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REVISED EUROPEAN SOCIAL CHARTER

3rd National Report on the implementation of
the European Social Charter (revised)

submitted by

THE GOVERNMENT OF AZERBAIJAN

(Articles 4, 5, 6, 21, 22, 26, 28 and 29
for the period 01/11/2004 – 31/12/2008)

Report registered by the Secretariat on 10 November 2009

CYCLE 2010

The Third REPORT
of the Republic of Azerbaijan
on
implementation of the Articles 4, 5, 6, 21, 22, 26, 28 and 29
of the European Social Charter (revised)

October 2009

For the period **1st of November 2005 to 31st of December 2008** made by the Government of the Republic of Azerbaijan in accordance with Article C of the Revised European Social Charter and Article 21 of the European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter, the instrument of ratification or approval of which was deposited on **02nd of September 2004**

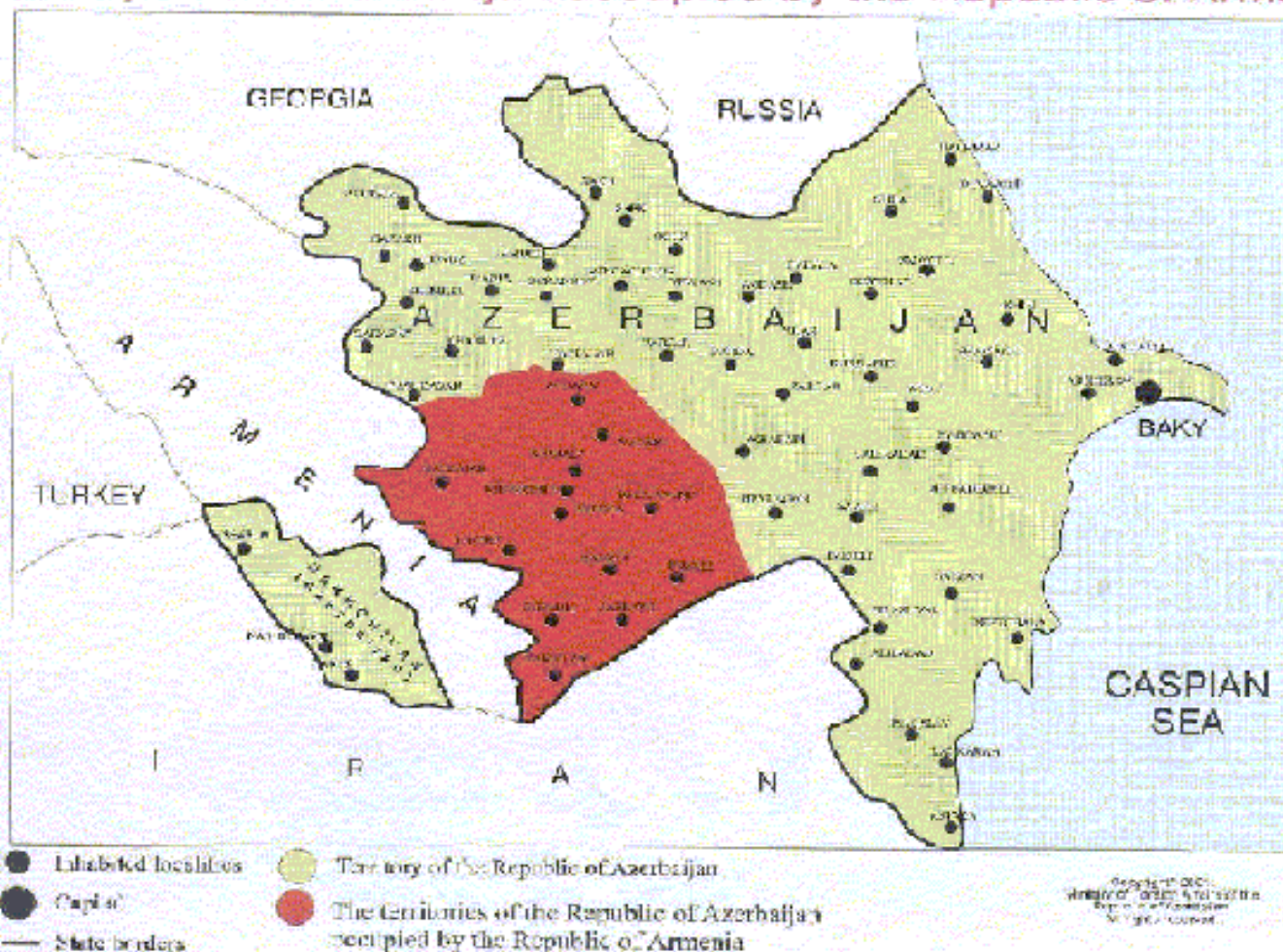
This report also covers the application of such provisions in the following non-metropolitan territories to which, in conformity with Article L, they have been declared applicable: **Republic of Azerbaijan**¹

In accordance with Article C of the Revised European Social Charter and Article 23 of the European Social Charter, copies of this report have been communicated the

- Azerbaijan Confederation of Trade Unions
- National Confederation of Employers' Organisations

¹ The Republic of Azerbaijan declares that it will be unable to guarantee compliance with the provisions of the Charter in its territories occupied by the Republic of Armenia until these territories are liberated from that occupation (the schematic map of the occupied territories is attached)

Schematic map of the territories of the Republic of Azerbaijan occupied by the Republic of Armenia



General information concerning the report

According to Article 151 of the Constitution of the Republic of Azerbaijan whenever there is disagreement between legal and regulatory acts in legislative system of the Republic of Azerbaijan (except Constitution of the Azerbaijan Republic and acts adopted through referendum) and international agreements wherein the Azerbaijan Republic is one of the parties, provisions of those international agreements (including European Social Charter) are applied.

In line with Section 1 of Article 4 of the Labour Code of the Republic of Azerbaijan, that Code shall apply to all enterprises, entities and organizations (hereinafter referred to as "Enterprises") regardless of their property, organizational and legal form established by relevant government bodies, individuals and legal entities of the Republic of Azerbaijan pursuant to the rules specified in the legislation, as well as workplaces where an employment agreement exists without establishment of an entity, to all embassies and consulates of the Republic of Azerbaijan operating outside the territory of the Republic of Azerbaijan, to all ships sailing at international waters under the banner of the Republic of Azerbaijan and to all offshore installations and other workplaces.

According to Section 1 of Article 13 of the Labour Code of the Republic of Azerbaijan, foreign citizens and stateless persons being in the country shall enjoy the same labour rights and have the same obligations as citizens of the Republic of Azerbaijan, unless otherwise is provided by law or an international treaty to which the Republic of Azerbaijan is a party. In this regard, relevant articles of the Labour Code mentioned in the report cover all enterprises, entities and organizations within the country regardless of their organizational and legal forms, and are applied to foreigners and stateless persons working at those entities. In line with Article 6 of the Labour Code, the Code shall not be applied to foreigners signing employment contracts with a legal entity of a foreign country and fulfilling their Labour functions in an enterprise (affiliate, representation) operating in the Republic of Azerbaijan.

Article 4 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to fair remuneration, the Contracting Parties undertake:

1. to recognize the right of workers to a remuneration will give them and their families a decent living standard;
2. to recognize the right of workers to increase rate of remuneration for overtime work, subject to exceptions in particular cases;
3. to recognize the right of men and women workers to equal pay for work of equal value;
4. to recognize the right of workers to a reasonable period of notice for termination of employment;
5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of this right shall be achieved concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Appendix to Article 4§4

This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

Appendix to Article 4§5

It's understood that Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exception being those persons not so covered.

Information to be submitted

Article 4§1

- 1) **Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

According to Article 154 of the Labour Code of Azerbaijan Republic, wages are the total daily or monthly amounts paid in cash or check by the employer to the employee for work

performed (or services rendered) while carrying out his duties during the work period in accordance with the employment contract as well as supplements, bonuses, and other payments.

Employees' wages may not be reduced in any way, nor may employees be paid less than the minimum wage set by the State in violation of principles of non-discrimination.

According to labour legislation of the Republic of Azerbaijan, minimum amount of wages is set by the President of Azerbaijan Republic. The minimum amount of wages is set at 75 manats (USD 93.8) by the Presidential Decree beginning from September 1, 2008 in the Republic of Azerbaijan. Minimum amount of wages was increased by 3 times over 2005-2008 years.

In line with article 155 of the Labour Code, employees have the right to payment of no less than the minimum salary determined by the State without discrimination. The minimum wage is the amount equal to a monthly salary paid to a non-skilled employee based on economic and social conditions and is a social norm which establishes the lowest salary. The monthly wage of an employee who has performed his duties and completed his work quota during the monthly work period shall be no less than the monthly minimum salary set by the State. Collective agreements and employment contracts may establish a higher wage compared to the minimum salary determined by Legislation.

Prizes based on compensation, supplements to compensation, wage increases, and overtime wages shall not be added to the minimum wage.

According to Article 157 of the Labour Code, wages include monthly official salaries, supplements and bonuses.

Official salary is the main part of compensation based on complexity, tension of labour and skill of employee.

Supplements to wages are additional payments added to the employee's official salary as compensation due to working condition or as an incentive.

A bonus is a cash incentive paid in line with payroll system in order to encourage employees for improving the quality and quantity of work.

Employees' compensation may be based on the amount of work performed or the amount of time the employee has put in or on some other criteria. Wages may be based on either the individual or collective result of the work performed.

According to Article 158 of the Labour Code, compensation system, as well as the kind and amount of salaries of employees in state-run organizations are determined by the Cabinet of Ministers of Azerbaijan Republic.

The kinds, systems and standards of wages, tariff (official) wages, wage supplements, bonuses, and other incentives in non-state organizations are specified in collective agreements and employment contracts. If there is no collective agreement, they may be set in employment contracts and, in relevant cases, by mutual agreement between the employer and the trade union.

The amount of an employee's salary shall be based on the results of his/her work performance, personal efficiency and professional standing and it may not be confined by any extent.

The Labour Code of Azerbaijan Republic defines supplements to wages for compensation due to characteristic of working condition or incentive purposes.

In January-December 2008, average monthly wages of employees working in the national economy was increased by 21.7% comparing with average monthly wage of 2007 to amount of 274.4 manats. In January 2009, average national wages was 291.0 manats.

According to the information of State Statistics Committee of the Republic of Azerbaijan, salary of 3% of workers who worked entirely in November 2008 was less than the minimum wage (due to part time work schedule), while the salary of 43.6% was 75-150 manats.

According to Article 14 of the Law of Azerbaijan Republic on "Social Insurance", compulsory state social insurance for elected authorities and entities, enterprises and organizations with legal status established in line with legislation of the Republic of Azerbaijan or any other foreign country regardless of their organizational-legal form, their branches and representations, as well as, bodies insuring others is set at the amount of 22% of the calculated payroll fund, while that sum amounts to 3% for persons appointed to positions by orders of the National Parliament and decrees and orders of the President of Azerbaijan Republic, civil servants, people working on paid, elected positions, military servicemen and persons of special rank (excluding military servicemen serving for a certain period), public prosecutors, deputy public persecutors and their assistants, investigators, persons working on labour contracts.

Membership fees are defined at Statutes of Trade Unions in line with Article 4 of the Law on "Trade Unions" of the Republic of Azerbaijan. Currently, as a rule, membership fees for trade unions are set at 2% of calculated wages.

According to Article 101 of the Tax Code, amount of taxable monthly incomes are defined in following way:

Amount of taxable monthly income	Amount of tax
Up to 2000 manats	14%
More than 2000 manats	280 manats + 35% of amount more than 2000 manats

According to Article 102 of the Tax Code of Azerbaijan Republic, if monthly income of an employee is under 200 manats, then the amount equal to 1 fold of minimum monthly salary (75 manats) and if annual income is up to 2400 manats then the amount equal to 12 folds of minimum monthly salary (900 manats) are exempted from income tax.

If monthly wage of an employee is 291.0 manats (as of January 2009), then his/her average net income after deduction of the abovementioned tax, social security contributions and membership fee for trade unions may be calculated as following: $291,0 - (291,0 \times (14\% + 3\% + 2\%))/100 = 291,0 - 55,29 = 235,71$.

In line with the mentioned rules, income tax is not deducted from salaries of employees earning the minimum monthly wages. In this case, net salary of a person earning the minimum monthly wage after deduction of social security contributions and membership fees for trade unions will be amounted to $75 - (75 \times (3\% + 2\%))/100 = 71,25$ manats. On average, share of the national net minimum wage on the net average wage is 30.2 % ($71.25/235.71 \times 100=30.2\%$).

- 3) Please provide pertinent figures on national average wage² (for all economic activity and after deduction of social security contributions and taxes; this wage may be calculated on an annual, monthly, weekly, daily or hourly basis); national net minimum wage, if applicable, or the net lowest wages actually paid (after deduction of social security contributions and taxes); both net average and minimum net wages should be calculated for the standard case of a single worker; information is also requested on any additional benefits such as tax alleviation measures, or the so-called non-recurrent payments made available specifically to a single worker earning the minimum wage as well as on other factors ensuring that the minimum wage is sufficient to give the worker a decent standard of living; the proportion of workers receiving the minimum wage or the lowest wage actually paid.**

Where the above figures are not ordinary available from statistics produced by the States party, Governments are invited to provide estimates based on ad hoc studies or sample surveys or other recognized methods.

