another.

Azerbaijan is a party to several international agreements concerning the protection of intellectual property including: the Convention Establishing the World Intellectual Property Organization; the Paris Convention for the Protection of Industrial Property, the Madrid Agreement Concerning the International Registration of Trade Marks, the Madrid Protocol, the Patent Cooperation Treaty, and the Eurasian Patent Convention, the Performances and Phonograms Treaty of the World Intellectual Property Organization Copyright Treaty of the World Intellectual Property Organization.

Azerbaijan is a "first to file" and not a "first to use" jurisdiction, meaning early registration of intellectual property rights is essential to ensure protection.

Patent protection is granted to an invention if it is novel, inventive and useful. The maximum duration of protection for an invention patent is 20 years.

Utility models are granted patent protection if they are new and "industrially applicable". The term of utility patents is ten years.

An industrial design right is characterized by an artistic and structural form which determines its external appearance. Patent protection is granted if an industrial design is novel, original, and capable of industrial application. The term is ten years.

Patents may be assigned and/or licensed by their owner(s) to natural persons or legal entities. However, an assignment must be registered with the relevant state agencies to be valid. Infringement carries civil, criminal and administrative liability.

The right to a trademark is based on registration with the respective state agencies. Trademark registration is granted for a term of ten years, renewable every ten years. Assignments of licenses for trademarks must be registered with the relevant state agencies.

Legal protection is given to the appellation of origin of goods based on registration with the relevant state agencies, and to trademarks existing under international agreements on the registration thereof or bearing the status of a known trademark. Violations of intellectual property rights carry civil, criminal, and administrative liability.

The Copyright Law protects works of science, literature and the arts (copyrights) as well as stage productions, phonograms of radio or cable broadcasts, and computer programs and databases (allied rights). Copyright protection is normally granted to the author without registration. The right to use a copyrighted work may be re-assigned. A copyright provides protection for the lifetime of the author and normally for a period of 70 years following his or her death.

Rights to computer programs, databases and topologies of integrated circuits are protected under the Copyright Law and the Law on Topology of Integral Schemes. The unauthorized re-creation (copying) of computer programs, alteration of existing programs, and unlawful accessing of legally protected computer information are criminal offences.

Proper quality is determined by legislative norms and technical specifications applicable to a particular product. Certain goods are subject to mandatory certification by state agencies, in accordance with procedures established by legislation. The advertising and distribution of goods without such certification is prohibited.



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dispute resolution
& arbitration

Courts

Azerbaijan has a three-tier court system - courts of first instance, appellate courts and cassation court. Courts of first instance are the district (city) courts of general jurisdiction, local administrative-economic courts, and military courts.

It is necessary to emphasize that Azerbaijani courts are undergoing a critical stage of transition and reforming from a soviet type “just courts” to an independent and modern judiciary. Vital steps such as re-appointment of judges and recent legal reforms are underpinning this process. It is safe to say that Azerbaijani system is becoming more relevant and appropriate for an open market economy

Courts of general jurisdiction address disputes arising out of civil, family, or land-related matters, use of natural resources, environmental protection, tax, administrative and other matters, where at least one of the parties to a dispute is a physical person and where he does not have the status of an entrepreneur, or, if he has such status, the dispute arises other than in connection with the carrying out of his entrepreneurial activity.

The administrative-economic courts consider cases in respect of economic disputes arising from civil, administrative and other legal relations between legal entities and physical persons with the status of individual entrepreneurs. Pursuant to the Decree of the President, the Economic Court of Appeals was liquidated and the regional appellate courts were established in Baku, Ganja, Sheki, Sumqayit and Shirvan cities.

The decisions of the appeal courts can be further appealed to the court of cassation. The civil board of the Supreme Court considers appeals brought in respect of the decisions of boards for civil case of appellate courts. The administrative-economic board of the Supreme Court reviews the decisions of the decisions of boards for administrative and economic cases of appellate courts. The cassation court is located in Baku.

