



UNIDO

HCFC Phase-out project in Azerbaijan

Evaluation of legislation for the protection of the ozone layer in Azerbaijan



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Introduction

The Republic of Azerbaijan, as well as many states of the world, contribute to the environmental protection and comply with sustainable development principles. Azerbaijan adopted a number of national and international laws to address environmental issues.

In the development of this legislative base were adopted legal acts at the level of the Government and other executive bodies.

In addition to regulatory legal acts Azerbaijan has added a number of international conventions and treaties in the field of environmental protection:

- UN Framework Convention on Climate Changes (1992);
- Kyoto Protocol to the UN Framework Convention on Climate Changes (1997);
- UN Convention on Combating Desertification (1996);
- Convention on Biological Diversity (1996);
- Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (2003);
- Framework convention on protection of the marine environment of the Caspian Sea (2003)
- As well as documents that address the issues of preserving the ozone layer:
- Vienna Convention on Ozone layer protection (1985);
- The Montreal Protocol on Substances that Deplete the Ozone Layer (1987).

Azerbaijan Republic ratified Vienna Convention on Ozone layer protection, Montreal Protocol as well as London, Copenhagen and Montreal amendments in 1996. Beijing Amendment was ratified in 2012.

The main government body responsible for the implementation of works on the replacement of ozone depleting substances (ODS) is the Ministry of Ecology and Natural Resources of Azerbaijan Republic. В целях координации этих работ при министерстве создан и функционирует Центр по озону и климатическим изменениям. For coordination of this work at the ministry created a Centre for Ozone and Climate Change.

The aim of this report is the analysis of the legislation of Azerbaijan, a comparative analysis of the laws of foreign countries, and identification of the problems that exist in the field of legal regulation of the import / export of hydrochlorofluorocarbons as well as to outline ways to solve them.

I. Analysis of existing laws and regulations for the consumption, import and export of ODS

1.1. Existing Environmental Protection laws of the Republic of Azerbaijan

In the Azerbaijan Republic adopted many laws, legislation, international treaties and conventions on the protection of the environment, including for the protection of the ozone layer.

The study of the national legislation of Azerbaijan in the field of protection of the ozone layer shows that there are have certain rules and regulations relating directly to the provisions of the Vienna Convention and the Montreal Protocol.

In order to understand the overall context of the development of the legal framework for the implementation of the relevant international obligations for ozone layer protection there were considered some of the laws that have provisions similar to the commitments of the Vienna Convention and the Montreal Protocol.

These laws and other documents are listed below:

- Law of The Azerbaijan Republic on subsoil;
- Law of the Azerbaijan Republic "On information about the environment»;
- Law of the Azerbaijan Republic on Environmental Protection;
- Law of the Azerbaijan Republic on protection of atmospheric air
- Azerbaijan Republic Law on Nature and Nature Conservation
- Azerbaijan Republic Law on specially protected natural territories and objects;
- Azerbaijan Republic Law on Sanitary and Epidemiological Wellbeing;
- Azerbaijan Republic Law on Environmental Safety;
- The legislation of the Azerbaijan Republic on environmental protection;
- Azerbaijan Republic Law on hydro-meteorological activities;
- Law of Azerbaijan Republic on water supply and wastewater;
- The Land Code of the Azerbaijan Republic;
- Law of the Azerbaijan Republic on Radiation Safety;
- Order of the President of Azerbaijan Republic on planting shelterbelts highways;
- Order of the President of Azerbaijan on additional measures to improve the provision of population with clean water

It should be noted that in these laws of the Azerbaijan Republic (AR) is a general articles. This includes the basic terms and concepts, basic principles of law.

The most important one is the following article:

“In the event of a conflict between the legislation of the Azerbaijan Republic and international agreements supported by Azerbaijan, international agreements should be applied”

Let’s consider some of the laws that are particularly close to the management of the problems regarding of protection of the global climate and the ozone layer.

- **Law of the Azerbaijan Republic "On information about the environment»;**

This Law regulates relations arising in connection with the timely receipt from the state authorities and local self-government, as well as the responsible persons of comprehensive, accurate, timely information about the condition of the environment and use of natural resources.

Article 12. Responsibility for illegal restriction of information on the environment. Heads of state bodies or local governments and other officials found guilty of unlawfully restricting the provision of information about the environment, shall be liable in accordance with the law.

- Law of the Azerbaijan Republic on Environmental Protection

This law defines the legal, economic and social framework for the protection of the environment. The purpose of the law is to ensure environmental safety in the field of ecological balance of the environment, elimination of the harmful effects of economic, social and other activity on the natural ecological systems, biodiversity conservation and organization of rational environmental management.

