

2 Policy, Regulatory and Administrative Framework

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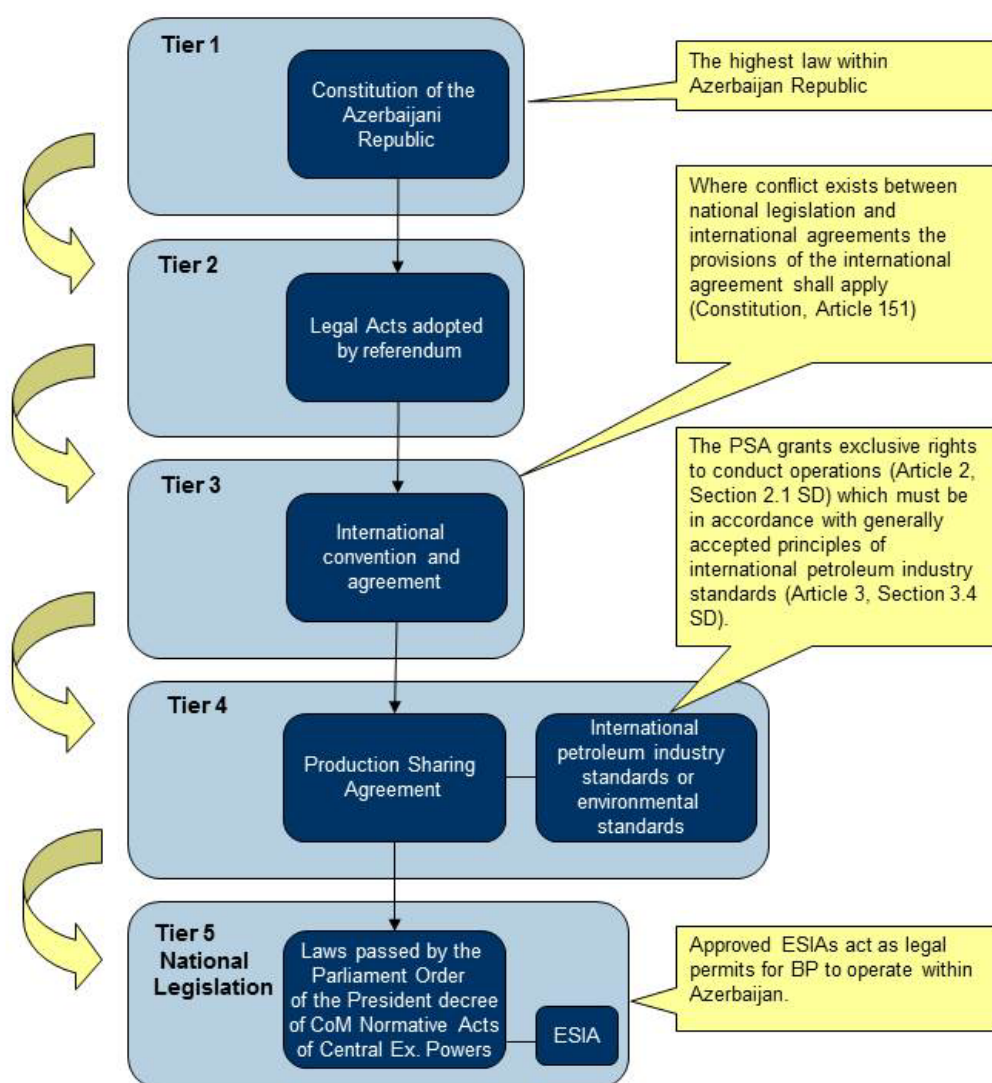
2.1 Introduction

This section provides an overview of the agreements, legislation, standards and guidelines which are applicable to the Shah Deniz 2 (SD2) Project including the following:

- SD Production Sharing Agreement (referred to herein as the “PSA”);
- Applicable national legislation;
- Applicable requirements of international conventions ratified by the Azerbaijan government;
- International petroleum industry standards and practices; and
- BP’s Health Safety Security and Environment (HSSE) Policy.

The legal hierarchy applicable to the SD2 Project is illustrated in Figure 2.1.

Figure 2.1 Azerbaijan Legal Hierarchy



In addition to the applicable legal requirements, the SD2 Project will be undertaken in accordance with BP Group, Segment and Regional standards. An overview of these is provided in Chapter 14.

2.2 The Constitution

The Constitution is the highest law in the Azerbaijan Republic and prevails over national legislation and international agreements. It stipulates the basic rights of people to live in a healthy environment, to have access to information on the state of the environment and to obtain compensation for damage suffered as the result of a violation of environmental legislation.