² The concept of wage, for the purpose of this provision, related to remuneration – either monetary or in kind – paid by an employer to a worker for time worked or work done. Remuneration should cover, where applicable, special bonuses and gratuities. The Committee's calculations are based on net amounts, i.e. after deduction of taxes and social security contributions. The national net average wage is that of a full-time wage earner, if possible calculated across all sectors for the whole economy, but otherwise for a representative sector such as manufacturing industry or for several sectors.

Table 1. Dynamics of minimum wages and nominal average monthly wages by years in the Republic of Azerbaijan

Years	Minimum wages (AZN / USD*)	Nominal monthly average wages (manat / USD)	Share of minimum wages in average monthly wages (%)	Share of salaries in overall income of population (%)
2000	1.1/ 1.3 \$	44.3 / 49.5 \$	2.5	25.2
2001	5.5 (from January 1) / 5.9 \$	52.0 / 55.8 \$	10.6	24.8
2002	5.5 / 5.9 \$	63.1 / 64.9 \$	8.7	25.1
2003	9.0 (from September 1) / 9.1 \$	77.4 / 78.8 \$	11.6	28.2
2004	12.0 (from January 1) / 12.2 \$ 20.0 (from July 1) / 20.4 \$	99.4 / 101.2 \$	12.1 20.1	32.2
2005	25.0 (from January 1) / 27.2 \$ 30.0 (from October 1) / 32.6 \$	123.6 / 130.7 \$	20.2 24.3	36.6
2006	30 AZN / 32.6 \$	149.0 / 166.8 \$	20.1	33.3
2007	40.0 (from January 1) / 47.6 \$ 50.0 (from February 1) / 59.5 \$	215.8 / 251.5 \$	18.5 23.2	31.3
2008	60.0 (from January 1) / 75.0 \$ 75.0 (from September 1) / 93.8 \$	274,4 / 343,0 \$	21,9 27,3	-
2009	75.0 (as of May 1, 2009) / 93.8 \$	291.0 AZN (as of January 1. 2009) / 363.8 \$	25.8	-

Source: The State Statistics Committee of the Republic of Azerbaijan "Statistical indicators of Azerbaijan-2008".

Note: The price of USD in terms of Azerbaijan manats (AZN) was 0.91 AZN in 2001, 0.92 AZN in 2005, 0.87 AZN 2006, 0.84 AZN in 2007, and 0.80 AZN in 2008.

As can be seen from the Table, growth rate of average monthly wages in recent years was on average more than 20% in the country. Over the last 3 years, minimum wages were increased by 3 times in Azerbaijan.

Article 4§2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

According to Article 99 of the Labour Code, overtime shall be considered time beyond the established workday during which an employee consensually performs his duties based on an order (instructions, decision) from his employer.

In line with Article 100 of the Labour Code, at workplaces where working conditions are difficult or hazardous no employee may work overtime in excess of four hours during two consecutive working days or be engaged in overtime work exceeding 2 hours.

Overtime shall be permitted only in the following exceptional cases according to Article 101 of the Labour Code:

- during the performance of work necessary for national defence or to prevent or immediately respond to a social or natural disaster or industrial accident;
- during the performance of work vital to the general public such as the supply of water, gas, heat, light, sewage, transportation, and communications, to clean up accidents or solve unanticipated problems which interfere with their proper functioning;
- if it is necessary to complete a job which has already begun and cannot be completed within normal working hours due to unanticipated or accidental delays caused by technical conditions and if failure to complete the work may entail inevitable commodity damage or loss;
- during temporary work to repair and restore mechanisms or structures when their failure to function shall idle a large number of employees;
- in cases when a break at work is impossible due to the absence of a substituting employee.

According to Article 165 of the Labour Code, wages for every hour of overtime work shall be paid to employees as follows:

If wages are based on time worked, the amount paid per hour shall not be less than twice the official hourly wage;

If wages are paid on the basis of piecework performed by the employee, extra wages must be paid in an amount no less than the hourly official wages of employees with the same pay scale (level of expertise).

Additional payment for overtime work may be stipulated in employment contracts and collective agreements. An extra day off may not be granted instead of pay for overtime.

According to Articles 30.1 and 30.2 of the Law of the Republic of Azerbaijan on Civil Service, civil service has 40 hours working period per week. Reduced working hours may be legally defined for civil servants from different categories. Head of government organization may prolong working hours up to 5 hours without remuneration in case of necessity for service in exceptional cases. If working period is prolonged more than 5 hours, then civil servant should be remunerated for each hour worked. If monthly working period is prolonged more than 5 hours in case of necessity (no more than 17 hours per month), civil servant should be paid no less than twice of official salary for each extra hour.

Except for the above mentioned provisions of the law of the Republic of Azerbaijan on Civil Service, overtimes and their remuneration are regulated by the Labour Code.

According to Article 96 of the Labour Code (Record of total hours worked), total hours worked may be used if working hours during the period of record do not exceed the standard number of working hours. In this case, the period of record should not exceed one year and the daily work (shift) period should not be more than 12 hours. The procedures for the use of total working hours shall be regulated by the collective contract, rules governing the work schedule at the enterprise, or the employment contract. In case of application of different working time regimes (shift-based, time-based and etc.) by employers in line with the labour legislation, record of total hours worked is used while adhering to working period norms during the record time.

Article 4§3³

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

The right of men and women workers to equal pay for work of equal value is ensured at Article 16 of the Labour Code. In labour relations, no discrimination among employees shall be permitted on the basis of citizenship, sex, race, nationality, language, place of residence, economic standing, social origin, age, family circumstances, religion, political views, affiliation with trade unions or other public associations, professional standing, beliefs, or other factors unrelated to the professional qualifications, job performance, or professional skills of the employees, nor shall it be permitted to establish privileges and benefits or directly or indirectly limit rights on the basis of these factors.

Limitation of wages in any way against the unacceptability of discrimination set by Article 16 of the Labour Code is prohibited.

Concessions, privileges and additional protection for women, the handicapped, minors, and others in need of social protection shall not be considered discrimination.

³ State parties that have accepted Article 20 of the European Social Charter (revised) do not have to reply to questions on Article 4§3, but must take account of these questions in their answers on Article 20.

Employers or other physical persons that permit the discrimination in labour relations bear the appropriate responsibility in the manner established by the Legislation.

Person subject to the discrimination stipulated may seek recourse in a court of law.

According to Article 12 of the Labour Code one of the basic obligations of the employer in labour relations is to implement requirements of the Labour Code and other legal-regulatory acts related to labour legislation. In line with the Law #424-IIIQD of the Republic of Azerbaijan on "Amendments to some legislative acts due to application the Law of Azerbaijan Republic on Gender (men and women) equality" dated October 1 2007, "f" and "g" items in following contents are added to basic obligations of the employer set in Article 12 of the Labour Code:

"f) to equally treat and create equal opportunities for workers regardless of gender during their recruitment, promotion, vocational training, re-training, upgrading, assessment of quality of work, dismissal;

g) to create equal working conditions for workers undertaking the same work regardless of their gender, don't apply different disciplinary measures for the same violations and take necessary steps to prevent gender based discrimination and sexual harassment".

2) Please indicate the measures taken (administrative arrangements, programs, action plans, projects etc.) to implement the legal framework.

The Government of Azerbaijan Republic ratified Convention #100 of the International Labour Organization (ILO) on "Equal pay to men and women for work of equal value". Regular reports are submitted to ILO related to this Convention and the last one was submitted for the period from June 1, 2005 to May 31, 2007.

3) Please supply detailed statistics or any other relevant information on pay differentials between men and women not working for the same employer by sector of the economy, and according to level of qualifications or any other relevant factor.

The State Statistics Committee of Republic of Azerbaijan regularly prepares and publishes statistical yearbook "Men and women in Azerbaijan". We provide following information on average monthly wages of men and women in some economic sectors of the country from the publication of 2007:

**Table 2. Average monthly wages for men and women in October 2006
(based on results of one-off survey of employees fully worked in October)**

	Average monthly wage, in manat		Average monthly wages of women as a ratio to average monthly wages of men, in %	Share of women in total number of employees, in %
	Women	Men		
Crude oil and natural gas production	198.4	403.6	49.2	13.6
Production of oil products	221.2	278.9	79.3	35.4
Chemistry industry	131.5	201.4	65.3	42.2
Construction	160.1	392.4	40.8	10.8
Wholesale and retail; repair of vehicles, household appliances and goods for personal use	91.1	196.1	46.5	21.4
Services in hotels and restaurants	160.4	250.4	64.1	45.0
Air transport	268.0	430.9	62.2	22.3
Communication	146.9	170.4	86.2	39.4
Finance	318.5	454.4	70.1	38.5
Education	77.7	97.6	79.6	66.2
Provision of medical and social services	60.7	72.0	84.3	82.9

Source: The State Statistics Committee of the Republic of Azerbaijan "Women and men in Azerbaijan-2007".

As can be seen from the table, in some sector of the economy average monthly wages of women and their share in total number of employees are lower than men. But, this can't be considered as discrimination in payment of wages. We think that such a situation is explained by inclination of women towards lighter works, not engagement in areas where overtimes are permitted, not choosing works with performance based payment and other subjective factors.

Analysis of average monthly wages on some prevailing positions in deferent sectors of the economy suggests that in some cases average monthly wages of women are higher than those of men.

Table 3. Gender disaggregated average monthly wages of employees fully worked in October 2007 (based on results of one-off survey of employees fully worked in October)

Nome of employees' professions	Average monthly wages, in manat, of which		Total number of employees fully worked in reporting month, of which		Ratio of average monthly wages of women to average monthly wages of men, in %	Share of women in total number of employees, in %
	Women	Men	Women	Men		
Chemistry: Operators in oil-chemistry production, of which	169.7		782		87,3	60,7
	160.5	183.8	475	307		
Production of oil products: operators of technological devices, of which	359.8		435		85.1	23.0
	317.1	372.6	100	335		
Air transport: board maintenance workers, of which	1443.6		177		102.3	66.1
	1454.9	1421.5	117	60		
Communication: postmen (post women)	76.1		406		103.5	30.5
	77.9	75.3	124	282		
Electricians, of which	136.5		626		105.7	12.8
	143.2	135.5	80	546		

Source: The State Statistics Committee of the Republic of Azerbaijan "Statistical indicators of Azerbaijan-2008".

The Table suggests that average monthly wages of women board maintenance workers in air transport; post-women and electricians are higher than those of men. The share of women is higher among operators in oil-chemistry production sphere (chemistry industry) and board maintenance workers (air transport).

Table 4. Share of men and women employed in different economic activities in the Republic of Azerbaijan

Economic activities	Women		Men		Gender disaggregated (%)	
	Person	%	Person	%	W	M
	Provision of medical and social services	103187	17.1	32135	4.4	76.3
Education	236426	39.1	95903	13.1	71.1	28.9
Provision of other public utility, social and individual services	45239	7.5	34250	4.7	56.9	43.1
Operations on real estate, renting and provision of services to consumers	23526	3.9	34488	4.7	40.6	59.4
Financial activities	4807	0.8	8622	1.2	35.8	64.2
Service provision at hotel and restaurants	4346	0.7	8 116	1.1	34.9	65.1
Wholesale and retail: repair of vehicles, household appliances and goods for personal use	88767	14.7	171075	23.3	34.2	65.8
Processing industry	31913	5.3	79108	10.8	28.7	71.3
Public administration and defence; social security	14601	2.4	36252	4.9	28.7	71.3
Transport, warehouse facilities	22318	3.7	67775	9.2	24.8	75.2
Fishing, fish breeding	156	0.0	592	0.1	20.9	79.1
Production and distribution of electricity, gas and water	8064	1.3	32755	4.5	19.8	80.2
Agriculture, hunting and forestry	8 817	1.5	37591	5.1	19.0	81.0
Mining	5967	1.0	35352	4.8	14.4	85.6
Construction	5841	1.0	59522	8.1	8.9	91.1
Total	603975	100	733536	100	45.2	54.8

Source: The State Statistical Committee of the Republic of Azerbaijan, "Women and men in Azerbaijan-2007" statistical yearbook.

As can be seen from the table, women mainly work in spheres such as health care and social services, education, provision of other public utility, social and individual services. Share of women in those sectors is higher than men. Men prevail (in term of percentage) in operation on real estate, renting and service provision to consumers, financial activities, wholesale and retail, repair of vehicles, household appliances and goods for personal use, processing industry, public administration and defence, social security, transport, warehouse facilities, communication, fishing.

Article 4§4

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

The norm on “recognition of the right of workers to a reasonable period of notice for termination of employment” envisaged in Paragraph 4 of Article 4 of the European Social Charter is regulated with Articles 56, 77 and 80 of the Labour Code of Azerbaijan Republic.

According to the Labour Code of Azerbaijan Republic, in following cases an employee should be notified in advance when employment contract is terminated:

- When labour terms are changed – 1 month in advance
- When number and positions of employees are reduced – 2 months in advance

According to Paragraphs 1 and 2 of Article 56 of the Labour Code of Azerbaijan Republic, when changes in organization of production and employment are necessarily required, changes in labour terms are permitted provided that an employee continues activity on his/her profession, speciality and position. Employer should notify employee through written notice or order at least 1 month in advance before any changes in labour terms (except for terms stipulated at Article 55 of the Labour Code) are launched. If employee doesn't agree to continue his/her work on new labour terms, then he/she should be transferred to another position or in case this is not possible his/her employment contract may be terminated based on paragraph “c” of Article 68 of the Labour Code.