Mandatory enforcement

Enforcement procedures set forth in Law on the Execution of Court Orders apply to judgments of Azerbaijani and foreign courts as well as international arbitration and foreign arbitration awards.

The following documents have the status of execution orders:

- court orders (e.g. judgments of Azerbaijani courts, interim orders, awards

- of international arbitration courts and tribunals, decisions of courts of foreign states and arbitration courts);
- notarized agreements concerning the recovery of alimony and a collateral in a mortgage agreement;
- execution notes of notaries;
- decisions of state bodies (officials) authorized to consider cases relating to administrative offences;
- mortgage lists issued under the agreements for the mortgage of immovable property;
- decisions of other state bodies when provided by law.

The documents should be submitted to a bailiff for execution within following periods:

- writs issued in accordance with courts decisions and courts orders – one month;
- writs issued in accordance with resolutions of courts on taking of measures related to provisional remedies - immediately;
- execution notes of notaries and decisions of bodies (officials) authorized to consider cases on administrative offences - ten days;
- writs issued in accordance with decisions of international arbitration court and arbitration tribunals and decisions of courts of foreign states and arbitration courts - three years.

Failure to voluntarily execute the appropriate decisions triggers obligatory execution. The following are obligatory execution measures:

- foreclosure and subsequent sale of assets;
- garnishment of salaries and similar payments;
- foreclosure of debtor's assets in possession of third parties;
- taking of debtor's assets with subsequent transfer to claimant.

Referral of a dispute to arbitration is a permitted dispute resolution mechanism. In general, matters over which courts have jurisdiction can be arbitrated in cases provided in law, international agreements and upon agreement of the parties.

Azerbaijani courts have exclusive jurisdiction over certain matters which include, inter alia, rights over immovable property located in Azerbaijan, cases concerning the recognition of patents, or other marks or rights, if such were registered (or application for registration was filed) in Azerbaijan, cases where an action is brought against a carrier under a contract for

the carriage of goods, or cases relating to the existence of a legal person registered in Azerbaijan or cases where cancellation of a decision taken by a legal person is sought.

Interestingly enough, civil procedure legislation does not set forth provisions regulating the conduct of domestic arbitration. Hence, one can naturally assume that the parties are at liberty to provide for these by their agreement.

Commendably, Azerbaijan has made significant progress as far as international arbitration is concerned. Azerbaijan acceded to and ratified the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"), the 1965 Washington Convention on the Settlement of the Investment Disputes between States and Nationals of Other States (the "Washington Convention") and the European Convention on Foreign Commercial Arbitration, dated 21 April 1961.. Azerbaijan has also enacted the Law on International Arbitration, which basically adopts the UNCITRAL Model Law on International Commercial Arbitration of 21 June 1985. In addition, Azerbaijan is a signatory to 1998 Agreement on the Order of Reciprocal Enforcement of Arbitral Awards and Economic Court Judgments on the Territory of the country-members of the Commonwealth of Independent States.

Decisions on enforcement and recognition of foreign arbitral awards are taken by the Supreme Court. In certain cases, enforcement can be declined, most notably, if:

- an award contravenes legislation, offends public policy or sovereignty of the Republic of Azerbaijan;
- the principle of reciprocity is not adhered to;
- there is a valid judgment of an Azerbaijani court relating to the same parties and same subject-matter;
- an award has not entered into force in the country where it was made.


The New York Convention will certainly not apply to the recognition and enforcement by the Azerbaijani courts of domestic awards (where an award is made in Azerbaijan arbitral proceedings). In the absence of relevant provisions in the civil procedure law, the Law on International Arbitration could be looked at for guidance.

Under said law an international commercial arbitral award made in

arbitration proceedings in Azerbaijan may be set aside if, inter alia:

- the notice of the appointment of an arbitrator or arbitration proceedings were defective;
- the dispute does not fall within the scope of the arbitration agreement;
- the composition of the arbitration tribunal or the arbitration procedure was not in accordance with the agreement of the parties;
- the subject-matter of the dispute is not capable of settlement by arbitration under legislation of the forum state;
- the arbitral award is in conflict with Azerbaijani legislation.