This law regulates the relationship of society and nature in order to strengthen the law and legal rules in the area of improving the quality of the environment, sustainable use and restoration of natural resources and protection of the environment.

Chapter V

Economic regulation in the field of environmental protection

Article 27. The Environmental Protection Funds

Article 28. The use of state funds in environmental protection

2. Disbursement environmental protection funds to the needs that are not related to environmental protection, is prohibited.

Article 45. Environmental requirements for the production and use of potentially hazardous chemical and biological substances.

Special permission for the production and use of potentially hazardous chemical and biological substances is issued after the toxicological-hygienic, toxicological and environmental studies, the establishment of hygienic and environmental standards and the state registration of these substances in accordance with legislation.

Article 47. Protection of the environment from industrial and domestic waste

Article 48. Environmental requirements for military and defense facilities

Established by this law environmental requirements fully applicable to military and defense facilities, except in special cases stipulated by law. There is a

special article In this law, which regulates issues related to the protection of the ozone layer:

Article 49. Climate protection is on the globe and the ozone layer of the atmosphere.

Protection of climate on the globe and the ozone layer is regulated by national legislation and international treaties (agreements) to which the Azerbaijan Republic is party.

- Law of Azerbaijan Republic on protection of atmospheric air

Ambient air is an integral part of the environment affecting the health and ability to work of the people, the flora and fauna. This law, establishing the legal basis of protection of atmospheric air, is aimed at implementing the rights of people to live in a healthy environment and to obtain accurate information about the environment.

Article 4. Governmental tasks in the field of air protection

4.0. The tasks of the government in the field of air protection include:

4.0.1. Establishment of the rules of state calculation of emitted into the atmosphere harmful substances and harmful physical impacts on it;

4.0.2. Drafting and approval of technical standards and permitted limits for emissions, as well as a list of facilities where this limits apply;

4.0.3. Establishment of payments for emission of harmful substances into the air, as well as the rules for compensation for damage caused to human health and the environment caused by air pollution and harmful physical impacts on it;

4.0.4. Setting rules on issuance of special permits for the emission of harmful substances into the air and harmful physical impact on it;

4.0.7. Establishment of the rules of limitation, suspension and termination of harmful emissions into the atmosphere and (or) harmful physical impacts on it in violation of the conditions stipulated in the special permit for the emission of harmful substances into the air and harmful physical impact on it;

4.0.8. Establishment of the rules of certification confirming compliance of fuel, technical installations, technological processes, engines, vehicles and other mobile assets, equipment for air protection requirements;

4.0.9. Definition and implementation of a unified state policy in the field of air protection on the territory of the Republic of Azerbaijan;

4.0.10. Preparation and implementation of state programs in the field of protection of atmospheric air;

4.0.11. Organization of public notification about air pollution and the implementation of targeted state programs for atmospheric air protection

4.0.14. Coordinating of the activities of relevant executive power bodies, legal entities and individuals in the field of protection of atmospheric air;

4.0.15. Establishment of reduction of emissions of harmful substances into the air in accordance with the state programs on protection of atmospheric air and the international obligations of the Republic of Azerbaijan, as well as the timing of this reduction;

Article 11. State registration of harmful and potentially hazardous substances

The relevant executive authority carries out state registration of harmful substances in accordance with legislation, as well as substances that are of potential danger to human health and the environment.

Article 13. General requirements for economic activities having harmful effects on the atmosphere

13.1. In order to prevent possible damage resulting from the use of new techniques, technologies, materials and other products which may have a harmful impact on the air, the following requirements of atmospheric air protection are set up:

13.1.2. It is forbidden application and usage of new technique, technology, equipment, facilities, materials, other products which do not meet the requirements established by the legislation on protection of atmospheric air;

13.1.3. It is prohibited to import into the country adversely affect the quality of air transport, other moving vehicles and equipment, and their spare parts, established by the legislation lifetime has expired;

Article 24. State control in the field of air protection

24.1. State control in the field of air protection should ensure compliance with:

24.1.1. Terms of special permission issued for emitted into the atmosphere of harmful substances and harmful physical impacts;

24.1.4. The implementation of state programs and activities for the protection of atmospheric air;

24.1.6. The other requirements of the legislation and international acts in the field of air defense.

Article 29. Regulation for resolving disputes in the field of air protection

Disputes in the field of air protection are resolved by the courts or in the manner prescribed by legislation of Azerbaijan Republic.

- **Azerbaijan Republic Law on Nature and Nature Conservation**

Article 3. The purpose of the Azerbaijan Republic Law on Nature and Nature Conservation

The purpose of the Law on Nature and Nature Conservation is to ensure the harmonious interaction between society and nature, preserving native Azerbaijan inherent natural features, as well as living organisms and their habitats.