In line with Paragraph 1 of Article 77 of the Labour Code of Azerbaijan Republic, if an individual employment contract is terminated due to a reduction in employees or staff, the employee shall be officially notified by the employer two months in advance in cases provided by Section 70, paragraph “b”.

According to Article 11 of the Law of the Republic of Azerbaijan on Trade Unions, trade unions protects labour rights of their members, participate in preparation of state employment policy. In case where liquidation of an enterprise or its structural units initiated by the employer leads to total or partial halt of production, reduction of work places or degradation of labour condition, relevant trade unions should be informed at

least three months in advance, except for cases stipulated in the legislation and the process should be carried out through negotiations aimed at protecting rights and interests of employees.

Notification period is not defined by the labour legislation in case of termination of employment contracts on following bases:

- when enterprise is liquidated;
- when employment contracts of the employer (director), his/her deputies, chief accountant and heads of structures directly engaged in management functions of the enterprise are terminated due to change of owner of the enterprise;
- in cases not depending of the will of parties;
- in case a relevant decision is made by the appropriate authority that the employee doesn't fit for his/her current position due to lack of professional skills (according to the legislation, the employee should be notified about the attestation 1 month in advance. Results of the attestation are submitted to the management within a week after meeting of the attestation commission and the management executes that decision within 30 days).

The "Labour Condition" monograph (№ 6) of the European Social Charter specifies methods for assessing conformity with the Charter defined by the European Social Rights Committee. These methods define provisions aimed at setting periods for earlier notification of an employee in case of termination of his/her employment contract. But, the Committee finds the absence of notification period reasonable during termination of employment contract, in case material compensation is envisaged at the amount of average monthly wage for at least 12 weeks.

Moreover, Paragraph 4 of Article 4 of the European Social Charter stipulates that immediate termination of employment contracts should not be prohibited for people committed grave crimes.

In view of the abovementioned facts, the Law of the Republic of Azerbaijan "On some amendments to the Labour Code of Azerbaijan Republic" was adopted on September 1, 2004 in order to ensure adherence to requirements of Paragraph 4 of Article 4 of the European Social Charter. Relevant amendments was made to Article 77 of the Labour Code of Azerbaijan Republic in line with the Law which stipulated that the employer shall pay the employee an allowance equal to at least three times the average monthly wage in case his/her employment contract is terminated based on provisions envisaged at subparagraph "c" (due to change of owner of the enterprise) of Paragraph 2 of Article 68 of the Labour Code.

In line with the Law #608-IIIQD of the Republic of Azerbaijan on "Amendments to the Labour Code of the Republic of Azerbaijan" dated May 16 2008, Article 80 of the Labour Code was given in following way:

“1. An employment contract of the employee who is a member to the trade union is terminated by the employer on the grounds indicated in Paragraphs “b” and “c” of Article 70 of the Labour Code (there is a personnel cutback at the enterprise and competent body decides that the employee does not have the professional skills for the job he holds) through getting agreement of the trade union functioning at the enterprise in advance.”

“2. The employer willing to terminate the employment contract of the employee who is a member to the trade unions on the basis of provisions stipulated at Paragraph 1 of this Article, should submit written justified application to the trade union functioning at the enterprise. Relevant explanatory references are attached to the application. The trade union should submit its written justified decision to the employer within 10 days after receipt of the application”.

In all other cases, except for those mentioned above, prior agreement of trade unions is not required while terminating employment constructs by the employer (if additional terms are not envisaged in the collective agreement in this regard).

The direct connection between the worker’s seniority and period of notice for termination of employment has not been specified in the Labour Code of the Republic of Azerbaijan.

Article 4§5

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Cases where wage deductions are allowed and their implementation methods are stipulated at Article 175 of the Labour Code:

With the exception of cases defined hereby, specific deductions may be taken from the salary of the employee only with his written consent or on the basis of a court order. The employer may deduct only the following amounts from an employee's salary:

- a) Appropriate taxes, social insurance fees and other mandatory payments specified by law;
- b) amounts specified in documents produced by order of a court of law;
- c) losses incurred by an employer that were caused by the employee (except in cases when the employee bears full material responsibility) in an amount not to exceed the average monthly salary of the employee;
- d) a portion of the vacation pay proportionate to the vacation days lost as result of the employee's early resignation;
- e) the balance of the money paid in advance to the employee for official travel which was not reimbursed;

- f) over payments to the employee as a result of mathematical errors by the bookkeeper;
- g) the unused portion of money given to the employee to purchase goods and equipment needed for production which has not been returned to the employer;
- h) amounts determined in cases stipulated in collective agreements.

An employer may perform accounting operations to deduct cash advances, money owed by the employee, or overpayments resulting from miscalculation no later than one month after the deadline for its reimbursement. Upon expiry of the noted term, the aforesaid amounts may not be deducted from the employee's account.

No deductions from severance pay, wages, or other payments that are tax-exempt pursuant to law shall be permitted.

With the exception of payments resulting from mathematical error, additional amounts paid to the employee, including the amounts paid as a result of failure to enforce the law or other regulations, may not be deducted.

At the written request of the employee, portions of his/her salary in amounts that he/she specifies may be deducted and sent to relevant creditors at set times in payment for public utility expenditures, loans, credit, and other personal debt. The employer may not accept creditors' requests unless the employee has requested said deductions.

Article 176 of the Labour Code regulates limitation of amount deductible from wages of employees. Total deductions may not exceed 20 percent of the employee's compensation at each time. In the case of legal actions defined by law, the deductions may not exceed 50 percent of his compensation.

When court execution documents require several simultaneous deductions, the employee always shall be paid 50 percent of his compensation.

The limits specified on the basis of the abovementioned facts do not apply to deductions from wages of employees who serve prison sentence, as well as, during deductions of aliments, compensation for damages inflicted to health care, compensation of damages sustained by victims as a result of lost of breadwinner and compensation of damages as a result of criminal acts.

Article 5 – The right to organize

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organizations for the protection of their economic and social interests and to join those organizations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair this freedom. The extent to which the guarantees provided for in this Article shall apply to the Police shall be determined by national law or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws and regulations.

Information to be submitted

- 1) **Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

Article 58 of the Constitution of Azerbaijan Republic defines basis of the rights of citizens to unification. According to that Article, each person has the right to unite with others. Each person has the right to create any unions, including, political party, trade unions and other public associations or join existing unions. Free function of all unions is guaranteed.

No one shall be forced to join or remain member of any union.

Unions willing to forcefully overthrow the legitimate state power in all areas or any part of the Republic of Azerbaijan are prohibited. Unions violating the Constitution or laws are also banned. Unions violating the Constitution or laws may be liquidated only through court decisions.

According to Article 19 of the Labour Code, a trade union may be established on a voluntary basis without discrimination among employees or without prior permission from employers. Employees may join the appropriate trade union and engage in trade union activity in order to protect their Labour and socio-economic rights and legal interests.

In line with Article 3 of the Law of Azerbaijan Republic on “Trade Unions”, workers, pensioners and students have the right to create trade unions on a voluntary basis without discrimination or without prior permission, as well as, to join the appropriate trade union and engage in trade union activity in order to protect their Labour and socio-economic rights and legal interests.

At least 7 people have the right to create a trade union and to unite within a relevant trade union accepting its Statute on voluntary basis.

According to the Article 13 of the Labour Code of the Republic of Azerbaijan, foreign citizens and stateless persons being in the country shall enjoy the same labour rights and have the same obligations as citizens of the Republic of Azerbaijan, unless otherwise is provided by law or an international treaty to which the Republic of Azerbaijan is a party. Limitation of labour rights of foreigners and stateless persons set by this Code and other regulatory acts is prohibited except for cases stipulated in the legislation.

According to the above mentioned facts, foreigners and stateless persons, as well as citizens of member states are entitled to the same rights in establishment, operation and membership of trade unions.

According to the Law #153-IIIQD of the Republic of Azerbaijan dated October 10, 2006 on "Amendments to the Law of the Republic of Azerbaijan on "Trade Unions", the wording "Management of the enterprises shall not be a member of the trade union functioning within that enterprise" was removed from Paragraph 5 of Article 3 of the Law of the Republic of Azerbaijan on "Trade Unions" and in this way limitations for membership to trade unions were liquidated.

Trade unions may create their first organization, as well as, professional, line, national and local units.

In line with Article 5 of the Law of Azerbaijan Republic on "Trade Unions", trade unions are not dependent on state structures, enterprises, political parties and public associations and are not accountable to those bodies. Any interventions that may impede exercise of rights of trade unions are prohibited, except for those envisaged in this Law.

Trade unions freely prepare and approve their statutes, action programs; define their structures; elect and dismiss management; organize meetings, conferences, plenums, assemblies and summits; and operate based on their constitutional rights.

All trade unions have equal rights regardless of their names and organizational structure.

According to the Law #153-IIIQD of the Republic of Azerbaijan dated October 10, 2006 on "Amendments to the Law of the Republic of Azerbaijan on "Trade Unions", the wording "trade unions shall not be engaged in political activities, join or operate with political parties, give to or receive from political parties aids and donations" was removed from Paragraph 1 of Article 6 of the Law of the Republic of Azerbaijan on "Trade Unions".

Chairmen or deputies of trade unions shall not be within management of political parties simultaneously. Chairmen or deputies of trade unions who are appointed to management of a political party may continue their functions in one of these positions on their own will.

In line with Article 7 of the Law, membership to trade unions shall not be basis for restrictions of labour, economic, social, political, personal rights of citizens, except for cases envisaged in the legislation.

Recruitment, promotion or dismissal of workers based on their membership to, joining with or leaving from trade unions is prohibited.

According to Articles 10 and 12 of the Law of the Republic of Azerbaijan on Trade Unions, national units of trade unions may apply and file complaints to relevant legislative, executive and judiciary bodies regarding legal acts, decisions and decrees of government organizations violating interests of employees and rights of trade unions.

Trade unions may bring the case to relevant authorized bodies to hold directors and deputy directors of enterprises (branch, representation, department and other separate unit) disciplinary liable if they violate labour legislation and terms (provisions) of valid collective agreements (contracts). Trade unions may file claim to the court and represent members to protect their rights.

According to Article 21 of the Labour Code, together with trade unions organizations, other representative public self-governing agencies and employers' representative units established in line with the legislation may operate at entities according to their statutes. The owner or manager of an enterprise shall provide the appropriate conditions as stipulated in collective contracts, defined by mutual agreement of this organization and public self-governing agencies and employer or by the contract concluded between them for the activity of trade unions and other employees' representative public self-governing agencies. No political party or religious society may engage in activities at enterprises.

According to Article 25 of the Labour Code, trade unions have the right within the scope of their authority to initiate bargaining to draft, enter into and amend collective contracts and agreements. If there are several trade unions (trade union associations) at the national, industry, territorial and district level, a commission shall be created proportionate to employee membership in order to conduct the bargaining.

According to Article 26 of the Labour Code, employers and authorities must submit the information necessary for bargaining within five days at the commission's request.

In line with Article 3.1 of the Law of the Republic of Azerbaijan on Trade Unions, trade unions may be created at local, territorial, national and nationwide level. Collective agreement is signed between the entity and trade union at enterprise level. Regional collective agreement is concluded between local executives bodies and territorial units of trade unions; field (tariff) collective agreement is signed between ministries, state committees and organizations of the Republic of Azerbaijan and professional, vocational units of trade unions; General Collective Agreement is signed at tripartite level among the

Cabinet of Ministers of the Republic of Azerbaijan, National Confederation of Azerbaijan Entrepreneurs (Employers) Organization and Azerbaijan Trade Unions Confederation.

According to the Law#424-IIIQD of Azerbaijan Republic dated October 1, 2007, paragraph 3 in following content was added to Article 7 of the Law of Azerbaijan Republic on "Trade Unions" due to application of the Law of Azerbaijan Republic on "Provisions of gender (men and women) equality":

"Membership to trade unions should be free and at equal conditions for men and women and equal opportunities should be created for them".

In line with Article 8 of the Law, creation and operation of trade unions with the aim or activity methods to overthrow or forcibly change Constitutional system of Azerbaijan Republic, violate its territorial integrity, promote war, violence and cruelty, as well as, instigate racial, national and religious hostility, contradict the Constitutional power of Azerbaijan Republic and commit other acts not conforming to international legal obligations is prohibited. Such trade unions are liquidated by the Constitutional Court of Azerbaijan Republic in line with the legislation.

Military servicemen are not allowed to join within trade unions. According to Article 32 of the Law of Azerbaijan Republic "On Police", policemen shouldn't engage in politics or be member to any political party.

In line with Article 19.0.10 of the Law of Azerbaijan Republic "On Civil Service", civil servants (including, staff members of internal affairs bodies that are special types of civil service) have the right to join trade unions.

The Law of Azerbaijan Republic on "Non-Governmental Organizations (Public Unions and Foundations)" regulates relations concerning creation and operation of public unions and foundations and defines rules on creation, operation, re-organization and liquidation of non-governmental organizations as legal entities, as well as, their activities, management and relations with state bodies.