It is noteworthy that under the Constitution of Azerbaijan international treaties ratified by the Republic of Azerbaijan prevail of national (domestic) laws in case of conflict. Therefore, in case of international arbitration under the Washington Convention, the arbitral award will be enforceable in Azerbaijan as if it were a final judgment of a court in Azerbaijan (Article 54 of the Washington Convention).



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annexes

Annex 1: Bilateral investment treaties

Country	Signed	Ratification Date
Austria	4 July 2000	24 October 2000
Belarus	3 June 2010	30 September 2010
Belgium-Luxembourg Economic Union	18 May 2004	26 October 2004
Bulgaria	7 October 2004	1 March 2005
China	8 March 1994	
Croatia	02 October 2007	1 February 2008
Egypt	24 October 2002	13 May 2003
Estonia	7 April 2010	8 June 2010
Finland	26 February 2003	13 May 2003
France	1 September 1998	27 November 1998
Georgia	8 March 1996	19 April 1996
Germany	22 December 1995	25 June 1996
Greece	21 June 2004	26 October 2004
Hungary	18 May 2007	01 October 2007
Iran	28 October 1996	1 December 1998
Israel	20 February 2007	01 October 2007
Italy	28 September 1997	17 February 1998
Jordan	05 May 2008	02 October 2008
Kazakhstan	16 September 1996	15 November 1996
Korea	23 April 2007	01 October 2007
Kuwait	10 February 2009	28 April 2009

Kyrgyzstan	23 April 1997	26 June 1997
Latvia	3 October 2005	1 March 2006
Lithuania	8 June 2006	10 April 2007
Lebanon	11 February 1998	4 December 1998
Moldova	27 November 1997	8 December 1998
Norway	25 September 1996	
Pakistan	9 October 1995	12 March 1996
Poland	26 August 1997	13 February 1998
Qatar	28 August 2007	19 October 2007
Romania	29 October 2002	5 December 2003
Saudi Arabia	9 March 2005	10 May 2005
Syria	8 July 2009	30 September 2009
Switzerland	23 February 2006	10 April 2007
Tajikistan	15 March 2007	5 June 2007
Turkey	9 February 1994	14 June 1994
UAE	20 November 2006	10 April 2007
Ukraine	24 March 1997	6 June 1997
United Kingdom	4 January 1996	15 March 1996
USA	1 August 1997	14 April 1998
USAID	7 February 2007	
Uzbekistan	27 May 1996	16 July 1996

Annex 2: Brief comparative analysis of LLC and JSC as per Azerbaijani law

	JSC	LLC
Minimum number of Founders	At least 1 founder. Closed JSC-maximum number of shareholders may not exceed fifty. If such limit is exceeded, such close JSC must either be reorganized into an open JSC, or be judicially liquidated	At least 1 founder. However, there is not a statutory limit for the number of participants.
Liability of Founders	The participants/shareholders are not personally liable for the obligations/liabilities of JSC/LLC. Liability of founders is limited to the amount of their equity (capital) contribution.	The participants/shareholders are not personally liable for the obligations/liabilities of JSC/LLC. Liability of founders is limited to the amount of their equity (capital) contribution.
Capital Requirements	Open JSC – 4,000 AZN circa 5,000 USD / Closed JSC – 2,000 AZN, circa 2,500 USD. Charter capital must be paid in full prior to state registration. Capital contributions in kind must be valued by an independent auditor. Value of in-kind contributions of a newly founded company and existing company is determined by a foundation meeting and general meeting of shareholders respectively.	There is no specified minimum capital requirement. However, the Civil Code 2000 states that the minimum capital is to be set by the relevant executive authorities. Charter capital must be paid in full prior to state registration. Capital contributions in kind must be valued by an independent auditor.
Securities	Shares must be registered at the State Securities Committee. Placement of securities can be public (offer to public at large) or close (offer to a limited group of investors). Open joint-stock companies can place securities only through public offering (except for establishment and reorganization of a company and conversion of shares) and close joint stock companies can place securities only through close offerings.	Paid in capital of participants is not considered to be a security. Therefore, there are no registration requirements with the State Securities Committee.