2.3 Production Sharing Agreement

The PSA establishes the legal regime for the joint development and production sharing of the Shah Deniz field. This agreement, signed by BP and its co-venturers as Contractor Parties (collectively referred to as the “Contractor”) and the State Oil Company of Azerbaijan Republic (SOCAR) was entered into in Baku in June 1996. It was subsequently enacted into the law of the Republic of Azerbaijan after ratification by the Parliament on 17th October 1996. BP Exploration (Shah Deniz) Limited is acting as the Technical Operator for and on behalf of SD PSA participants in accordance with a Joint Operating Agreement and the Operator Services Agreement.

Article 26.2 of the PSA states:

“Contractor shall conduct the Petroleum Operations in a diligent, safe and efficient manner in accordance with the Environmental Standards to minimise any potential disturbance to the general environment, including without limitation the surface, subsurface, sea, air, lakes, rivers, animal life, plant life, crops, other natural resources and property”.

Article 26.1 of the PSA states:

“Contractor shall develop jointly with SOCAR and the State Committee of the Azerbaijan Republic on Ecology and Control over the Use of Natural Resources (“SCE”) safety and environmental protection standards and practices appropriate for the relations of Petroleum Operations”¹.

Article 26.1 also requires that in developing relevant standards and practices, environmental quality objectives, technical feasibility and economic and commercial viability must also be taken into account (refer to Appendix 2A for SD PSA extract) and further states:

“Subject to the first sentence of Article 26.4 the standards, which shall apply to Petroleum Operations from Effective Date shall be the standards and practices set out in part II of Appendix 9 until substituted by new safety and environmental protection standards devised and agreed between Contractor, SOCAR and SCE on a date between the Parties and SCE and from such date such agreed standards and practices shall have the force of law as if set out in full in the Agreement”.

In response to the requirement under Article 26.1 of the PSA, SD specific Environmental Protection Standards (EPS) have been developed for production activities by a working group which included representatives from the Milli Majlis of Azerbaijan Republic, the Cabinet of Ministers of Azerbaijan Republic, experts from the Azerbaijan National Academy of Sciences, SOCAR and MENR. These were formally approved via signed letters from SOCAR and the MENR in 2008. The protocol for their entrance into legal force has been signed by BP on behalf of the SD partners and SOCAR, but has yet to be signed by the MENR. The following SD EPS documents for production activities have been developed:

- **SD EPS: Approval and Permitting** – details the permitting and approval process for SD projects and activities resulting in potential environmental impacts.

¹ The PSA defines petroleum operations as: “all operations relating to the exploration, appraisal, development, extraction, production, stabilisation, treatment (including processing of natural gas), stimulation, injection, gathering, storage, handling, lifting, transporting petroleum to the delivery point and marketing of petroleum from, and abandonment operations with respect to the Contract Area”.

- **SD EPS: Environmental Planning and Environment** – provides an overview of environmental management requirements for SD projects.
- **SD EPS: Environmental Risk Assessment and Management** – details the EPS to be complied with by the Operator for the purposes of conducting Environmental Risk Assessments (ERA) associated with the execution of SD projects.
- **SD EPS: Standards for Environmental Quality** – details the preliminary Maximum Permissible Concentration (MPC) of pollutants which will be used as the basis for deriving EPS which will be applied to discharges and emissions to the environment.
- **SD EPS: Discharges and Emissions** – describes the EPS to be complied with by the Operator and all contractors involved in the execution of SD projects for the purpose of controlling emissions and discharges to the environment.
- **SD EPS: Chemical Selection and Management** – details the EPS to be complied with for the purposes of chemical selection and management by the Operator and all contractors involved in the execution of SD projects.
- **SD EPS: Condensate and Chemical Spill Contingency Planning** – details the EPS to be complied with by the Contractor and all Subcontractors involved in the execution of SD projects for the purposes of condensate and chemical spill contingency planning (CCSCP).
- **SD EPS: Waste Management** – details the EPS to be complied with by the Operator and all contractors involved in the execution of SD projects for the purposes of waste management to ensure waste will be managed in an environmentally safe manner from the site of waste generation to the point of final disposal.

Accordingly, until the protocol, on entrance into legal force of the Production Standards, has been signed by all of the parties, the standards and practices set out in part II of Appendix 9 to the PSA shall continue to apply to production activities.