This Law doesn't apply to political parties, trade unions, religious associations, local self-management bodies and other non-governmental organizations regulated with different laws.

According to Article 10 of the Law, any individual and legal entity (except for state structures and local self-management bodies) may be member to a public union in the Republic of Azerbaijan.

Members of a public union have equal rights. They may elect or be elected to management of public unions, participate in their activities, carry out control over operation of

management and implement other rights set by the statute. They also should adhere to requirements of the Statute.

2) Please indicate the measures taken (administrative arrangements, programs, action plans, projects, etc) to implement the legal framework.

The State Support to Non-Governmental Organizations Council at the auspice of the President of Azerbaijan Republic was established with the Presidential Decree #674 dated December 13, 2007. According Paragraph 3.3 of Article 3 of that Decree, it's envisaged to allocate appropriate amount while drafting the State Budget each year for involving non-governmental organizations in implementation of programs and projects of high importance for the state and society.

Some measures have been undertaken on implementation of those rights set by the Law of the Republic of Azerbaijan on "Trade Unions".

Azerbaijan Trade Unions Confederation (ATUC) became equal member of world trade union movement, while being member to ILO and ITUC. Relations were established with 34 trade unions representing 29 foreign countries. Line trade unions also strengthen their ties and solidarity with international organizations and trade unions of foreign countries.

According to the Law of the Republic of Azerbaijan on "Trade Unions", at least 7 workers have the right to establish a trade union and unite around relevant trade union while accepting its statute. ATUC covers up to 1.6 mln. members representing 28 line trade unions that include more than 18,000 trade union organizations.

Tasks, organizational works and actions are envisaged to exercise the right to organize that was stipulated in some decisions, programs and projects adopted by ATUC. Such documents as, "Recommendations on creation of trade unions at private enterprises", "Exemplary statute of line trade unions", "Guideline on organization of report-election at Trade Unions in Azerbaijan", "Exemplary program on motivation of membership to trade unions and strengthening organizational unity" and other regulatory acts are aimed at implementing that objective, legislative framework.

Entrepreneurs (Employers) Organizations National Confederation is a public union of employers in the Republic of Azerbaijan in the form of self-managing non-governmental organization voluntarily coordinating activities of legal entities and individuals engaged in entrepreneurship activities regardless of property type and organizational-legal form, as well as, protecting their legal and economic interests, which doesn't intend to gain income as its main objective.

Entrepreneurs (Employers) Organizations National Confederation was established on March 5, 1999 and officially registered on April 9, 1999.

The Confederation undertake following tasks in line with its statutory goals:

- to protect rights, property and other legal interests of business entities before relevant state structures, municipality bodies and other organizations;
- to contribute to further strengthening market infrastructure in line with directions stipulated at state programs aimed at supporting entrepreneurs;
- to participate at collective negotiations with the Azerbaijani Government and Azerbaijan Trade Unions Confederation as a national union of entrepreneurs in order to regulate labour relations in line with labour legislation, as well as, conclude General Collective Agreement at trilateral level with the Azerbaijani Government and Azerbaijan Trade Unions Confederation;
- to ensure establishment of permanent working relations among its members, contribute together with them to implementation of investment, innovation and other initiative projects, as well as, formation of healthy business climate;
- to take part in preparation and implementation of sectoral, regional and national social-economic oriented programs related to development of entrepreneurship;
- to support local businessmen in searching for partners abroad and participate in their provisions with information;
- to draft and undertake laws and other legal-regulatory acts concerning development of entrepreneurship and those related to socio-economic filed;
- to create opportunities for studying world experience in development of entrepreneurship and applying them in appropriate manner in Azerbaijan;
- to support creation and development of socio-economic oriented organizations.

Currently, more than 3500 business entities, including, up to 35 economic and social oriented associations and unions are members to Azerbaijan Entrepreneurs (Employers) Organizations National Confederation. Representatives of the Confederation are operational in 36 regions of the country.

Article 6 – The right of workers to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:

1. to promote joint consultation between workers and employers;
 2. to promote, where necessary and appropriate machinery for voluntary negotiations between employers and employers' organizations and workers organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements;
 3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;
- and recognize
4. the right of workers and employers to collective actions in case of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Appendix to Article 6§4

It's understood that each Party may, insofar as it's concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Information to be submitted

Article 6§1

- 1) **Please describe general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.**

The Azerbaijan Republic has ratified ILO Conventions #87 on "Protection of the rights to association freedom and to organize", #98 on "The right to organize and carry out collective bargaining", #135 on "Representatives of workers" and #154 on "Collective bargaining", and reports on these Conventions are regularly submitted to ILO.

According to the "Collective contracts and agreements" section of the Labour Code of Azerbaijan Republic, labour collectives, employers, trade unions, relevant authorities and employers' representative bodies have the right within the scope of their authority to carry out collective bargaining in order to draft, enter into and amend collective contracts and agreements. The parties to a collective contract shall consist of employers and the trade union. If there is no trade union at the enterprise, the one party to a collective contract shall be a Labour collective. The initiating party shall send a written notice of the commencement of bargaining to the other party. The notified party shall be obliged to commence bargaining within no more than ten days. If there is no trade union at an

enterprise, the Labour collective shall establish a commission with special bargaining powers.

If there are several trade unions (trade union associations) or other employee-authorized representative agencies at the national, industry, territorial and district level, a commission shall be created proportionate to employee membership in order to conduct the bargaining. It shall be unacceptable to refuse to bargain to draft the terms of collective contracts and agreements.

The employer shall compensate costs connected with bargaining. Persons without employment contracts invited by the parties to participate in bargaining shall be compensated on the basis of an agreement between the parties. The participants in collective bargaining shall not be undergone disciplinary responsibility, reassigned to other work, or dismissed by their employers during the bargaining.

According Paragraph 1 of Article 14 of the Labour Code, legislative, executive and judicial bodies shall be responsible for the regulation of Labour relations with respect to the followings within the scope of their authority:

- ensuring that the parties equally and duly meet the legal requirements of Labour relations;
- preventing violations of the rights of employees and employers;
- restoring the violated rights of employees and employers;
- improving the Labour legislation within the scope of their authority;
- enforcing a national Labour relations policy on the basis of the principles of human rights and freedoms as defined by the Constitution of the Republic of Azerbaijan

In line with Paragraph “f” of Article 11 of the Labour Code, one of the basic rights of the employer is to enter into collective contracts with a labour collective or its representative agency and to monitor fulfilment of the obligations under these contracts.

According to Paragraph “c” of Article 12 of the Labour Code, adherence to the terms and conditions of collective agreements and contracts and the obligations foreseen therein are among the priority tasks of the employer.

According to Paragraph 1 of Article 15 of the Labour Code, The State Labour Inspection within the Ministry of Labour and Social Protection of Population implements state oversight for the execution of Labour legislation and the requirements of other Normative Legal Acts.

The Labour Code envisages implementation of some measures by employers, through agreement with trade unions in order to ensure social protection of employees, regardless of signing of collective contracts. Thus, according to Article 80 of the Labour Code, if employment contract of a worker member to the trade union is terminated due to staff cutback or lack of professional skills of the employee for the job he/she holds, the

employer should advise with trade unions. In line with Article 64 and 65 of the Labour Code, attestation committee certifying worker and work places at the enterprises should include representatives of trade unions. According Article 148 of the Labour Code, Work norms shall be implemented, replaced or modified pursuant to collective Labour contracts. When a collective Labour contract has not been signed work norms shall be implemented by employers after they have been coordinated with trade unions. Employees must receive official notice on the adoption of any new work norms at least 2 months in advance. Article 158 of the Labour Code stipulates that remuneration systems and official (tariff) salaries, wage supplements, bonuses, and other incentives shall be specified in collective agreements. If there is no collective agreement, they may be specified in agreement with the trade union. According to Article 184 of the Labour Code, disciplinary regulations in a number of economic spheres are adopted with the participation of trade unions.

In line with the General Collective Agreements that have been signed at the triple socio-economic cooperation mood beginning from 2001 among the Cabinet of Ministers of Azerbaijan Republic, Azerbaijan Trade Unions Confederation and Entrepreneurs (Employers) Organizations National Confederation of Azerbaijan Republic, the Parties undertake to mutually assist each-other in regulation of socio-economic issues through collective agreements.

Article 6§2

1) Please describe general legal framework applicable to the private as well as the public sector. Please specify the nature of, reasons for and extent of any reforms.

According to Article 22 of the Labour Code, the basic principles for drafting, signing, and executing collective contracts and agreements shall be as follows:

- a) Equality of the parties;
- b) The freedom and ability to choose and discuss the issues constituting the substance of collective contracts and employment agreements;
- c) The unacceptability of including in collective contracts and agreements terms that are not stipulated for objective reasons;
- d) Guaranteed fulfilment of obligations;
- e) Compliance with the law;
- f) Oversight of fulfilment of obligations and liability for default

In line Article 23 of the Labour Code, no interference in the process of signing, amending, or executing collective contracts and agreements shall be permitted.

Interference on the part of government authorities, other employers, political parties, voluntary associations, or religious societies which may restrict the legitimate rights of employees or their interests as protected by law or prevent the exercise of said rights in the

process of signing, amending, or executing collective contracts and agreements is prohibited.

According to Paragraph “c” of Article 31 of the Labour Code, collective contract shall include the mutual obligations of the parties in relation to employment, training, professional development, conditions for laying off employees.

According to Section 7 of Article 32 of the Labour Code, a collective contract shall apply to all employees at an enterprise, including individuals hired before the collective contract went into effect.

According to Article 6.2 of the Law of Azerbaijan Republic on Employment, followings are defined as priority directions of state policy on employment: to ensure equal opportunities for all citizens to enjoy their rights to freely chosen labour and employment, regardless of their race, nationality, religion, language, sex, family status, public-social background, place of residence, property status, faith, membership to political parties, trade unions and public associations; to ensure social protection of the unemployed; to carry out special measures for employment of citizens facing challenges in finding a job; to coordinate activities of government structures of the Republic of Azerbaijan, trade unions and organizations of employers in preparing, implementing and carrying out supervision over fulfilment of measures aimed at ensuring of employment.

In line with Article 11 of the Law of Azerbaijan Republic on Employment, relevant central and local executive, and self-governing bodies, organizations of employers and trade unions prepare national and local employment programs on measures supporting employment. Article 16.1 of the Law stipulates possibility of trade unions for participating in preparation of state employment policy and relevant legislative acts of the Republic of Azerbaijan. According to Article 16.2 of the Law, trade unions and their elective structures have the right to submit proposals to employers or their superior structures relating to suspension or temporary halt of measures aimed at mass freeing of employees. Article 16.4 of the Law, envisages that employers (their organizations) and relevant authorities conduct joint consultations on employment issues at the proposal of trade unions. According to the existing legislation, measures on support to employment derived from outcomes of consultations may be stipulated in collective contracts (agreements).

Article 17 of the Law of Azerbaijan Republic on Employment defines roles of employers in provision of the state employment policy. According to that Article, employers assist in implementation of employment policy through execution of measures envisaged in collective contracts (agreements) for social protection of workers freed or dismissed as a result of halt of production, as well as, creation of opportunities for vocational training, re-training and upgrading of employees.

In line with Paragraph 1 of Article 20 of the Labour Code, for the purpose of protecting their interests with respect to their economic, financial, and business activities, as well as

to promote social cooperation with employees' representative agencies, employers may voluntarily establish an organization and unite in this organization.

3) Please provide pertinent figures, statistics or any other relevant information, in particular on collective agreements concluded in private and public sector at national and regional or sectoral level, as appropriate.

General Collective Agreements is signed among the Cabinet of Ministers of Azerbaijan Republic, Azerbaijan Trade Unions Confederation and Entrepreneurs (Employers) Organizations National Confederation of Azerbaijan Republic. The valid General Agreements covers 2008-2009 years.

According to statistics of trade unions as of January 1, 2009:

- 76 sectoral (tariff) agreements were signed
- 12619 collective contracts were concluded
- 965037 members of trade unions were covered by them.

Article 6§3

1) Please describe the general legal framework as regards conciliation and arbitration procedures in the private as well as public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please specify the nature of, reasons for and extent of any reforms.

Article 265 of the Labour Code of Azerbaijan Republic defines following reconciliation methods to resolve collective Labour disputes:

- reconciliation Commission;
- mediator;
- labour arbitration.

Mode of use of reconciliation methods was provided in details in the Labour Code.

The parties may agree between themselves to use one or all of these three methods, or to use a method other than these three methods that may help resolve the dispute faster. The agreement shall be documented and made official.

Representatives of the parties, the Reconciliation Commission, mediator, and Labour arbitrator shall be obliged to resolve the dispute quickly and fairly. If it is necessary in order to continue the reconciliation process, the appropriate time limits indicated herein may be extended with the consent of the parties.

Article 266 of the Labour Code defines roles for review of a Collective Labour Dispute by a Reconciliation Commission.

A Reconciliation Commission shall be created within three working days after the collective Labour dispute has begun and been made official by the order (instruction, decision) of the employer and by the decision of employee representatives.

A Reconciliation Commission shall be created on the basis of equality and with the participation of an equal number of members from both sides. The Reconciliation Commission must review the collective Labour dispute within five days of its establishment.