Article 6. The exclusive jurisdiction of the Republic of Azerbaijan in the field of environmental management and environmental protection

Azerbaijan Republic independently determines the order nature management and environmental protection, solves all the issues in this area.

Article 7. The principles of wildlife management and nature protection

The basic principle of nature management organization in the Republic of Azerbaijan is the priority of environmental and social interests of the republic over its economic interests in their reasonable combination.

Chapter II.

The rights of citizens to a healthy and favorable environment for life

Article 8. The right of citizens to a healthy environment for life

Each citizen of the Republic of Azerbaijan has the right to live in the environment favorable for his health and life .

Article 11. The right of citizens to participate in environmental decision-making and control over their execution.

Citizens of Azerbaijan Republic shall have the right to participate in development and adoption of decisions, the implementation of which is associated with a negative impact on the environment, and in the control of their implementation.

Article 94. Principles and guidelines for international cooperation of the Republic of Azerbaijan in the field of environmental protection. The Republic of Azerbaijan, participating in international cooperation in the field of environmental protection, the universally recognized and proclaimed international principles of environmental protection.

Cooperating with other States in the field of environmental protection, the Republic of Azerbaijan shall:

- endeavor to a universal ecological safety;
- to participate actively in solving regional and global problems of nature protection;
- not violate the sovereign rights of other states to their natural resources;
- to supply interested parties with objective information about the environmental situation in the country;
- to cooperate in eliminating the negative effects of environmental disasters and accidents;
- Enhance scientific and technical communication in the field of ecology and natural resources;
- Implement other international obligations on the protection of the environment and natural resources.

Most preferred in the implementation of obligations under the Montreal Protocol is the Decree of the President of the Azerbaijan Republic "On state regulation of the import and export of ozone-depleting substances." Decree is given below:

Azerbaijan Republic Presidential Decree on March 29, 2006 №386

On state regulation of the import and export of ozone-depleting substances

In accordance with Article 4 of the "Montreal Protocol on Substances that Deplete the Ozone Layer" to the Vienna Convention "On Protection of the Ozone Layer", to which the Azerbaijan Republic joined, I decree:

1. To establish that the import of the controlled ozone-depleting substances, defined in "Montreal Protocol on Substances that Deplete the Ozone Layer", to the State which is not party (participant) of the Protocol, to the Azerbaijan Republic and export from the Azerbaijan Republic to the state, which are not a party (participant) of this Protocol is prohibited.

2. Paragraph 1 of the Decree of the President of the Azerbaijan Republic "On state regulation of import and export activities in connection with the ozone-depleting substances" of December 21, 2001 № 608 (Collection of legislation of Azerbaijan Republic, 2001, № 12, Article 754; 2003, № 10, Article 585) to consider repealed.

3. To the Cabinet of Ministers:

3.1. within two months to prepare and approve the list of controlled ozone-depleting substances, defined by the "Montreal Protocol on Substances that Deplete the Ozone Layer", indicating their names and codes according to the commodity nomenclature of foreign economic activity;

3.2. together with the relevant government authorities implement the necessary measures to ensure the execution of state regulation regarding the import and export of ozone-depleting substances;

3.3. resolve other issues arising from this Decree.

4. This Decree comes into force from the date of publication.

1.2. Analysis of compliance of national legislation with the Montreal Protocol and its amendments

In addition to laws and decrees of the country have been carried out other activities concerning the implementation of Montreal Protocol obligations:

1996 – were ratified the Vienna Convention "On Protection of the Ozone Layer", the Montreal Protocol, London and Copenhagen Amendments;

2000 – ratification of Montreal amendment;

2012 - ratification of Beijing amendment.

After the adoption of these laws in the country it has began to be executed decisions of the Montreal Protocol.

In 1998, it was developed the National Action Plan, in 2003 established the Center for Climate Change and Ozone under the Ministry of Ecology and Natural Resources.

Since 2006 it is stopped the usage of CFCs, halons and methyl bromide, since 2015 it was decided to phase out the usage of HCFCs.

Finally, as noted above, all the environmental laws of the country ends the article: "In the event of a conflict between the legislation of Azerbaijan Republic and international treaties to which the Republic of Azerbaijan joined, should be applied these international treaties." According to this, the decisions taken by the Montreal Protocol are mandatory for Azerbaijan. But, unfortunately not always the country could meet the deadline set by the Montreal Protocol.