Article 26.4 of the PSA requires “Contractor” (BP Exploration (Azerbaijan) Limited) to: “*...comply with present and future Azerbaijani laws or regulations of general applicability with respect to public health, safety and the protection and restoration of the environment, to the extent that such laws and regulations are no more stringent than the Environmental Standards*”.

Appendix 9 of the PSA describes the standards and practices common for international petroleum industry that were in existence when the PSA was signed.

2.4 International and Regional Environmental Conventions

Azerbaijan is signatory to numerous international and regional conventions that oblige the government to prevent pollution and protect specified habitats, flora and fauna. Those of relevance to the SD2 Project are listed in Tables 2.1 and 2.2.

Table 2.1 Summary of International Conventions

Convention	Purpose	Status
Bern Convention	Conservation of wild flora and fauna and their natural habitats.	In force in Azerbaijan since 2002.
UNESCO Convention on Wetlands of International Importance especially as Waterfowl Habitat / RAMSAR Convention	Promote conservation of wetlands and waterfowl. In addition, certain wetlands are designated as Wetlands of International Importance and receive additional protection.	Azerbaijan signed the Ramsar Convention in 2001.
Stockholm Convention on Persistent Organic Pollutants	Reduction in releases of dioxins, furans, hexachlorobenzene and PCBs with the aim of minimisation or elimination.	Azerbaijan acceded in 2004.
International Convention for the Prevention of Pollution from Ships/ Vessels (MARPOL), 1973 as amended by the protocol, 1978	The legislation giving effect to MARPOL 73/78 in Azerbaijan is the Protection of the Sea (Prevention of Pollution from Ships) Act 1983. Preventing and minimising pollution of the marine environment from ships - both accidental pollution and that from routine operations.	Azerbaijan acceded in 2004.
UN Convention on the Protection of the Ozone Layer (Vienna Convention)	Framework for directing international effort to protect the ozone layer, including legally binding requirements limiting the production and use of ozone depleting substances as defined in the Montreal Protocol to the Convention. Supported by the Montreal Protocol and amendments (see below).	Azerbaijan acceded in 1996.
Montreal Protocol on Substances that Deplete the Ozone Layer, 1987	Specific requirements for reductions in emissions of gases that deplete the ozone layer. Amended four times: London 1990, Copenhagen 1992, Montreal 1997 and Beijing 1999.	Azerbaijan acceded in 1996.
United Nations Framework Convention on Climate Change, 1992	Seeks to stabilise greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, within a sufficient time frame to allow ecosystem to adapt naturally, protect food production and enable sustainable economic development.	Azerbaijan acceded in 1992 and not formally required to meet specific reduction targets.
Kyoto Protocol, 1997	Follow on from the Framework Convention on Climate Change.	Azerbaijan acceded in 2000.
UN Convention on Biological Diversity, 1992	Conservation of biological diversity including the sustainable use of its components and the fair and equitable sharing of benefits.	Azerbaijan became party to the Convention in 2000.
International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990	Seeks to develop further measures to prevent pollution from ships.	Azerbaijan acceded in 2004.
FAO Plant Protection Convention	A treaty to prevent the spread and introduction of pests of plants and plant products and to promote measures for their control.	Entered into force in Azerbaijan in 2000.
Convention to Combat Desertification	To combat desertification and mitigate the effects of drought.	Entered force in Azerbaijan in 1998.
Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)	Controls trade in selected species of plant and animals.	Entered into force in Azerbaijan in 1999.
Convention for the Protection of the Archaeological Heritage of Europe	Requires each state party to support archaeological research financially and promote archaeology, using public or private funding.	Azerbaijan ratified in 2000.

Convention	Purpose	Status
Basel Convention on Control of Transboundary Movements of Hazardous Wastes and their Disposals	Seeks to control and reduce transboundary movements of hazardous wastes, minimise the hazardous wastes generated, ensure environmentally sound waste management and recovery practices and assist developing countries in improving waste management systems.	Azerbaijan ratified in 2001.
UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions	Promotes participants' right to formulate and implement their cultural policies and to adopt measures to protect and promote the diversity of cultural expressions and to strengthen international cooperation.	Azerbaijan acceded in 2010.