Transferability of Shares/ participatory interest	Open— no restriction on transferability of one's shares to another. Closed— shareholders have the right of first refusal.	Unless provided otherwise in the Charter, a participant may alienate (sell/transfer) his participating interest to third parties. However, the other participants have the right of first refusal, if the Charter does not provide otherwise.
Management structure	The General Meeting of Shareholders (GMS) is the supreme governing body, which has exclusive competence in fundamental matters (such as amendments to Charter and to the Capital Fund, any decision on liquidation, reorganization, etc.). The law does not allow delegation of such powers to other inferior governing bodies. A JSC which has more than 50 shareholders must create a Supervisory Board. The management body can be either in the form of a board or individual director.	Same as JSC, except there is no requirement for a Supervisory Board, which can be established if so desired by the participants.
Accountability	A JSC must make public its annual report and balance sheet.	
Liquidation & Reorganization	A voluntary liquidation or reorganization is upon a decision of a general shareholders' meeting. A JSC may be reorganized into a LLC.	A voluntary liquidation or reorganization is upon the decision of a general meeting of participants. A LLC may be reorganized into a JSC.
Tax	Identical tax treatment (except in case of distribution of net profits).	

Annex 3: List of business activities requiring a license

Name of type of activity	Authority to issue a license	Amount of state duty (AZN)
Private security activity	Ministry of National Security of the Republic of Azerbaijan (to ensure the safety of legal entities, formed on the territory of the Republic of Azerbaijan by foreign legal entities or foreigners or stateless persons, including legal entities, established with direct or indirect participation of the foreign capital); Ministry of Internal Affairs of the Republic of Azerbaijan in other cases	3000
Cartographic activities	State Committee of the Republic of Azerbaijan on Land and Cartography	1100
Storage and disposal of radioactive and ionized waste	Ministry of Ecology and Natural Resources of the Republic of Azerbaijan	1100
Utilization and neutralization of toxic waste	Ministry of Ecology and Natural Resources of the Republic of Azerbaijan	1100
Purchase, processing and sale of non-ferrous metals and industrial waste including precious metals and stones	Ministry of Economic Development of the Republic of Azerbaijan	2200
Sale of oil products	Ministry of Fuel and Energy of the Republic of Azerbaijan	5500
Sale of gas products	Ministry of Fuel and Energy of the Republic of Azerbaijan	5500
Medical activities	Ministry of Health of the Republic of Azerbaijan	5500
Pharmaceutical activities	Ministry of Health of the Republic of Azerbaijan	5500
Ethyl (potable) alcohol and strong drinks: (wine, cognac, vodka and other strong drinks, list of which is established by the Cabinet of Ministers of the Republic of Azerbaijan):		
production	Ministry of Agriculture of the Republic of Azerbaijan	5500
import		11000
sale	City and region executive organs (with the exception of city districts)	220
Tobacco goods:		

production	Ministry of Agriculture of the Republic of Azerbaijan	5500
import		11000
sale	City and region executive authority (with the exception of city districts)	220
The development, production, sale, purchase, import and export of technical facilities for illegal reception of information by legal and natural persons non-authorized for the fulfillment of investigation activities	Ministry of National Security of the Republic of Azerbaijan	2200
Carriage of passengers and cargo by sea	Ministry of Transport of the Republic of Azerbaijan	5500
Carriage of passengers and cargo by air	Civil Aviation Public Administration of the Republic of Azerbaijan	5500
Communication service:		
telephone (wire)		5000
cellular (mobile)		11000
radio trunk and wireless		5000
arrangement of internal telecommunication channels	Ministry of Communications and Information Technologies of the Republic of Azerbaijan	5000
arrangement of international telecommunication channels		11000
IP-telephony		8000
data communications		6000
express postal service		2500
mobile communication service of 3rd generation (3G)		11000
Activities in the field of projection and production of data protection facilities	Ministry of National Security of the Republic of Azerbaijan	2200

