

# **Management and Privatization of State and Public Land in Azerbaijan**

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Distinguished Chairman,  
Ladies and Gentlemen,

## **ON LAND OF AZERBAIJAN**

### **1. Preface**

Since Azerbaijan gained its independence, many important changes have happened in the life of the Azeri society. Obviously, these radical changes, including the existence of various forms and equality of property, as well as the organisation of agricultural production required the legal regulation of new relations. With the adoption of the Constitutional Act “On State Independence” dated October 18, 1991, the foundation of new reforms for relations in political, social, economic life of the society was laid. As a component of those reforms, the land reforms are paid more attention to by the government of Azerbaijan. This necessity was provoked by the fact that the agricultural sector is one of the largest spheres of our state, and the income from the agricultural export plays an important role in the economy of Azerbaijan.

The necessity of intensive development of the agricultural sector in Azerbaijan was repeatedly noticed both by domestic specialists, and foreign and international entities’ experts.

In this regard, the Law “On Land Reform” adopted on July 16, 1996, the Law “On Land Tenure”, the Law “On Land Market”, the Law “On State Land Cadastre, Land Monitoring and Land Creation”, the Law “On Land Fertility”, the Law “On Municipal Land”, the Law “On Management of Municipal Land”, the Land Code adopted on June 25, 1999, as well as about 50 other laws, decrees and legal acts serve as evidence of that.

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### **2. Geography of Azerbaijan**

So, the Republic of Azerbaijan is the largest and most populous country in the South Caucasus region of Eurasia. The population is about 8.7 million people. Located at the crossroads of Eastern Europe and Western Asia, it is bounded by the Caspian Sea (Lake) to the east, Russia to the north, Georgia to the west and northwest, Armenia to the southwest, and Iran to the south. The Azerbaijani exclave of Nakhchivan Autonomous Republic is bordered by Armenia to the north and east, Iran to the south and Turkey to the west and southwest.

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Nagorno-Karabakh, the integral part of Azerbaijan, along with 7 other districts in Azerbaijan's southwest, have been occupied by Armenia for more than 15 years. By the way, the occupied area is 20 percent of all the territory of Azerbaijan.

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The country's territory also encompasses several islands in the Caspian Sea (Lake). The total area of Azerbaijan is 86,600 sq.km or 33,436 sq.ml, 1.6 percent of which is water basin, about 15 percent is arable.

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Over half of its territory (59.9 percent) is mountains (foothills – 17.5 percent, mountains – 33 percent, and high mountains – 9.4 percent) and the rest (40.1 percent) plains and lowlands. 27 percent of the territory is above 1,000 m, but 18 percent is below the mean level of the World Oceans.

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**3. Land Resources of Azerbaijan**

The total land resources of Azerbaijan are 8,641,500 hectares, 4,528,300 ha or its 52.4 percent is available for agriculture. 1,432,800 ha of the total area or 16.6 percent is irrigated. According to the land balance, 1,641,000 ha of the area available for agriculture are sown area. 188,400 ha of this area are occupied by Armenia. 155,500 ha of the area available for agriculture are sowing area of several years' standing, 109,600 ha are hayfield, 2,576,500 ha are pasture, 45,700 ha are fallow land. Azerbaijan has 255,600 ha of homestead, 225,600 ha of which are available for agriculture, and 1,213,000 ha of forest blocks.

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According to the Azerbaijani legislation, the ground area is a piece of the ground surface, the borders, sizes, geographical position, legal status, regime, purpose and other characteristics of which are reflected in the state land cadastre and state registration documents of land rights.

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A ground area may be severable and inseverable. Severable ground areas are those which may be divided into parts for their aim and economic purpose, and after dividing, each part may exist as an independent ground area and may be registered in the state registration documents separately. Inseverable ground areas are those which may not be divided into parts for their aim and economic purpose.

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#### **4. Forms of Land Ownership**

In the Republic of Azerbaijan there are 3 forms of land ownership as follows:

- State ownership
- Public (municipal) ownership
- Private ownership

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The state ownership has the following land :

- Land on which governmental authorities are located
- Land on which state-owned entities are located

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Regarding municipalities, I would like to note that in Azerbaijan a municipality is a local self-governing institution independent of the state. The municipalities have their property, budget and election bodies. The public (municipal) ownership has the following land:

- Land of general purpose, and
- Reserve stock land

All the ownership forms possess equal rights and are protected by the state.

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#### **5. Land Categories**

In accordance with its intended purpose and legal regime, the land of Azerbaijan has the following categories:

- Land of agricultural purpose
- Land of population aggregate (cities, settlements and rural areas)
- Land of industrial, transportation, communication, defence purpose
- Land of specially safeguarded territories
- Land of forest resources
- Land of water resources
- Land of reserve stock

The land categories are indicated in the decision of the appropriate competent state entity or municipality, as well as in the documents of the state land cadastre, and land registration books.

Focusing on the land categories, I would like to note that in Azerbaijan, the land of agricultural purpose includes agricultural places, forest blocks, land under in-house roads,

communications, bogs, water bodies, buildings and facilities for agriculture. The land of this category is intentionally protected.