Table 2.2 Summary of Regional Conventions

Convention	Purpose	Status
Aarhus Convention*	To guarantee the rights of access to information, public participation in decision-making and access to justice in environmental matters.	Azerbaijan acceded in 2000.
Espoo Convention*	To promote environmentally sound and sustainable development through the application of ESIA, especially as a preventive measure against transboundary environmental degradation.	Azerbaijan acceded in 1999 and at the time of writing, Azerbaijan had not signed a related protocol on Strategic Environmental Assessment.
Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Helsinki Convention)*	To prevent, control or reduce transboundary impact resulting from the pollution of transboundary waters by human activity.	Azerbaijan acceded in 2002.
UN Convention on Control of Transboundary Movements of Hazardous Wastes and their Disposals	Regulates the transboundary movements of hazardous wastes and provides obligations to its Parties to ensure that such wastes are managed and disposed of in an environmentally sound manner.	Azerbaijan ratified in 2001.
Protocol on Water and Health*	To protect human health and well-being by better water management and by preventing, controlling and reducing water-related diseases.	Azerbaijan acceded in 2003.
UNECE Geneva Convention on Long-range Transboundary Air Pollution*	Provides a framework for controlling and reducing transboundary air pollution.	Entered into force in Azerbaijan in 2002. Has been extended by 8 protocols, none of which at the time of writing have been ratified by Azerbaijan.
International Carriage of Dangerous Goods by Road*	Provides requirements for the packaging and labelling of dangerous goods and the construction, equipment and operations of transportation vehicles. Annexes provide detailed technical requirements.	Entered into force in Azerbaijan in 2000.
Convention on the Transboundary Effects of Industrial Accidents*	To prevent industrial accidents that may have transboundary effects and to prepare for and respond to such events.	Azerbaijan acceded in 2004.
Tehran-Caspian Framework Convention	Ratified by all five littoral states and entered into force in 2006. Requires member states to take a number of generic measures to control pollution of the Caspian Sea. Four protocols have been drafted which will, when adopted, form the basis for national legislation and regulations.	Convention is ratified, but protocols are at the time of writing still in draft form and do not therefore at present provide a binding basis for the development of legislation.
* A UNECE agreement; Azerbaijan became a member of the UNECE in 1993. The major aim of the UNECE is to promote pan-European integration through the establishment of norms, standards and conventions.		

2.5 National Environmental Legislation

The Azerbaijan Government has committed to a process to align national environmental legislation with the principles of internationally recognised legislation, based on EU environmental legislation. As this process is on-going, the SD2 Project will comply with the intent of current national legal requirements where those requirements are consistent with the provisions of the PSA, and do not contradict, or are otherwise incompatible with, international petroleum industry standards and practice.

The framework for national environmental legislation in Azerbaijan is provided by the Law on the Protection of the Environment (1999), which addresses the following issues:

- The rights and responsibilities of the State, the citizens, public associations and local authorities;
- The use of natural resources;
- Monitoring, standardisation and certification;
- Economic regulation of environmental protection;
- State Ecological Expertise (SEE);
- Ecological requirements for economic activities;
- Education, scientific research, statistics and information;
- Ecological emergencies and ecological disaster zones;
- Control of environmental protection;
- Ecological auditing;
- Responsibility for the violation of environmental legislation; and
- International cooperation.

According to Article 54.2 of the Law on Protection of the Environment, EIAs are subject to SEE, which means that the environmental authority (MENR) is responsible for the review and approval of EIA reports submitted by developers. The Law establishes the basis for the SEE procedure, which can be seen as a “stand-alone” check of compliance of the proposed Project with the relevant environmental standards (e.g. for pollution levels, discharges and noise). In addition the law determines that projects cannot be implemented without a positive SEE resolution.

The SEE approach requires state authorities to formally verify all submitted developments for their potential environmental impacts. Current internationally recognised practice emphasises a proportionate, consultative and publicly accountable approach to assessing impacts.

Table 2.3 provides a summary of the key national environmental and social laws.