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Fire protection on the basis of agreement of the companies and settlements	3600
Production and purchase of the fire fighting equipment and conducting of tests	3600
Installation of fire protection systems and facilities, their repair and maintenance	3600
Repair and servicing of fire protection equipment, primary fire fighting appliances, restoration of fire fighting appliances performance	3600
Construction, reconstruction and repair of fire protection buildings, constructions and premises	3600
Engineering-prospecting works as per Buildings and structures with I and II level of responsibility according to the state standards	1100
Civil and erection works as per buildings and structures with I and II level of responsibility according to the state standards (except for private houses and summer cottages with height up to 12 meters):	
height up to 40 meters	1100
height up to 65 meters	2200
height up to 65 meters and higher	3300
Creation of biometric technologies and maintenance of such technologies	2200
Building and structures design with I and II level of responsibility according to the state standards	1100

Ministry of Emergency Situations of the Republic of Azerbaijan

Ministry of Communication and Information Technologies of the Republic of Azerbaijan

State Committee for City Planning and Architecture of the Republic of Azerbaijan

Annex 4: Double Taxation Treaties.

Country	Signature date	Effective Date	Country	Signature date	Effective Date
Austria	04.07.2000	23.02.2001	Japan	30.05.2005	11.04.2008
Belarus	08.08.2001	29.04.2002	Kazakhstan	16.09.1996	07.05.1997
Belgium	18.05.2004	12.08.2006	Kingdom of the Netherlands	22.09.2008	18.12.2009
Bulgaria	12.11.2007	25.11.2008	Latvia	03.10.2005	19.04.2006
Canada	07.09.2004	23.01.2006	Lithuania	02.04.2004	13.11.2004
China	17.03.2005	17.08.2005	Moldova	27.11.1997	28.01.1999
Czech Republic	24.11.2005	16.06.2006	Norway	24.04.1996	19.09.1996
Estonia	30.10.2007	27.11.2008	Poland	26.08.1997	20.01.2005
Finland	29.09.2005	29.11.2006	Qatar	28.08.2007	11.03.2008
France	20.12.2001	01.10.2005	Republic of Korea	19.05.2008	25.11.2008
Georgia	18.02.1997	01.12.1997	Romania	29.10.2002	29.01.2004
Germany	25.08.2004	28.12.2005	Russia	03.07.1997	03.07.1998
Grand Duchy of Luxembourg	16.06.2006	02.07.2009	Serbia	13.05.2010	
Great Britain and Northern Ireland	23.02.1994	29.09.1995	State of Kuwait	10.02.2009	
Hashemite Kingdom of Jordan	05.05.2008		Switzerland	23.02.2006	13.07.2007
Hellenic Republic (Greece)	16.02.2009	11.03.2010	Tajikistan	13.08.2007	11.02.2008
Hungary	18.02.2008	15.12.2008	Turkey	09.02.1994	01.09.1997
Islamic Republic of Iran	10.03.2009	25.01.2010	Ukraine	30.07.1999	03.07.2000
Islamic Republic of Pakistan	10.04.1996		United Arab Emirates	20.11.2006	25.07.2007
Italy	21.07.2004	28.04.2010	Uzbekistan	27.05.1996	02.11.1996

Annex 5: The table below summarizes some of the characteristics relating to Azerbaijani taxes.