2. Proposal of amendments to the existing legislation to strengthen the HCFC phase-out process

To enhance the HCFC phase-out process were discussed laws and other documents of the European Union, Russian Federation and Turkey. From the EU considered "Regulation (EC) № 1005/2009 of the European Parliament and the Council of 16 September 2009 on substances that deplete the ozone layer." From the Russian Federation examined the documents "Creation of system of certification for the Russian refrigeration and air conditioning business", "Classification and practical use of ODS" and "Legislation and Standards for RAC sector and the role of professional associations." From the Turkish Republic studied the document "General information about the accounting system ODS Turkish Republic." After consideration and study of all the documents, analysis of the national legislation there were developed three project proposals:

2.1. Additions to the Law of Azerbaijan Republic on protection of atmospheric air

- "Substances that deplete the ozone layer (hereinafter - ozone depleting substances), - chemical substances and their mixtures, a list of which is determined by the Government of the Republic of Azerbaijan in accordance with international treaties of the Republic of Azerbaijan in the field of protection of the ozone layer of the atmosphere;
- treatment of of ozone depleting substances - production, usage, transportation, storage, recovery, recycling and disposal of ozone-depleting substances, import to the Azerbaijan Republic and export from the Azerbaijan Republic of ozone-depleting substances;
- recovery of ozone depleting substances - extraction, collection and storage of ozone-depleting substances contained in the machines and equipment, their components and containers during servicing or before decommissioning;
- recovery of of ozone depleting substances - handling of recovered ozone depleting substances by filtering, drying, distillation and chemical treatment in order to restore consumer properties of ozone depleting substances;
- recycling of ozone-depleting substances - reuse of recovered ozone depleting substances after their recovery;
- destruction of ozone depleting substances - the process of destruction of ozone-depleting substances, leading to their decomposition or conversion of the substance in non-ozone-depleting substances;
- consumption of ozone depleting substances in the Republic of Azerbaijan - the number of produced in the Azerbaijan Republic and imported ozone depleting substances in the Republic of Azerbaijan ozone depleting substances, except for the number of ozone-depleting substances that:
 - exported from the Republic of Azerbaijan;

- produced in the Republic of Azerbaijan and shall be destroyed by technologies approved in the manner prescribed by international treaties accepted by the Republic of Azerbaijan;
- produced in the Azerbaijan Republic and used exclusively as a raw material for the production of other chemicals;
- manufactured in the Republic of Azerbaijan or imported into the Republic of Azerbaijan for essential uses, as defined in accordance with international treaties accepted by the Republic of Azerbaijan.”

2.2. Introduction of amendments to the Draft Resolution

- Since March 1, 2018 to prohibit the storage on sites of the replacement of wastes of products that lost their consumer properties and containing ozone depleting substances, without recovery of these substances from the mentioned products in order to restore them for further recycling or destruction.
- In order to implement article 19 of the Law of Azerbaijan Republic on protection of atmospheric air
- The Ministry of Ecology and Natural Resources of Azerbaijan to the July 31, 2017 to develop a form of reporting of used being in storage, recovered, recycled and destructed substances that deplete the ozone layer, the handling of which is subject to state regulation.
- Since 1 January 2018 oblige juridical persons to keep records of ozone depleting substances and to provide annually, no later than April 1 reports in the Ministry of Ecology and Natural Resources over the past year about used, recovered, recycled and destructed ozone depleting substances in accordance with reporting form;
- Since 1 January 2018 to resolve the handling of ozone depleting substances only in reusable packaging, except for the handling of ozone depleting substances in containers of less than 3 liters for laboratory and analytical uses as defined by international treaties accepted by the Republic of Azerbaijan
- To the bodies of executive power who is in charge with the organizations using ozone depleting substances, provide up to 1 January 2019 the organization of stocks of ozone depleting substances for smooth functioning of the equipment operated by them.
- By January 1, 2018 to develop a Regulation on the minimum requirements for the certification of companies and personnel working in the sector of stationary refrigeration, heat pumps and air-conditioning equipment containing ozone depleting substances.

- Since July 31, 2019 to introduce on the territory of the Republic of Azerbaijan mandatory certification of companies and personnel involved in the stationary refrigeration sector, heat pumps and air-conditioning equipment containing ozone depleting substances.
- By January 1, 2018 to calculate HFC baseline for consideration in accordance with established procedure of the ratification of Kigali amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer

3. The proposal to the Cabinet of Ministers of the Azerbaijan Republic of a draft resolution

"In order to execute Article 3.2 of Presidential Decree of 29 March 2006," On the state regulation in the field of imports and exports ozone depleting substances
"The Azerbaijani Cabinet of Ministers decides:

- Import and export of substances included in Annex C of the Montreal Protocol on Substances that Deplete the Ozone Layer and their mixtures remains at 0.08 ODP tonnes from 2020 and the total ban from 2030.
- From 01 th March 2017 to ban the import of equipment containing these substances and their mixtures.