Table 2.3 Key National Environmental and Social Laws²

Subject	Title	Date	Description / Relevance to SD2 Project ESIA
General	Law of Azerbaijan Republic on the Protection of the Environment No. 678-IQ.	08/06/1999 (last amendment 30/09/2009)	Establishes the main environmental protection principles and the rights and obligations of the State, public associations and citizens regarding environmental protection (described above).
	Law of Azerbaijan Republic on Ecological Safety No. 677-IQ.	08/06/1999 (last amendment 07/12/2007)	One of two keystone laws of the country's environmental legislation (along with the <i>Law on the Protection of the Environment</i>). Its purpose is to establish a legal basis for the protection of life and health, society, the environment, including atmospheric air, space, water bodies, mineral resources, natural landscapes, plants and animals from natural and anthropogenic dangers. The Law assigns the rights and responsibilities of the State, citizens and public associations in ecological safety, including information and liability. The Law also deals with the regulation of economic activity, territorial zoning and the alleviation of the consequences of environmental disasters.
Ecosystems	Law of the Azerbaijan Republic on Specially Protected Natural Territories and Objects No. 840-IQ.	24/03/2000	Determines the legal basis for protected natural areas and objects in Azerbaijan.
	Law of Azerbaijan Republic on Fauna No. 675-IQ.	04/06/1999	Defines the animal world, property rights over fauna and legal relationships between parties. It also describes issues of State inventory and monitoring, and economic and punitive regulations.
Water	Water Code of Azerbaijan Republic (approved by Law No. 418-IQ).	26/12/1997	Regulates the use of water bodies, sets property rights and covers issues of inventory and monitoring. The Code regulates the use of water bodies for drinking and service water and for medical treatment, spas, recreation and sports, agricultural needs, industrial needs and hydro energy, transport, fishing and hunting, discharge of waste water, fire protection and specially protected water bodies. It provides for zoning, maximum allowable concentrations of harmful substances and basic rules of industry conduct.
	Law of the Azerbaijan Republic on Water Supply and Wastewater No. 723-1Q.	28/10/1999	Applicability limited to onshore operations. Restricts industrial waste releases into the sewage system; requires segregation of stormwater and industrial wastes from sewage, and requires legal entities to acquire permissions to operate sewage treatment plant.
	Rules of Referral of Specially Protected Water Objects to Individual Categories, Cabinet of Ministers Decree No. 77.	01/05/2000	The Caspian Sea is a specially protected water body. This resolution requires special permits for disposal if there are no other options for wastewater discharge. The resolution allows for restrictions to be placed on the use of specially protected water bodies, and for further development of regulations related to these water bodies. It requires consent from MENR for activities that modify the natural conditions of specially protected water bodies, and includes provisions for permitting of any discharges to water that cannot be avoided. There are also special requirements for the protection of water bodies designated for recreational or sports use (which includes the Caspian).

² This table is compiled from a variety of sources including: United Nations 2004, Environmental Performance Reviews Series No. 19 – Azerbaijan; Currie & Brown, 2008, Integrated Solid Waste Management System for the Absheron Peninsula Project, and Popov 2005, Azerbaijan Urban Environmental Profile (an ADB Publication).

Subject	Title	Date	Description / Relevance to SD2 Project ESIA
	Rules for Protection of Surface Waters from Waste Water Pollution, State Committee of Ecology Decree No. 1.	04/01/1994	Under this legislation the <i>Permitted Norms of Harmful Impact Upon Water Bodies of Importance to Fisheries</i> require discharges to meet several specified standards for designated water bodies in terms of suspended solids; floating matter; colour, smell and taste; temperature; dissolved oxygen; pH; Biological Oxygen Demand (BOD) and poisonous substances. Limits are based on Soviet era standards and are to be achieved at the boundary of the facility (specific "sanitary protection zone limits") rather than "end-of-pipe" limits. End of pipe limits are defined in facility-specific "eco-passports" and are established with the intent to ensure compliance with applicable ambient standards.
Air	Law of Azerbaijan Republic on Air Protection No. 109-IIQ.	27/03/2001	Establishes the legal basis for the protection of air, thus implementing the constitutional right of the population to live in a healthy environment. It stipulates the rights and obligations of the authorities, legal and physical persons and non-governmental organisations (NGOs) in this respect, sets general requirements for air protection during economic activities, establishes norms for mitigating physical and chemical impacts to the atmosphere, establishes rules for the State inventory of harmful emissions and their sources and introduces general categories of breaches of the Law that will trigger punitive measures.
	Methodology to Define Facilities' Hazards Categories Subject to Hazardous Substance Emissions Levels and Need to Develop Projects' Maximum Permissible Emissions (MPEs).	04/09/1990	Under this methodology the maximum permissible concentrations of harmful substances and their hazard classes are provided. Limits are based on Soviet era standards.
Waste	Law of Azerbaijan Republic on Industrial and Domestic Waste No. 514-IQ.	30/06/1998	Describes State policy in environmental protection from industrial and household waste including harmful gases, waste water and radioactive waste. It defines the rights and responsibilities of the State and other entities, sets requirements for the design and construction of waste-treatment installations, licensing of waste generating activities, and for the storage and transport of waste (including transboundary transportation). The Law also encourages the introduction of technologies for the minimisation of waste generation by industrial enterprises. There is a general description of responses to infringements. This law is specified by Resolutions of the Cabinet of Ministers on the rules of certification of hazardous wastes, state strategy on management of hazardous wastes in Azerbaijan and by Instructions on the Inventorisation Rules and Classification System of the Wastes generated by Industrial Processes and In the Field of Services approved by the MENR.
Subsurface	Law of the Azerbaijan Republic on Subsurface Resources No. 439-IQ.	13/02/1998	Regulates the exploitation, rational use, safety and protection of subsurface resources and the Azerbaijani sector of the Caspian Sea. The Law lays down the principal property rights and responsibilities of users. It puts certain restrictions on the use of mineral resources, based on environmental protection considerations, public health and economic interests.
Information	Law of the Azerbaijan Republic on Access to Environmental Information No. 270-IIQ.	12/03/2002	Establishes the classification of environmental information. If information is not explicitly classified "for restricted use" then it is available to the public. Procedures for the application of restrictions are described. Law aims to incorporate the provisions of the Aarhus Convention into Azeri Law.
Community Health & Safety	Law on Sanitary-Epidemiological Services (authorised by Presidential Decree No. 371).	10/11/1992	Establishes sanitary and epidemiological requirements for industrial entities to be met at design, construction and operational stages, and for other economic activities. Aims to protect the health of the population. It addresses the rights of citizens to live in a safe environment and to receive full and free information on sanitary-epidemic conditions, the environment and public health.
	Law of the Azerbaijan Republic on Protection of Public Health No. 360-IQ.	26/06/1997	Sets out the basic principles of public health protection and the health care system. The Law assigns liability for harmful impact on public health, stipulating that damage to health that results from a polluted environment shall be compensated by the entity or person that caused the damage.