Rate	Payers	Taxable Base	Exemptions
Profit Tax Generally- 20%	All enterprises (resident and non-resident). Resident enterprises are subject to tax on its total profit. Non-resident enterprises operating in Azerbaijan through permanent establishments ('PE') are subject to tax on profit from such operations.	Difference between income and deductible expenses. In case of a PE gross income generated from Azerbaijani sources through a PE less the amount of expenses incurred with respect to such income.	<ul style="list-style-type: none"> · profit of charity organizations (except from entrepreneurial activity); · grants, membership fees and donations received by non-commercial organizations; · income of international, interstate and intergovernmental organizations (except from entrepreneurial activity) etc.
Excise Tax, various rates (per unit, volume etc)	All persons engaged in the production of excisable goods in Azerbaijan or importation of such goods into Azerbaijan.	Release of excise goods produced in Azerbaijan and import of excise goods into Azerbaijan. Excise goods are spirits, beer and all kinds of alcohol, tobacco products, and petroleum products.	<ul style="list-style-type: none"> · transit transportation of goods through the territory of Azerbaijan; · temporary imports of goods into Azerbaijan except for goods intended for re-export; · goods that are intended for re-export and secured under a pledge etc.
Withholding taxes from income of non-residents 4%, 6%, 10% and 14% depending on type of income.	Enterprises or entrepreneurs making payments to non-residents. Payments made by the PE of non-residents are treated the same as the payments of resident enterprises.	The gross income of a non-resident from an Azerbaijani source not attributable to a PE of the non-resident on the territory of Azerbaijan is subject to taxation at the source of payment, without deduction of expenses.	

Annex 5: The table below summarizes some of the characteristics relating to Azerbaijani taxes, continued from the previous page.

Value Added Tax ('VAT')—0 and 18%	Any person registered or required to register as a VAT payer. There is a requirement to register for VAT purposes if turnover of a taxpayer exceeds a certain threshold. Persons importing goods to which VAT applies are considered payers of VAT on goods so imported.	Value of goods, works, and services provided and value of taxable import.	<ul style="list-style-type: none"> · the cost of property purchased from state enterprises in the course of privatization; · the provision of financial services (including a financial lease); · contributions to a Charter Fund etc. · The following are subject to '0' (zero) rate: <ul style="list-style-type: none"> · The purchase of goods or services, or importation thereof, with the proceeds of foreign grants; · Exports, etc.
Assets Tax. Different rates depend on type of assets. 0.1% of the property with the values exceeding AZN 5,000—for individuals. 1% of the value of fixed assets - for legal entities; Other rates are applicable for possession of watercrafts and air crafts.	All persons and legal entities having assets (buildings or their part, fixed assets etc.) in ownership.	For the physical individuals buildings owned by resident and non-resident individuals in the Republic of Azerbaijan, plus watercraft and aircraft owned by resident individuals, for the legal entities carrying out business activities in Azerbaijan through its permanent establishment— annual average value of only those fixed assets which are related to the PE	<ul style="list-style-type: none"> · facilities that are used for environmental preservation, fire protection or civil defence purposes; · pipelines carrying products, rail and motorways, communication, power transmission lines, irrigation system facilities etc.

Land Tax. Different rates depend on location and type of land plots.	All persons owning or using land in Azerbaijan.	Land plots granted for use or ownership.	Land plots of residential area of common use; national border zones and land designated for defence purposes etc
Mining Tax (Royalty) 3% - 26%	All persons engaged in extraction of commercial minerals from subsoil strata (including Azerbaijan sector of the Caspian Sea)	Commercial minerals extracted from subsoil strata in the territory of Azerbaijan (including Azerbaijan sector of the Caspian Sea).	
Road Tax. Different rates depending on type and capacity of the vehicle, number of seats, distance travelled etc.	Non-resident enterprises and non-resident individuals that own motor vehicles that enter the territory of Azerbaijan and use this territory for passenger and cargo transport; also persons owning or using motorcars, buses or other motor vehicles in Azerbaijan	Vehicles that belong to foreign states, or owned or used by persons in the territory of the Republic of Azerbaijan and enter the territory of the Republic of Azerbaijan	
Simplified System Tax 4% for taxpayers operating in Baku and 2% for taxpayers operating in other regions	Enterprises and individuals with a quarterly turnover not exceeding certain limit (currently 22,500 manats – around 28,500 USD)	Total proceeds realized by a taxpayer from sale of goods or services and from activities non-related to sales.	Exempt from payments of VAT, assets and profit taxes.