When the parties come to an agreement, the Reconciliation Commission shall document this agreement. The agreement shall be binding on the parties and implemented within the time frame indicated therein. Failure to reach an agreement also shall be documented.

Article 267 of the Labour Code stipulates mediation of a Collective Labour Dispute. Thus, the mediator shall be an individual with no interest in the resolution of the problem, shall be chosen with the consent of the parties, and shall be an expert and a reputable person. The mediator has the right to receive documents and information related to the collective Labour dispute.

Within five working days after his/her appointment, the mediator shall study the entity's economic situation, the minutes of the commission created for collective bargaining, the proposals of the parties and other necessary documents, and then shall prepare different options for reconciling the positions of the parties. These options shall immediately be submitted to the parties. The parties shall discuss the proposals within five days with the participation of the mediator. If the parties agree to one of the proposals, the problem shall be considered to have been resolved on the basis of that proposal and the agreement shall be documented. If none of the proposals is accepted, this disagreement shall be documented.

Article 268 of the Labour Code reflects Labour Arbitration of a Collective Labour Dispute.

Labour arbitration is a temporary institution created to resolve a collective Labour dispute. It shall be created by a joint decision of the parties no later than five days after the parties agree to resolve the collective Labour dispute by Labour arbitration.

The composition (no less than three people), rules, place where the arbitration panel shall review the dispute, the schedule, and technical assistance to the arbitrators shall be determined by the mutual agreement of the parties. Its members shall choose the head of the arbitration panel. Individuals who have no interest in the outcome of the dispute, representatives of authorities, municipal offices, experts on Labour and social issues and others may be members of the arbitration panel.

The parties may agree in advance that the decision of the arbitration panel shall be binding.

It shall take no more than seven working days for the arbitration panel to review the Labour dispute. The panel has the right to receive documents and information related to the dispute.

The arbitration panel shall make its decision by majority vote, and this decision shall be documented. If the parties do not agree with the decision of the arbitration group, this fact shall be indicated in an official document.

If the parties agree in advance that the decision of the arbitration panel shall be binding, upon the panel's decision, the dispute shall be considered resolved and shall not be allowed to continue.

According to Paragraphs 1 and 2 of Article 269 of the Labour Code, the employer shall create the necessary working conditions for the normal work of the Reconciliation Commission, arbitrator, or arbitration panel. Individuals (members of the Reconciliation Commission, arbitrators, representatives of the arbitration panel, etc.) involved in the process of resolving a collective Labour dispute, shall be protected by the guarantees cited in Article 27 hereof. Thus, persons participating in negotiations are freed from execution of their labour functions for three months while receiving their average monthly salaries during the course of the year, and the time spent in bargaining shall be counted towards their seniority.

The employer shall compensate costs connected with bargaining. Persons invited by the parties to participate in bargaining without employment contract shall be compensated on the basis of an agreement between them and the inviting parties.

The participants in collective bargaining shall not be undergone disciplinary responsibilities, reassigned to other work, or dismissed by their employers during the bargaining.

According to Paragraph 3 of Article 270 of the Labour Code, if the parties agreed to resolve the collective Labour dispute through peaceful means, a strike shall be resorted to only if the dispute cannot be resolved through those means. If the employer needlessly delays peaceful resolution or fails to fulfil an agreement reached through peaceful means, then the labour collective and trade union organizations have the right to strike directly.

Article 6§4

- 1) Please describe the general legal framework as regards collective action in the private as well as the public sector, including where relevant decisions by courts and other judicial bodies, if possible. Please also indicate any restrictions on the right to strike. Please specify the nature of, reasons for and extent of any reforms.**

According Paragraph 2 of Article 262 of the Labour Code, issues of non-compliance or incomplete compliance with collective agreements and contracts and collective requests on other labour and social issues may be raised at the general meeting (conference) of employees or trade unions (union). A decision shall be made by a majority vote of the employees; trade unions shall reach decisions pursuant to their bylaws. In addition to submitting collective requests, employees may chose representatives to participate at meetings with the employer on their behalf, or grant them the authority to have discussions with the trade union.

In line with Article 263 of the Labour Code, if the employer completely or partially ignores the collective request or delays his response to the collective request, a collective Labour dispute shall be considered to have begun. In line with Article 270 of the Labour Code, the right of employees or trade unions to strike shall originate at the time a collective Labour dispute has begun. According Paragraph 4 of that Law, participation in a strike shall be voluntary. Individuals who force employees to participate or not participate in a strike shall be held accountable for their actions pursuant to the law.

Article 272 of the Labour Code stipulates that at least ten days before a strike, the Labour collective or the trade union agency must inform the employer in written form about the decision to go on strike. In line with Article 273, at any stage of the resolution process, employees may organize a short (up to one hour) strike. The decision on such a warning strike shall be made pursuant to rules on collective request. The employer must be notified in writing at least three days before said strike. According to Paragraph 1 of Article 277 of the Labour Code, Strikers shall have the right to freely assemble, discuss the progress of negotiations, hold meetings and hold other public events at workplaces or near the enterprise provided that they do not obstruct employees who are continuing to do their jobs. Article 280 of the Labour Code defines cases where strikes are limited or not permitted. Thus, the right of employees to strike may be limited during martial law or a state of emergency, pursuant to the laws of the Republic of Azerbaijan. Strikes are not permitted for political purposes except when employees try to reconcile the principles of the state's socio-economic policy.

Article 281 of the Labour Code specifies sectors where strikes are forbidden. Strikes are prohibited in certain service sectors (hospitals, power generation, water supply, telephone communications, air traffic control and fire fighting facilities) which are vital to human health and safety. Arbitration shall be mandatory in these sectors if the parties do not resolve an organizational Labour dispute by reconciliation.

An obligatory arbitration panel is created by the Ministry of Labour and Social Protection of Population where strikes are prohibited. Statute of an obligatory arbitration panel is approved by the Ministry of Labour and Social Protection of Population and registered at the Ministry of Justice. The number of obligatory arbitration panel members shall be determined in consultation with the parties to the dispute, shall be no less than five persons, and shall be an odd number. The Ministry of Labour and Social Protection of

Population ensures that the obligatory arbitration panel looks into the dispute promptly and fairly. The decisions of the obligatory arbitration panel shall be binding on all parties to the dispute and shall be implemented immediately.

Article 284 of the Labour Code defines right of the Employer to declare a Lockout and Limitations of this Right. Lockout is a declaration of temporary shutdown of the entity by the employer or its owner in order to prevent illegal and groundless strikes aimed at infringement of his/her rights and interests through collective requirements not conforming to production, economic or financial capacity of the employer.

According to that Article, in the following situations, the employer may declare a lockout by giving a written notice of the entity's shutdown to his/her employees, trade unions and to the relevant executive authorities at least 10 days in advance:

- if the demands of the employees submitted to the employer are beyond his production, economic, financial and other capabilities;
- if there is a strike in violation of the rules;
- if there is undeniable evidence that the employer (employers) who is a competitor or other individual directed the employees to go on a strike.

Before declaring a lockout, the employer must hold discussions with employees and trade unions, and every opportunity must be taken to stop the strike and reach an agreement. If the reason for the lockout exists after the deadline given to employees has expired, the employer may shut down the entity temporarily by declaring a lockout. In circumstances other than those indicated in this Article, government-owned entities or entities more than half-owned by the government may not declare a lockout.

Article 21 – The rights of workers to be informed and consulted within the undertaking

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertook to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:

- a. to be informed regularly or at the appropriate time and in a comprehensive way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of creation information which could be prejudicial to the undertaking may be refused or subject to confidentiality:
- b. to be consulted in good time on proposed decisions which good substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

On Paragraph a) of Article 21:

Information to be submitted

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Article 3 of the Labour Code of Azerbaijan Republic specifies following definitions: enterprise - a legal entity, its affiliate or representation established by the owner in line with the legislation of Azerbaijan Republic regardless of the legal form, name or activity of the organization; employee - an individual who has entered into an employment agreement (contract) with an employer and who works in an appropriate workplace for pay; employer - the owner or manager of a designated establishment or authorized body as well as any individual conducting business without having established an entity who is fully entitled to enter into agreements with employees and to terminate or amend them.

Article 9 of the Labour Code defines the right of employee to obtain appropriate references from his employer with respect to his place of work, position (profession), monthly salary and Labour relations. The employee is entitled to join trade unions or other representative bodies or public organizations, and to take part in strikes, meetings, gatherings and other mass actions implemented by said organizations or by the Labour team that are not prohibited by law.

In line with Paragraph 1 of Article 26 of the Labour Code, the parties shall create a commission consisting of an equal number of representatives from each party to bargain for the purpose of drafting a collective contract or agreement or amendment to it. Paragraph 4 of that Article stipulates that employers and authorities must submit the information necessary for bargaining within five days at the commission's request. Should

said information constitute a state or trade secret, the parties to the bargaining shall be liable under the law for disclosing any information they have received.

According to Article 10 of the Labour Code, one of the basic obligations of employees is to keep state secrets and the employer's trade secrets confidential under the rules and terms established by law.

Paragraph 3 of Article 31 of the Labour Code stipulates the with respect to the enterprise's economic capabilities, a collective contract may stipulate other employment and social and economic terms and conditions, including ones more beneficial than those provided herein (additional vacations, increased pensions, compensation for transportation and travel expenses, free or discounted food, other benefits and compensation).

According Paragraph f) of Article 199 of the Labour Code, the employee bears full financial liability for disclosing the employer's trade secrets

According to the note of Article 284 of the Labour Code, Lockout is a declaration of temporary shutdown of the entity by the employer or its owner in order to prevent illegal and groundless strikes aimed at infringement of his/her rights and interests through collective requirements not conforming to production, economic or financial capacity of the employer.

Article 284 of the Code defines the right of the employer to declare a lockout and limitations of this right. According to Paragraph 2 of Article 284, before declaring a lockout, the employer must hold discussions with employees and trade unions, and every opportunity must be taken to stop the strike and reach an agreement. In line with Paragraph 4 of Article 284, in circumstances other than those indicated in this Article, government-owned entities or entities more than half-owned by the government may not declare a lockout.

According to Paragraph 2 of Article 31 of the Labour Code, as a rule, a collective contract shall include the mutual obligations of the parties in relation to the following matters: improving the productivity and economic performance of the enterprise; defining the procedure and amount of compensation, monetary rewards, benefits, extra payments, and other payments; the mechanism for regulating compensation based on price increases and the level of inflation; terms on employment, training, professional development, laying off employees; cultural and consumer services, social guarantees and benefits for employees and members of their families etc.

In line with Article 7 of the Labour Code, collective agreements may contain extra clauses providing for additional labour, socioeconomic, material, domestic and other relations compared to labour legislation. Necessary information (socio-economic, material-domestic) for bargaining and preparation of collective agreements should be submitted within five days at the commission's request.

In line with Paragraph 2 of Article 34 of the Labour Code, the Parties shall report to the Labour collective on fulfilment of the collective contract at dates stipulated in the contract, but no less than once a year.

On Paragraph b) of Article 21:

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

Article 9 of the Labour Code defines the right of the employer to receive the appropriate social allowances to improve housing and daily living condition for family members, as well as, to get training, advanced training, and retraining. Article 31 of the Labour Code set the content of collective contract. Paragraph e) of that Article defines mutual obligations concerning cultural and consumer services, social guarantees and benefits for employees and members of their families.

According to Paragraph 4 of Article 10 of the Law of Azerbaijan Republic on "Trade Unions", units of trade unions at national level may apply and file complaint to the relevant legislative, executive and judicial bodies concerning legal acts, decrees and orders of state structures that violate interests of workers and rights of trade unions. In line with Article 11 of that Law, trade unions protect labour rights of their members and take part in preparation of the state employment policy. If liquidation of enterprises or its structures at the initiative of the employer leads to full or partial halt of production, cutbacks in staff members or degradation of working condition, such measures should be implemented with notification of relevant trade unions at least three months in advance and conducting negotiations on observance of rights and interests of employees. According to Article 12 of the Law, trade unions have the right to request adherence to legislation on labour, trade unions, as well as, social and economic issues, eradication of revealed violations. The employer should review these requests and inform trade unions about results within the set timeframe but not later than one month. In case director of the enterprise (branch, representation, department and other separate unit) and his/her deputies violate the labour legislation, don't adhere to terms (provisions) of valid collective agreement (contract), trade union may raise a question before the relevant structure for holding them liable. Trade unions may file complaints to the court or carry out representative functions in order to protect rights of their members.

Trade unions provide legal assistance services to their members independently and they may establish trade unions' barristers, legal inspectorate, legal expert groups, legal advice office, firm and other bodies to this end.

According Article 17 of the Law of Azerbaijan Republic on "Trade Unions", trade unions may establish mass media facilities and publish houses, create press services and sociological research centres, and require information that is not state, commercial and other lawfully protected secrets from authorized persons of public and private bodies,

employers in order to carry out their statutory tasks and rights, as well as, powers envisaged in this Law.

Public and private bodies, employers should provide relevant information to trade unions without any hindrance.

According to Article 7.5 of the Law of Azerbaijan Republic on Employment, citizens have the right to free advice and get relevant information on professional orientation, vocational training, re-training and upgrading in order to choose type of employment, work place and labour terms.