Subject	Title	Date	Description / Relevance to SD2 Project ESIA
	Law of the Azerbaijan Republic on Public Radiation Safety No. 423-IQ.	30/12/1997	Includes requirements for ensuring radiation safety in industrial entities. The Law establishes the main principles of government policy on radiation safety, as well as environmental norms protecting the safety of employees and populations in areas potentially affected by the use of radioactive sources. The Law provides for compensation for damage to health, property and life due to accidents.
	Rules of Filing and Consideration of Applications for Withdrawal of Plots of Land, Allocation of Plots of Land for State and Public Purposes, Resolution No. 42 on Certain Normative-Legal Acts related to the Land Code of the Azerbaijan Republic.	15/03/2000	Identifies process of applying for withdrawal and allocation of plots of land for state and public purposes, including construction of industrial facilities and pipelines.
	State Standard for Stationary Equipment State Committee of Metrology and Standardisation of USSR as GOST 27409-87- from 1987-07-01.	01/07/1987	Includes noise level limitations for the operation of stationary equipment.
Liability	Law on Mandatory Insurances.	24/06/2011	Identifies requirements for the mandatory insurance of civil liability for damage caused to life, health, property and the environment resulting from accidental environmental pollution.
Permitting	A System of Standards for the Environment Protection and Improvement of Natural Resources Utilisation. Industrial Enterprise Ecological Certificate Fundamental Regulations, GOST 17.0.0.04-90.	01/07/1990	The MENR issues ecological documents on the impact on the environment of potentially polluting enterprises. The documents include maximum allowable emissions, maximum allowable discharges, and an "ecological passport." The last item is specific to countries of the Former Soviet Union and contains a broad profile of an enterprise's environmental impacts, including resource consumption, waste management, recycling, and the effectiveness of pollution treatment. Enterprises develop the draft passport themselves and submit it to MENR for approval.
Cultural heritage	Law on the Protection of Historical and Cultural Monuments.	1998	Specifies the responsibilities of state and local authorities, and lays down principles for the use, study, conservation, restoration, reconstruction, renovation and safety of monuments. The Law declares that cultural objects with national status, historical and cultural monuments, cultural goods stored in state museums, archives, libraries, as well as the territories where they are situated, are not subject to privatisation. Requires archaeological studies prior to construction works in areas with archaeological significance.

2.5.1 National EIA Guidance

Guidance on the EIA process in Azerbaijan is provided in the Handbook for the Environmental Impact Assessment Process in Azerbaijan. The Handbook introduces the main principles of the 'western'-type EIA process and details:

- The EIA process, i.e. the sequence of events and the roles and responsibilities of applicants and Government institutions;
- The purpose and scope of the EIA document;
- Public participation in the process;
- Environmental review decision (following its submission to the MENR, the ESIA document is reviewed for up to three months by an expert panel); and
- The appeal process.

A summary of the guidance provided in the Handbook is given in Table 2.4 below.

The approval of an EIA by the MENR establishes the compliance framework, including the environmental and social standards that an organisation should adhere to.