In line with Paragraph 1 of Article 56 of the Labour Code of Azerbaijan Republic, when changes in organization of production and employment are necessarily required, changes in labour terms are permitted provided that an employee continues activity on his/her profession, speciality and position. According to Paragraph 2 of the same Article, the employer should notify the employee through written notice or order at least 1 month in advance before any changes in labour terms (except for high norms set in collective agreements) are launched. If the employee doesn't agree to continue his/her work on new labour terms, then he/she should be transferred to another position or in case this is not possible his/her employment contract may be terminated based on changes in labour terms.

According Paragraph 4 of Article 56 of the Labour Code, if changes lead to degradation of working terms of more than 10% of the total number of employees working at the enterprise with at least 50 staff members, the employer should submit official information to the General Employment Service while justifying the aim of these changes. The Ministry of Labour and Social Protection of Population may investigate whether or not these measures are valid or lawful, and take relevant actions within its scope.

In line with Paragraph 1 of Article 77 of the Labour Code, if an individual employment contract is terminated due to a reduction in employees or staff, the employee shall be officially notified by the employer two months in advance.

According to Sub-paragraph m) Paragraph 2 of Article 31 of the Labour Code, the Parties' mutual obligations include consultation and coordination with the trade union in case of an individual employment agreement is terminated at the employer's initiative.

According to relevant amendments made to Article 80 of the Labour Code in line with the Law #608-IIIQD of the Republic of Azerbaijan on "Amendments to the Labour Code of Azerbaijan Republic" dated May 16, 2008, employment contract of the employee who is the member to trade unions is terminated with prior agreement of appropriate trade union if the employer in question is dismissed based on provisions stipulated at Paragraph b (cutbacks in number of staff and positions) and d (the employee doesn't fulfil his/her labour functions or obligations on employment contract or severely violates labour

functions in cases enumerated in Article 72 of the Code) of Article 70 of the Labour Code. The employer willing to terminate employment contract of the worker member to trade union based on one of the mentioned provisions should submit written justification reference to trade union of the relevant entity. Relevant substantiating documents are attached to the reference. Trade union should submit its grounding written decision to the employer within 10 days after receipt of the reference. Prior agreement of trade unions for termination of employment contracts is not required in other cases.

According to Article 4 of the Labour Code of the Republic of Azerbaijan, that Code shall apply to all enterprises, entities and organizations (hereinafter referred to as "Enterprises") regardless of their property, organizational and legal form established by relevant government bodies, individuals and legal entities of the Republic of Azerbaijan pursuant to the rules specified in the legislation, as well as workplaces where an employment agreement exists without establishment of an entity, to all embassies and consulates of the Republic of Azerbaijan operating outside the territory of the Republic of Azerbaijan, to all ships sailing at international waters under the banner of the Republic of Azerbaijan and to all offshore installations and other workplaces. Hence, employees working at private and public entities are covered by the Labour Code without any limitation.

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a. to the determination and the improvement of the working conditions, work organizations and working environment;
- b. to the protection of health and safety within the undertaking;
- c. to the organization of social and socio-cultural services and facilities within the undertaking;
- d. to the supervision of the observance of regulations on these matters.

On Paragraph a) of Article 22:

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

Article 215 of the Labour Code defines occupational safety obligations of owner and employer.

The owner and employer of the establishment shall be directly responsible for the occupational safety of employees in the workplace and for the application of regulations. They also shall be obliged to take the following measures in the workplace:

- obey all occupational safety standards, norms and regulations;
- protect the security of buildings, machinery, technological processes and equipment;
- provide healthy conditions in the workplace and use current public health standards;
- provide the necessary sanitary and cleanliness and provide treatment and prevention services;
- provide employees who work in a harmful or adverse environment with free therapeutic food, milk or other foodstuff equivalents;
- apply normal work and rest standards;
- provide employees with free work clothes, shoes and other necessary protective gear in the required condition and with normal, regular frequency;
- educate, instruct, and test the knowledge of employees on occupational safety standards and regulations and encourage them in occupational safety;
- include necessary occupational safety regulations in the collective contract and assume responsibility as defined in these regulations;
- provide a statistical report on the application of current occupational safety standards and working conditions; on measures taken to implement the standards and the results of activities to achieve these goals. The required information shall be

provided at specific times and in specific forms determined by the Ministry of Labour and Social Protection of Population.

Assessment of heaviness and harmfulness of labour terms at work places is carried out based on the "Methods for assessment of heaviness and harmfulness of labour terms according to results of attestation of work places" prepared in line with Decree #38 of the Cabinet of Ministers of Azerbaijan Republic on "Approval of rules concerning attestation of work places" dated March 6 2000, approved by the Order 15-4 of the Ministry of Labour and Social Protection of Population of Azerbaijan Republic dated December 4, 2002 and registered with certification #2948 of the Ministry of Justice of Azerbaijan Republic dated December 19 2002. Harmfulness of occupational terms and level of heaviness of work are determined through scaling methods based on criteria defined at the "Hygienic Classification of Labour".

At the same time, provisions on improvement of labour terms and working environment of employees at work places are also reflected at "The General Collective Agreement among the Cabinet of Ministers of Azerbaijan Republic, Azerbaijan Trade Union Confederation and Entrepreneurs (Employers) Organizations National Confederation of Azerbaijan Republic for 2008-2009 years" signed among the Cabinet of Ministers of Azerbaijan Republic, Azerbaijan Trade Union Confederation and Entrepreneurs (Employers) Organizations National Confederation of Azerbaijan Republic with the Decree #119 dated May 26, 2008. Thus, Section 5 of the Agreement deals with protection of labour rights, occupational safety, as well as, technical and ecological security issues.

Following regulatory acts were approved for the implementation of those obligations with relevant Decrees of the Cabinet of Ministers of Azerbaijan Republic: #92 dated July 5, 2004 - "List of harmful and heavy production areas, positions and jobs that allows additional right to leave due to working condition and characteristics of labour functions"; #175 dated November 6, 2004 - "List of production areas, positions and jobs with heavy physical, chemistry, biological and other production factors harmful to health of employees that requires reduced working time for employees no longer than 36 hours per week"; #95 dated may 30, 2005 - "Rules on application of the "List of harmful and heavy production areas, positions and jobs that allows additional right to leave due to working condition and characteristics of labour functions" approved by the Decree #92 of the Cabinet of Ministers of Azerbaijan Republic dated July 5, 2004; #146 dated July 26, 2005 - "Rules on application of the "List of production areas, positions and jobs with heavy physical, chemistry, biological and other production factors harmful to health of employees that requires reduced working time for employees no longer than 36 hours per week" approved by the Decree #175 of the Cabinet of Ministers of Azerbaijan Republic dated November 6, 2004.

The draft Law on "Individual insurance for occupational accidents and diseases" was prepared and submitted to the Cabinet of Ministers.

On Paragraph b) of Article 22:**1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

The labour relations are regulated with written contract signed between the employer and employee on individual basis in line with the labour legislation of the Republic of Azerbaijan covering basic terms of labour relations, rights and obligations of the Parties. According to Article 9 of the Labour Code, basic rights of the employee on the employment contract include working under conditions which meet safety and health requirements and demanding such conditions, working reduced hours as established by law for certain professions (positions) and fields, requiring reimbursement for damage to health or property as a result of the performance of his duties etc.

At the same time, collective agreements signed in written form among the employer, labour collective or trade unions regulating labour, socio-economic, household and other relations are of high importance. According to Article 31 of the Labour Code, collective agreements cover mutual obligations such as assessment of labour, definition and re-elaboration of labour norms, improvement of working condition of women and persons under 18 years old, definition of additional provisions for improvement of occupational safety, setting of additional privileged terms for medical and social insurance of employees.

In line with Article 215 of the Labour Code, the owner and employer of the establishment shall be directly responsible for the occupational safety of employees in the workplace and for the application of regulations (the text was given above)

Article 222 of the Labour Code envisages ensuring of conditions for providing a healthy and safe workplace. According to that Article:

1. Employers shall provide a healthy and safe workplace, shall monitor dangerous and harmful production factors, and shall provide employees with information on these subjects in a timely manner.
2. Employers shall prepare and implement annual plans to improve working conditions, to ensure occupational safety, and to protect employee health.
3. The mutual responsibilities of the employer and the employee for the creation of a healthy and safe working environment shall be taken into consideration in collective and employment contracts.
4. If a production site is harmful and dangerous or if the work requires a special temperature or the employees work in a dirty environment, they shall be provided with special clothing, shoes, and other personal necessities including washing materials as required in the relevant regulations.

5. Employers, together with employee unions, shall certify compliance with occupational safety standards and regulations. Employees shall be informed of the results of certification. The employer, acting according to the certification results, shall take measures to comply with current regulations.
6. The employer shall handle services such as the storage, washing, drying, disinfecting, and repair of the special clothes and shoes and other personal protection devices given to employees.
7. In certain production areas determined by law the employer shall provide clean drinking water.
8. For employees who work outside during cold and hot seasons of the year, in closed unheated buildings or in, hot mills the employer shall provide areas to warm up and to rest.

Article 238 of the Labour Code defines responsibility of employers on creation of conditions for protection of healthy and safe work, as well as, other implementation of other measures envisaged in collective contracts.

On Paragraph c) of Article 22:

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

In line with Paragraph "h" of Article 9 of the Labour Code, basic rights of the employee on the employment contract include working under conditions which meet safety and health requirements and demanding such conditions, as well as, receiving the appropriate social allowances to improve housing and daily living for family members .

At the same time, according to Paragraph "e" of Article 31 of the Labour Code, cultural and consumer services, social guarantees and benefits for employees and members of their families are included in the collective agreement.

In line with Article 12 of the Labour Code, taking necessary steps pursuant to the enterprise bylaws (statute) or collective contract to improve the working, material, and living conditions of employees is included among the basic obligations of the employer.

On Paragraph d) of Article 22:

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

Article 235 of the Labour Code ensures Government supervision of rules and regulations for job protection and implementation applicable regulatory legal acts:

- “1. Supervision of roles and regulations for protection of Labour norms and also requirements of Legal-Regulatory Acts on protection of Labour are done by the State Labour Inspectorate.
2. The decisions of government supervision organizations carrying out state control over the observance of Labour legislation (State Labour Inspectorate) and their authorized persons taken within their authority must unconditionally be implemented. Lawsuits can be brought against such decisions in accordance with the applicable laws”.

According to Article 236 of the Labour Code:

- “1. Public supervision of enforcing of laws on job protection is done by persons authorized by Labour collectives and the representatives of trade union organizations.
2. Representatives on job protection have the right to monitor the situation in the work place in regard to job protection, to demand from the authorities the correction of shortcomings discovered, and if necessary to raise issues before the employer regarding taking legal action against the people in fault.
3. In order for the authorized persons to be able to carry his duties the employer should give him at least two hours per week of time during the work day which are paid in average wages”.

Article 237 of the Labour Code defines rights of Labour unions on supervision of implementation of laws on job protection:

- “1. Trade unions can within their rights as specified in "The Law of the Republic of Azerbaijan on Trade Unions" participate in supervision of implementation of laws and applicable regulatory-legal acts on job protection by the employer.
2. Trade Unions are to participate in preparing applicable regulatory legal acts on job protection and ways of enforcing them by mutual agreement, they have the right to protest to related state bodies enforcing of those acts which have not been prepared by mutual agreement.
3. Representatives of Trade unions can participate in work of state commissions on testing production equipment and machinery and initiating their use in production, investigating industrial accidents, monitoring enforcement of job protection laws, and inspecting creation of conditions for their improvement as specified in collective agreements. If the people with authority violate implementation of agreed measures, or hide industrial accidents Trade unions have the right to raise before state bodies the issue of prosecuting of the guilty persons”.

According to Article 209 of the Labour Code, joint activity to improve working conditions and safety by authorities, owners, employers and employees, as well as, prevention of industrial accidents, injuries and occupational illness is among basic principles of occupational safety.

Article 210 of the Labour Code states that “Employers, employees and various physical persons may join and establish public organizations operating pursuant to the law or public organizations in order to settle occupational safety issues. State authorities and employers shall provide multilateral assistance to public organizations and shall consider their proposals and recommendations when adopting occupational safety regulations”.

Article 227 of the Labour Code sets rights of the employee to get occupational safety information:

“Employees shall have the right to demand information about occupational safety in their workplaces, about the necessary occupational safety material which they should be given based on working conditions, and about concessions and guarantees. Employers shall be obliged to satisfy these requirements”.

In line with Article 4 of the Labour Code of Azerbaijan Republic legal rights stipulated in the Code shall apply to all enterprises, establishments, organizations, as well as workplaces where an employment agreement exists without the establishment of an entity, to all embassies and consulates of the Republic of Azerbaijan operating outside the territory of the Republic of Azerbaijan, to all ships sailing in international waters under the banner of the Republic of Azerbaijan and to all offshore installations and other workplaces, regardless of their property, organizational and legal form, and to relevant government bodies, individuals and entities of the Republic of Azerbaijan”.

According to Paragraph “q” of Article 9 of the Labour Code, the employee is entitled to appeal to a court for protection of his Labour rights. At the same time, in line with Article 12 of the Labour Code, employers who violate employees' rights, who do not fulfil their obligations under an employment contract and who violate the conditions of this Code shall be called to appropriate account in the manner established by Legislation.

Article 18 of the Labour Code stipulates that employees, employers, Labour collectives and trade unions shall have the right to initiate an individual or collective employment dispute in order to protect their rights and legal interests. The methods by and terms under which these rights are exercised may be limited under the law.

Moreover, in line with Article 15 of the Labour Code, the Authority implementing state control over the execution of Labour Legislation - the State Labour Inspectorate - shall have the right to require those persons guilty in violation of Labour legislation to cease their violations of the law, to hold these persons accountable before the relevant authorities in cases and the manner determined in the Code of Administrative Offences of the Republic of Azerbaijan.

The State Labour Inspectorate within the Ministry of Labour and Social Protection of Population exercises state control over adherence to the labour legislation and protection of rights of employees defined by the labour legislation. This Authority has the right

within its scope to require persons guilty in violation of the labour legislation to eradicate committed violations, to fine them in line with the legislation and raise an issue to bring them liable before relevant structures.

In line with Article 31 of the Labour Code, trade unions have the power to undertake a control over adherence to terms of collective contracts and define provisions to hold parties liable for violation of terms of collective contracts. Trade unions also participate in execution of supervision on adherence by the management to the legislation regulating occupational safety norms, compensation for damages to employees in connection with performance of their jobs, as well as, condition and sanitation norms at work places. According to the Labour Code, working conditions mean the set of terms, the names of professions (positions), specialities, rates, systems, compensation, working hours, time off, occupational safety, state social insurance and other social, economic, and industrial requirements specified in employment contracts and collective contracts (agreements) and defined by regulations.

Article 237 of the Labour Code sets rights of trade unions on supervision of implementation of laws on job protection. According to that Article, trade unions can within their rights as specified on "The Law of the Republic of Azerbaijan on Trade Unions" participate in supervision of implementation of laws and applicable regulatory legal acts on job protection by the employer. Trade Unions are to participate in preparing applicable regulatory legal acts on job protection and ways of enforcing them by mutual agreement; they have the right to protest to related state bodies enforcing the acts which have not been prepared by mutual agreement.

Representatives of trade unions can participate in work of state commissions on testing production equipment and machinery and initiating their use in production, investigating industrial accidents, monitoring enforcement of job protection laws, and inspecting creation of conditions for their improvement as specified in collective agreements. If the people with authority violate implementation of agreed measures, or hide industrial accidents trade unions have the right to raise before state bodies the issue of prosecuting of the guilty persons.

When dangers for health and life of workers are created the trade unions have the right to raise before the authority carrying out state control over the observance of Labour legislation the issue of stopping the use of any machinery which has faulty components and mechanisms which are dangerous for job safety; the production of other kinds of products, use of materials, equipment, and technology which are hazardous to human health; and also activities and decisions made by the employer which are in violation of laws on job safety.

Trade union organizations shall carry out control over the Labour protection standards and procedures determined by this Code and other legal-regulatory acts through relevant

labour inspection unit operating at their office. The rights and obligations of the inspection shall be regulated by the legislation of the Republic of Azerbaijan.

According to Paragraph 1 of Article 239 of the Labour Code, the employer who is fully or partially responsible for accidents or work related illness is to pay in full both compensation for losses or poor health of the employee, and his medical bills for curing himself, and also pay the costs of social security organizations which paid the employee pension and allowances.

On Paragraph a), b) and c) of Article 22:

Article 9 of the Labour Code delegates following rights to employees in order to ensure definition and improvement of working condition, work organization and working environment, protection of safety and health of employees, organization of social and socio-cultural services and creation of enabling climate:

- to work under conditions which meet safety and health requirements and to exercise the right to demand such conditions;
- to receive the appropriate social allowances from the employer to improve housing and daily living for family members;
- to join trade unions or other representative bodies or public organizations, and to take part in strikes, meetings, gatherings and other mass actions implemented by said organizations or by the Labour team that are not prohibited by law;
- to sign an employment contract, while freely choosing work place and economic activity conforming to his/her profession, speciality, occupation;
- to receive or demand extra salary for overtime;
- to refuse to perform work or services not included in the job description defined by the employment contract and to demand additional salary appropriate for such work;
- to training, advanced training, and retraining;
- work those hours established by law;
- to work reduced hours as established by law for certain professions (positions) and fields;
- to demand reimbursement for damage to health or property as a result of the performance of his duties;
- to receive compulsory social insurance paid by the employer as established by law, as well as other insurance;
- to enjoy day-offs each week established by law;
- to take annual paid leave and, when appropriate, social, unpaid, and educational leave not less than as provided herein;
- to receive a pension, allowances and compensation for social protection in line with rules defined by the legislation;
- to appeal to a court for protection of his Labour rights.

According to Article 19 of the Labour Code, trade union may be established on a voluntary basis without discrimination among employees or without prior permission

from employers. Employees may join the appropriate trade union and engage in trade union activity in order to protect their Labour and socioeconomic rights and legal interests. The law of the Republic of Azerbaijan "on trade unions" and trade union charters shall define the rights, obligations and powers of trade unions.

According to the Labour Code, trade unions which are representative bodies of employees and labour collectives (in case of absence of trade unions) have the right to sign collective agreements with the employer in order to protect labour rights and the abovementioned entitlements of workers.

Article 31 of the Labour Code sets obligations to be included in collective agreement of which, the followings create the basis for ensuring rights of employees stipulated in Paragraphs a), b) and c) of Article 22 of the European Social Charter:

- improving the productivity and economic performance of the enterprise;
- defining additional guarantees to improve occupational safety;
- ensuring environmental safety and protection of employees' health;
- establishing cultural and consumer services, social guarantees and benefits for employees and members of their families;
- defining additional preferential terms and conditions for employee medical and social insurance;
- creating mechanism for regulating compensation based on price increases and the level of inflation and etc.

According to Article 11 of the Law of Azerbaijan Republic on Trade Unions, trade unions protect labour rights of their members and take part in preparation of the state employment policy.

Article 26 – The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organization:

1. to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conducts;
2. to promote awareness, information and prevention of recurrent reprehensible or distinct negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conducts.

Appendix to Article 26

It's understood that this article doesn't require that legislation be enacted by the Parties. It's understood that Paragraph 2 doesn't cover sexual harassment.

Information to be submitted

Article 26 §1 and §2

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.**

The Law #729-IIQD of Azerbaijan Republic on "Some amendments to the Labour Code of Azerbaijan Republic" was adopted by the National Parliament of Azerbaijan Republic on September 1, 2004 in order to reflect a number of requirements stipulated in articles of the European Social Charter in the national legislation:

The Law made amendments to Article 31 of the Labour Code that sets the content of collective agreements and defined following mutual obligations of the Parties to collective agreements:

- supporting to get explanation or give information on work related mockery, obvious hostility and insulting acts against any employees or those happening at work place, preventing such cases and undertaking all necessary measures for protecting workers from such acts;
- supporting to get explanation or give information on work related sexual harassment acts against any employees or those happening at work place, preventing such harassments and undertaking all necessary measures for protecting workers from such acts.

An amendment in the following context was added to Article 12 - "Basic rights of the employer" – of the Labour Code with the Law #697-III QD of Azerbaijan Republic on "Making amendments to the Labour Code of Azerbaijan Republic" dated October 2, 2008:

g) to create the same working condition for workers undertaking the same jobs regardless of their sex, not to apply different disciplinary acts to workers committing the same offences, take necessary steps for preventing gender based discrimination and sexual harassment.

Paragraph 4.2 of Article 274 of the Labour Code envisages that the strike committee should take measures to prevent actions that might impede the employer, his/her representatives, or employees who decided not to participate in the strike from leaving or entering the building freely; as well as, actions that may be injurious to them, and to protect them from being subjected to insults.

The aim of the Law of Azerbaijan Republic on "Provisions of gender (men and women) equality" is to ensure gender equality, while eliminating all forms of gender based discrimination, as well as, creating equal opportunities for men and women in political, economic, social, cultural and other spheres of public life. Article 4 of the Law prohibits sexual harassment. According to Article 10.2 of the Law, publication of notifications with humiliating content and those contradicting principles of equality of men and women is banned. In line with Article 11 of the Law, persons filing complaints against the employer or director for sexual harassment should not be undergone any pressure or persecution. In line with Article 12 of the Law, employment contract of a worker subject to sexual harassment is terminated from the date stipulates by himself/herself in the application for dismissal. According to Article 17.2 of the Law workers subject to sexual harassment get compensation form the employer for inflicted damages in line with the legislation of Azerbaijan Republic.

In line with Paragraph 4 of Article 189 of the Labour Code, the order (instructions, decision) concerning disciplinary action shall not include information denigrating the employee's honour and dignity, his identity or moral sensibilities, nor shall it be based on vengeance for his lack of discipline.

According to Article 75 of the Labour Code, when entering into employment contracts the parties may define conditions for termination of these contracts in addition to those provided herein. But in that case, terms degrading their honour and dignity of employees and limiting their rights should not be set in the employment contract.

According to Paragraph 1 of Article 62 of the Labour Code, , the employer may remove the employee during working hours in the following cases in order to protect the interests of owner and employees, prevent possible violation of occupational safety rules and ensure Labour discipline:

- the employee comes to work under influence of alcohol, drugs, narcotics, or other intoxicants or drinks or takes these substances at work;
- the employee refuses to undergo medical examination as defined by Section 226 hereof or does not comply the recommendations provided by the medical commission as a result of an examination;
- the employee commits administrative offences or crimes at his place of work that are confirmed by a decision from an appropriate Executive Authority and creates a public menace during working hours.

Dismissal of the employee must be supported by proof (doctor's statement, testimony by employees, references and other official documents) in each specific case.

Should the employee consider his/her dismissal illegal and groundless as a result of malice, false documentation or other facts, he/she may appeal to a court to restore his violated rights and defend his honour.

According to Paragraph 3 of Article 290 of the Labour Code, employers shall bear material liability for spiritual damage caused to employees in the course of Labour relations. The term "spiritual damage caused to the employee " used in this Article shall mean the defamation and humiliation of the employee's honour and dignity, the casting of aspersions on him, insulting his person and spreading false information to disgrace him among the members of the collective or other actions offensive to his morality, ethics, national dignity and faith. An employee who claims that spiritual damage has been caused to him must indicate the monetary amount of his claim in his application. The monetary amount of the spiritual damage inflicted to the employee shall be determined by the court on the basis of the employee's application pursuant to the degree of public danger of said damage, the personality of the employer and employee, the actual arguments of the case and other objective factors for the adoption of a fair decision.

According to Article 198 of the Labour Code, except in the situations defined in Article 199 hereof, in all other situations the employee shall be liable to pay up to one month's average salary for damages he/she caused to the employer. In line with Article 199 of Labour Code, the employee bear full financial liability when he/she stains employer's personality with illegal acts, humiliates employer's honour and dignity and causes spiritual damage to him and his ownership activity by spreading false, slanderous and abusive information.

2) Please indicate the measures taken (administrative arrangements, programs, action plans, projects etc.) to implement the legal framework.

With a view to comprehensively organize struggle against daily violence acts based on international principles and national legislation, the Cabinet of Ministers of Azerbaijan Republic approved the "National Comprehensive Program on combating daily violence acts in democratic society" and Action Plan on implementation of this Program with the Decree #17s dated January 25, 2007. The Action plan envisages measures aimed at eradicating daily violence acts faced by employees and raising their awareness and getting

them informed in this field. In line with the Action Plan that was adopted as an additional act to “The Employment Strategy of the Republic of Azerbaijan for 2006-2015 years”, The Country Program on Provision of Decent Labour for 2006-2009 years in collaboration with the ILO” and “The State Program on Poverty Reduction and Sustainable Development for 2008-2015 years” relevant measures are being undertaken for protecting dignity of employees and raising their awareness in this field.

Centre on gender equality and women’s problems at the auspice of the Azerbaijan Trade Unions Confederation carries out monitoring to reveal violations of rights, insulting, harassment of men and women, as well as implements relevant awareness raising events to prevent such cases.

3) Please supply any relevant statistics or other information on awareness raising activities and programs and on the number of complaints received by ombudsmen or mediators, where such institutions exist.

112 complaints sent by the Ombudswomen to the State Labour Inspectorate were investigated and relevant answers given over 2008 and 5 months of 2009.

Article 28 – The right of worker representatives to protection in the undertaking and facilities to be afforded to them

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

- a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;
- b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

Appendix to Article 28

For the purpose of the application of this article, the term "workers' representatives" means persons who are recognized as such under national legislation or practice.

On Paragraph (a):

Information to be submitted

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

According to Article 9 of the Labour Code, the employee has the right to join trade unions or other representative bodies or public organizations, and to take part in strikes, meetings, gatherings and other mass actions implemented by said organizations or by the Labour team that are not prohibited by law.

In line with Article 18 of the Labour Code, Employees, Employers, Labour Collectives and Trade Unions shall have the right to initiate an individual or collective employment dispute in order to protect their rights and legal interests. The methods by and terms under which these rights are exercised may be limited under the law.

According to Article 19 of the Labour Code, a trade union may be established on a voluntary basis without discrimination among employees or without prior permission from employers. Employees may join the appropriate trade union and engage in trade union activity in order to protect their labour and socioeconomic rights and legal interests.

The law of the Republic of Azerbaijan "on trade unions" and trade unions' charters shall define the rights, obligations and powers of trade unions.

According to Article 26 of the Labour Code, the parties shall create a commission consisting of an equal number of representatives from each party to bargain for the purpose of drafting a collective contract or agreement or amendment to it.