Table 2.4 Summary of Guidance on the EIA Process in Azerbaijan³

Screening	The developer is required to submit an Application (containing basic information on the proposal) to MENR to determine whether an EIA is required.
Scoping	Requirement for a Scoping Meeting to be attended by the developer, experts and concerned members of the public, and aimed at reaching a consensus on the scope of the EIA.
Project Description	Full description of technological process and analysis of what is being proposed in terms of planning, pre-feasibility, construction and operation.
Environmental Studies	Requirement to describe fully the baseline environment at the site and elsewhere, if likely to be affected by the proposal. The environment must be described in terms of its various components – physical, ecological and social.
Consideration of Alternatives	No requirement to discuss Project alternatives and their potential impacts (including the so-called "do-nothing" alternative), except for the description of alternative technologies.
Impact Assessment and Mitigation	Requirement to identify all impacts (direct and indirect, onsite and offsite, acute and chronic, one-off and cumulative, transient and irreversible). Each impact must be evaluated according to its significance and severity and mitigation measures provided to avoid, reduce, or compensate for these impacts.
Public Participation	Requirement to inform the affected public about the planned activities twice: when the application is submitted to the MENR for the preliminary assessment and during the EIA process. The developer is expected to involve the affected public in discussions on the proposal.
Monitoring	The developer is responsible for continuous compliance with the conditions of the EIA approval through a monitoring programme. The MENR undertakes inspections of the implementation of activities in order to verify the accuracy and reliability of the developer's monitoring data. The developer is responsible for notifying the MENR and taking necessary measures in case the monitoring reveals inconsistencies with the conditions of the EIA approval.

³ Source: based on a review of the EIA Handbook and "EIA in the New Oil and Gas Projects in Azerbaijan", Parviz, 2005.

2.6 Regional Processes

2.6.1 European Union

EU relations with Azerbaijan are governed primarily by the EU-Azerbaijan Partnership and Cooperation Agreement (PCA) and the European Neighbourhood Policy (ENP).

The PCA entered into force in 1999. Under Article 43:

“The Republic of Azerbaijan should endeavour to ensure that its legislation will be gradually made compatible with that of the Community”.

As part of the PCA an EU assessment of Azerbaijan’s environmental legislation against EU Directives identified a number of recommendations for the approximation of national legislation with EU Directives⁴. Based on this, a draft national programme was developed that emphasises a flexible approach to amending national legislation to take account of institutional capacity and cost⁵.

Following the enlargement of the European Union, the EU launched the ENP and Azerbaijan became part of this policy in 2004. The current National Indicative Programme for implementing the ENP⁶ includes a commitment to support legislative reform in the environmental sector, including:

- Approximation of Azerbaijan’s environmental legislation and standards with the EU’s;
- Strengthening management capacity through integrated environmental authorisation;
- Improved procedures and structures for environmental impact assessment; and
- Development of sectoral environmental plans (waste and water management, air pollution, etc.).

2.6.2 Environment for Europe

Environment for Europe⁷ is a partnership of member states, including Azerbaijan, and other organisations within the UNECE region. Under the auspices of the Environment for Europe a series of ministerial conferences on the environment have been held that have resulted in the establishment of the UNECE conventions described in Section 2.4.

2.7 International Petroleum Industry Standards and Practices

SD related activities are required to comply with national legislation with respect to public health, safety and protection and restoration of the environment where it is no more stringent than the Environmental Standards (SD PSA Article 26.4). Industry standards including those of the Oil Industry International Exploration and Production Forum (E&P Forum), the International Association of Geophysical Contractors (IAGC) and the International Association of Drilling Contractors (IADC) were specifically mentioned in the SD PSA.

The Convention for the Protection of the Marine Environment of the North-East Atlantic⁸ (the “OSPAR Convention”) is of relevance to SDII offshore activities and in particular to the regulation of chemicals.

⁴ Mammadov, A. & Apruzzi, F. (2004) Support for the Implementation of the Partnership Cooperation Agreement between EU-Azerbaijan. Scoreboard Report on Environment and Utilisation of Natural Resources. Report prepared for TACIS.

⁵ SOFRECO (undated) Support for the Implementation of the PCA between EU-Azerbaijan, Draft Programme of legal Approximation.

⁶ NIP (2007) European Neighbourhood and Partnership Instrument, Azerbaijan National Indicative Programme.

⁷ UNECE (2008) Environment for Europe (<http://www.unece.org/env/efe/welcome.html>).