The members of the commission, and the agenda, place and time of bargaining shall be decided jointly by the parties.

In line with Article 27 of the Labour Code, persons (representatives of the parties, adviser, expert, reconciliatory person, mediator, specialist, arbiter and other people defined by the parties) participating in negotiations are freed from execution of their labour functions for three months while receiving their average monthly salaries during the course of the year, and the time spent in bargaining shall be counted towards their seniority.

The participants in collective bargaining shall not be undergone disciplinary responsibility, reassigned to other work, or dismissed by their employers during the bargaining.

According to Article 21 of the Law of Azerbaijan Republic on Trade Unions, members of trade unions, not released from work, are taken permission from undertaking their labour functions with the payment of average salary at the expense of trade union with consent of the employer, for the period where they participated at elected bodies of trade unions, training courses and workshops organized by trade unions.

Members of the trade union, elected into the composition of initial organizations of trade unions and not released from production work, are granted free time, the length and terms of which is state in the collective contracts (agreements) for the conducting of trade union activity.

In line with Article 3 of the Law, employees, pensioners, persons, being educated have all uniform right to voluntary set up trade unions at their choice and without preliminary permission, as well as join trade unions for the protection of their legal interests, labour, social - economic rights and conduct trade union activity.

According to the Law #153-IIIQD of the Republic of Azerbaijan dated October 10, 2006 on "Amendments to the Law of the Republic of Azerbaijan on "Trade Unions", the wording "Management of the enterprises shall not be a member of the trade union functioning within that enterprise" was removed from Paragraph 5 of Article 3 of the Law of the Republic of Azerbaijan on "Trade Unions".

According to Article 5 of the Law, trade unions are independent from state bodies, institutions, political parties, public associations in their activity and do not report to them. Any interference by state structures and authorized persons to limit rights of trade unions and prevent them from execution of their legal rights within the statutes is prohibited.

According to the Law #153-IIIQD of the Republic of Azerbaijan dated October 10, 2006 on "Amendments to the Law of the Republic of Azerbaijan on "Trade Unions", the phrasing "trade unions shall not be engaged in political activities, join or operate with political parties, give to or receive from political parties aids and donations" was removed from Paragraph 1 of Article 6 of the Law of the Republic of Azerbaijan on "Trade Unions".

According to Article 10 of the Law, Republican associations of trade unions can appeal to corresponding legislative, executive and court authorities to claim legislative acts, resolutions and instructions of state bodies contradicting employees' interests and rights of trade unions.

Normative acts, concerned with labour, social-economic rights and interests of employees are adopted by state bodies and local self authorities after preliminary notification of the corresponding trade union prior not less than 15 days.

In line with Article 11 of the Law, Trade unions protect labour rights of their members; take part in the working out of state employment policy.

If the liquidation of the enterprise or its structural subdivisions at the initiative of the management can result in full or partial termination of production, reduction of working places or deterioration of labour conditions, such measures are to be conducted with preliminary notification of corresponding trade unions prior not less than three months and conducting of negotiations on the observance of employees rights and interests, unless otherwise specified by the legislation.

Trade unions carry out control over status of employment, observance of the legislation about employment provisions within their scope and in the manner established by the legislation.

According to Article 12 of the Law, trade unions are entitled to demand from employers the observance of the legislation about labour and trade unions, as well as social economic issues and elimination of revealed infringements.

The employer is bound to consider these demands and inform trade unions about results in the specified period but not later than a month.

In case of head of the enterprise (branch office, representation, department or another separate division) or its deputies infringing labour legislation, non-fulfilment of terms (liabilities) under the collective contract (agreement) in force, trade unions can raise a question about drawing them to disciplinary responsibility before competent authorities.

Trade unions can appeal to court with claims to protect rights of their members and implement duties of a representation at court's sittings.

Trade unions independently set up services of rendering legal aid to their members and organize attorney's offices of trade unions, legal inspections, legal expert groups, legal consultation offices, firms and other bodies.

According to Article 19 of the Law, trade unions can organize and hold strikes, meetings, street marches, demonstrations and other mass measures under legislation in force and for achievement of their aims.

In line with article 20 of the Law, it is prohibited to create obstacles to heads of trade unions to visit working place of trade union members to check observance of the legislation about labour and trade unions, conditions of collective contracts, agreements on labour and social issues by the employer and in connection with other issues of trade unions' statutory tasks.

According to Article 22 of the Law Members of the trade union, released from work in connection with their election for elective positions of trade union bodies are granted previously occupied jobs (positions) and in case of its unavailability - another equal job (position) on the same or another enterprise with the employee's consent.

If there is no possibility to grant corresponding job (position), the trade union provides an average salary to the employee for the period of his/her looking for a job, but for no longer than six months.

Workers freed from undertaking labour functions to get elected to trade union, enjoy privileges provided to other employees of the enterprise.

On Paragraph (b):

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

According to Article 27 of the Labour Code, costs related to collective bargaining are compensated by the employer.

Persons invited by the parties to participate in bargaining without employment contract shall be compensated on the basis of an agreement between the parties.

In line with Article 21 of the Labour Code, besides trade unions organizations, other public self-government agencies and employers' representative agencies established under the specified procedure may be active according to their bylaws.

The owner or manager of an enterprise shall provide the appropriate conditions stipulated in collective contracts, defined by mutual agreement of this organization and public self-government agencies and employer or by the contract concluded between them for the

activity of trade unions and other employees' representative public self-government agencies.

According Article 17 of the Law of Azerbaijan Republic on "Trade Unions", trade unions may establish mass media facilities and publish houses, create press services and sociological research centres, and require information that is not state, commercial and other lawfully protected secrets from authorized persons of public and private bodies, employers in order to carry out their statutory tasks and rights, as well as, powers envisaged in this Law.

State bodies and private sector entities, the management are bound to freely supply trade unions with the related information.

In line with Article 14 of the Law, trade unions have preferential right within their scope to sign collective contracts and agreements with state structures and other organizations on economic, social and cultural development issues.

According to Article 23, the employer provides equipment and premises, necessary for the activity of the trade union on conditions specified in the collective contract.

Under the resolution adopted at the conclusion of the collective contract, the enterprise can submit to the trade unions either available or leased premises, constructions and other units, as well as recreational bases, children's and other health camps, necessary for the organization of recreation, cultural-educational, physical and health measures for employees and members of their families, free of charge.

The enterprise can supply trade unions with means for social, economic and cultural activities, specified by the collective contract.

Participants of collective bargaining are entitled to some privileges during the period of collective bargaining in line with Sections 1 and 4 of Article 27 of the Labour Code of the Republic of Azerbaijan. Thus, they are freed from undertaking labour functions for up to three months a year while receiving their average monthly salaries and the time spent in bargaining shall be counted towards their seniority. The participants in collective bargaining shall not be disciplined, reassigned to other work, or dismissed by their employers during the bargaining.

According to Article 13 of the Labour Code, foreigners and stateless persons, as well as citizens of member states are entitled to the same rights in establishment, operation and membership of trade unions.

2) Please indicate the measures taken (administrative arrangements, programs, action plans, projects, etc) to implement the legal framework.

According to information as of beginning of 2009, the number of employed population in Azerbaijan is 4056.1 thsd. Out of them, 1600.0 thsd people (about 40%) are members of 18,582 trade unions. 12,619 collective agreements were signed between trade unions and employers.

A total of 76 sectoral (tariff) and area based (rayon) collective agreements were signed aimed at regulating different relations at trilateral level (i.e. among relevant executive body, trade unions and representatives of trade unions).

General Collective Agreements is signed among the Cabinet of Ministers of Azerbaijan Republic, Azerbaijan Trade Unions Confederation and Entrepreneurs (Employers) Organizations National Confederation of Azerbaijan Republic. The valid General Agreements covers 2008-2009 years.

Implementation of socio-economic policy that ensures reduction of poverty incidence through improving labour rights of employees, their welfare and welfare of their family members, as well as, increasing efficiency of the national economy and dynamics of GDP is considered by the Parties as a priority aim of the Agreement.

The Parties undertake to try to develop mutual relations based on social partnership principles, regulate socio-labour relations through social dialog, collective contracts and agreements, as well as, observe obligations and treaties set by the General Collective Agreement.

The Parties undertakes measures envisaged for developing social partnership principles in cooperation mood in order to ensure realization of the "State Program on Implementation of the Employment Strategy of the Republic of Azerbaijan for 2007-2010 years" and the National Action Plan aimed at ensuring employment of the youth.

Article 29 – The right to information and consultation in collective redundancy procedures

During a collective redundancy in order to secure a better implementation of informative and consultative rights of employees, Parties accept a commitment of notification and consultancy to be made to representatives of employees by representatives of employer till a certain period before a redundancy. In these cases a main attention is given to prevention of collective redundancy or restriction of their scope and weakening of their consequences as for example implementation of accompanying social activities directed to support change of working places or retraining of one employee.

Appendix to the Articles 28 and 29

For the purpose of the application of this article, the term “worker’s representatives” means persons who are recognized as such under national legislation or practice.

1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.

According to the Article 11 of the Labour Code of the Republic of Azerbaijan an employer has a right to change labour conditions or reduce number of employees as well as abolish working places and structural sections when complying with demands of the Labour Code and other juridical documents.

According to article 70 of the Labour Code a labour contract can be terminated on the initiative of the employer when an enterprise is abolished, number of employees or working places are reduced, on the basis of appropriate decision issued by authorized body about unconformity of the employee to his (her) position, because of insufficient level of professionalism and when an employee does not execute his (her) ministerial functions or duties prescribed in the labour contract as well as in cases when an employee outrages his (her) ministerial duties in cases specified in the article 72 of this Code.

According to the Article 11 of the Law of the Republic of Azerbaijan "On Trade Unions" when an enterprise or its structural sections are abolished and this results to partially or entirely stop of production, reduction of working places or worsening of labour conditions, these activities, excluding those cases that prescribed in the legislation have to be implemented with notification given to the appropriate trade union minimum 3 months before and negotiations with employees about their rights and benefits protection.

Employer has to substantiate the necessity of doing so when termination of labour contract on any of the basis specified in Article 70 of the Labour Code.

According to Article 56 of the Labour Code an employer has to notify an employee in the written form or by the decree minimum one month before the change of working

conditions. In case if an employee does not agree to continue his (her) work in new working conditions, he (her) should be transmitted to another position, if it is not possible a labour contract can be cancelled on the basis of working conditions' change.

According to Article 80 of the Labour Code, when labour contract is terminated by the employer, agreements can be concluded with trade union. Thus, on the basis shown in point "b" and "ç" of Article 70 (if number of employees and a staff reduce and an employee do not execute his (her) ministerial functions) a labour contract of an employee who is a member of trade union has to be cancelled with preliminary consent of trade union organization functioning at the enterprise. When wishing to terminate a labour contract of one of employees who is a member of a trade union, in connection with any of cases described in the first section of this Article, an employer has to apply with written well reasoned application to the trade union organization functioning in the enterprise. Appropriate justification documents have to be attached to the application. Organization of trade union has to submit its well grounded written decision to the employer at the latest in 10 days period of the date of this application's receipt. Excluding cases described in the collective contract and in this article, in the rest of cases when labour contract is terminated on employer's initiative there is no need to obtain preliminary consent of the organization of trade union.

When there take place changes leading to worsening of labour conditions of 10% of employees in enterprise, with minimum 50 employees, the employer has to give an official justification of this decision in the General Employment Department of the Ministry of Labour and Social Protection of Population of the Republic of Azerbaijan. General Employment Department investigating thorough and legal implementation of these activities can undertake adequate measures in frames of its competency.

According to Article 77 of the Labour Code when reducing number of employees or staff reduction an employer has to notify an employee about this minimum 2 months earlier till his (her) labour contract terminated.

During Precautionary period minimum one day in each working week an employee must be free of his (her) ministerial functions with preserved wage in order to have an opportunity to seek a new job place.

When reduction of employee's number or stuff reduction and when labour contracts of employees are terminated, they are paid with the discharge allowance which is not lower than the average salary, and with average salary for the second and the third months.

Employer by consent of employee, paying him (her) minimum two monthly salaries instead of precautionary periods can suspend a labour contract on appropriate basis.

It can be envisaged in the collective contracts, labour contracts to pay out an average wage in more long period while registration of employees at new working place as well as to increase payments shown in the Labour Code.

Employees, when staff reduction, attract persons determined by the Law of the Republic of Azerbaijan "On social protection of children lost their parents and children deprived of paternal care" as children lost their parents and children deprived of paternal care, as well as anyone of them, to sufficient vocational training, organised by them (employers) for future employment in this or other enterprises.

According to article 21.1.6 of the Law of the Republic of Azerbaijan "On Civil Service" as of September 1, 2001, civil servants in case of abolishment of state bodies or staff reduction are preferred when job placement according to their official salary and vocation and also when job placement in other governmental institution according to their previous positions.

The Code of Administrative Offences of the Republic of Azerbaijan stipulates fines against authorized and legal persons for following offences: violation of rules on attestation of employees; termination of labour contracts against requirements of the labour legislation; failure of employers to provide safe and secure labour condition at work places; failure in provision of necessary information to conduct control over bargaining and implementation of collective agreements (contracts); and other cases where labour legislation is violated.