⁸ Formed by 5 regions – Arctic Waters, Greater North Sea, Celtic Seas, Bay of Biscay and Iberian Coast, and the Wider Atlantic: http://www.ospar.org/content/regions.asp?menu=0002020000000_000000_000000.

2.7.1 OSPAR Guidelines

The Convention for the Protection of the Marine Environment of the North-East Atlantic⁹ (the "OSPAR Convention") was developed from the 1972 Oslo Convention on dumping waste at sea and the 1974 Paris Convention on land-based sources of marine pollution. It was signed on 22 September 1992 by all of the Contracting Parties to the original Oslo or Paris Conventions and by Luxembourg and Switzerland. After ratification it entered into force on 25 March 1998 at the Ministerial Meeting of the parent Conventions.

2.7.2 Harmonised Mandatory Control System and REACH

The OSPAR Decision 2000/2 on the Harmonised Mandatory Control System (HMCS) for the Use and Reduction of the Discharge of Offshore Chemicals is the basis for regulating the use of chemicals by the North Sea offshore oil and gas industry.

The common framework outlined in OSPAR Decision 2000/2 has been incorporated into the national legislation of the contracting parties to OSPAR and each country has its own regulatory scheme to implement OSPAR Decisions and Recommendations.

In addition to the OSPAR Decisions and Recommendations, in 2006 the Registration, Evaluation, Authorisation and restriction of Chemicals (REACH) (EC 1907/2006) Regulation came into force. The OSPAR and REACH systems will initially run in parallel, with the HMCS gradually being harmonised with the obligations of the REACH Regulation¹⁰.

2.7.3 Harmonised Offshore Chemical Notification Format

The HMCS requires the completion of a standard form known as the Harmonised Offshore Chemical Notification Format or HOCNF, which is described in Recommendation 2010/4.

The HOCNF requires details of the chemical composition, the environmental properties of the products including toxicity to aquatic organisms and the fate and effects of component substances, together with how the chemical will be applied with information on the quantities to be used and discharged.

Only substances which appear on the PLONOR List (Pose Little Or NO Risk to the environment and their environmental effects are considered to be well known) are not required to be tested as described above.

Once the HOCNF is submitted, the data are evaluated against the Pre-Screening Scheme, which is designed to eliminate, or require the substitution of chemicals which are highly persistent, highly toxic, or which have high bioaccumulation potential.

CHARM provides a standardised methodology for assessing the environmental hazard of a product. A hazard quotient is calculated, which is based on the ratio of:

- the predicted environmental concentration of a product or substance at a distance of 500m from a discharge (PEC) to:
- the predicted no-effect concentration (PNEC) for that product or substance, derived by applying a safety factor of 10 (for short duration discharges) or 100 (for continuous releases) to the 'most sensitive' results of toxicity testing.

⁹ Formed by 5 regions – Arctic Waters, Greater North Sea, Celtic Seas, Bay of Biscay and Iberian Coast, and the Wider Atlantic: http://www.ospar.org/content/regions.asp?menu=0002020000000_000000_000000.

¹⁰ https://www.og.decc.gov.uk/environment/reach/reach_reg.htm

2.7.4 Ecotoxicological Hazard Assessment

BP has adopted the OSPAR principles as the basis for chemical selection and discharge evaluation in its Caspian operations. The principles have been embedded in:

- The Draft SD EPS: Standards for Environmental Quality and Emissions and Discharges (refer to Section 2.4 above); and
- Routine assessment of chemicals and discharges associated with the SD and Azeri-Chirag-Gunashli (ACG) Projects.
- BP AGT procedures for chemical selection and environmental risk assessment.

The selection of chemicals is restricted to those which have passed the OSPAR screening process (i.e., those which are already on a national approved list, or which have been separately and independently subjected to the screening process)

The process implemented by BP is more location-specific and application-specific than the OSPAR/CHARM approach:

- Toxicity tests are conducted, preferably using Caspian species, and Caspian seawater;
- To complement the HOCNF data available for the components of candidate products, these tests are conducted on the whole, formulated product rather than on the component substances;
- Each release or discharge scenario is subject to site-specific dispersion modelling, and on detailed release scenarios;
- The limit of the mixing zone is determined by the point at which the hazard quotient equals 1 i.e., the 'point of protection' (in contrast, the OSPAR/CHARM process accepts hazard quotients of >1); and
- The significance and acceptability of the estimated mixing zone is assessed using detailed information on the characteristics and sensitivity of the receiving environment in the vicinity of the release.

The results of hazard assessments form the basis on which the national regulatory authorities are informed and consulted, and the basis on which many discharge approvals have been granted.