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## **6. Land and Food Stuff**

It is appropriate to mention here that as in other states, also in Azerbaijan, using of the land of agricultural purpose is inherently connected with the food stuff production. In this regard, the Azerbaijani government pays more attention to the issues concerning the supply of provisions. In connection with that, some legal acts are now in force. In 2001, “The Provisions Safety Programme of Azerbaijan” was adopted by the appropriate Decree of the President of Azerbaijan. And as a result of the implementation of the measures within this Programme, the agricultural products and provisions have increased. A week ago, a new State Programme – the Programme of Solid Supply of Population with Food Stuff for 2008 – 2015 was adopted. Based on the figures of the Azerbaijani State Statistics Committee indicated in this Programme, the real increase in the agricultural sector during 2003 – 2007 has been 28.6 percent. The number of the legal persons engaged in the entrepreneurship activity was increased for 6.2 percent, the number of the natural persons as individual entrepreneurs in agriculture was increased for 6.7 percent.

## **7. Restoration and Increase of Land Fertility**

A special attention is paid to the restoration and increase of land fertility in Azerbaijan. Some target state and regional programmes on providing of land fertility are now in force. In this regard, melioration and water industry is one of the most important spheres of the Azerbaijani economy. The agricultural development is closely connected with the melioration and water industry. During last years, the scope of the works concerning the construction of melioration and water industry entities, rehabilitation of land resources and reconstruction of irrigation and drainage systems has been broadened. From year to year, the irrigated land is attracted to the circulation of agriculture, the reclamation status of the irrigated land is improved, the supply of water is increased by reconstruction of irrigation systems, the new perfect irrigation and melioration systems are created. Besides, the new irrigation canals, collector-drainage network, pumping plants, sub-artesian wells, water reservoirs were built and put into operation. Just for or as an example, the construction of the main part of the Mil-Mugan collector, completion of building of the Khanarkh canal, reconstruction of the Samur-Absheron canal. For the time being, the Samur-Absheron irrigation system provides 150,000 ha of the north regions of Azerbaijan with irrigation water, as well as 60 percent of population aggregates and agricultural entities of the Cities of Baku and Sumgayit, and Absheron Peninsula with drinking, irrigation and industrial water.

As to the legislation in the sphere of land fertility, in Azerbaijan, for the first time among the CIS countries, in 1996 the Law “On Melioration and Irrigation” was adopted. In 1998 the Water Code, in 1999 the Law “On Land Fertility” as well as about 30 legal acts came into effect.

Nevertheless, mining operations, development and expansion of industry was the reason for spoiling and contamination of some ground areas. Basically, these are the areas contaminated with oil and oil products, industrial, constructional and domestic wastes. And now the government of Azerbaijan is implementing the intensive necessary measures for the purpose of their purification.

Besides, now in Azerbaijan the agro technical, agrochemical, reclamation, phyto-sanitary measures as well as other complex measures are being carried out in the direction of restoration, increase and protection of land fertility.

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## **8. Agrarian Reforms**

Since Azerbaijan gained its independence, in the result of the reforms carried out in the agrarian sector:

- First of all, the legal base has been created in accordance with the market economy principles;
- The land reforms have been carried out;
- As a result of the reforms, the land and assets of state farms and collective farms, the activity of which was brought to a stop, have been distributed among the people worked for these farms and villagers free of charge. Subsequently, 1191 collective entities, 156 agricultural producing cooperatives, 2651 villager entities and other companies have been created, 841,100 families has begun working as natural persons;
- Since 1999 the producers of agricultural products have been released from all taxes, except land tax;

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- The debts of the entities liquidated under the agrarian reforms, as well as the ones located in the regions under the military occupation have been written off. Besides, other privileges have been applied;
- Farmers have been provided with subsidies for sowing, some part of their expenses for fuel and engine oil have been reimbursed by the government, for the purpose of improving the technical support, “Agroleasing” Joint-Stock company has been established, and now the producers have been given equipment by means of leasing in the privileged mode;
- The specific weight of the private sector in the agricultural production has increased up to 99.7 percent;
- With the support of such competent donors and organisations as the World Bank, the International Development Association, the International Foundation of Agricultural Development, USAID, GTZ, the UNIDP as well as FAO, the implementation of the important projects has been provided.

## **PRIVATISATION, USAGE AND LEASE OF LAND**

### **1. State and Public (Municipal) Land**

According to the Azerbaijani land legislation, the state land for privatization, usage and lease is determined by the appropriate competent state entity, the public (municipal) land is determined by municipalities. The land of public reserve stock subject to privatization can be sold to private ownership. The land of the agricultural purpose of the public reserve stock can be only given to using or leased. Therefore, in connection with the lease of state and public (municipal) land, the Azerbaijani legislation defines the rules of land tenders and auctions. The assignation of the municipal land to natural and legal persons with any rights is implemented in accordance with the municipality's decision and the agreement concluded between the parties.

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### **2. Land Not To Be Privatized**

Though, except using and lease, the following state and public (municipal) land is prohibited to be privatized by the Azerbaijani legislation:

- Earth interior, forest resources, water resources, state borderland;
- Territory of nature protected and used in a special way;
- Ground areas on which the state power authority bodies and the property of state importance (historical and cultural monuments, state museums, etc.) are located;
- Ground areas on which the military units for defence and safety of the state, the internal and frontier troops, the civil defence and mobilization entities are located;
- Highways and railroads of state importance, bridges and tunnels;
- Territory of cemeteries and crematoriums.

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### **3. Land Market**

The disposal of private property as well as its transfer to using and leasing is implemented under agreements concluded between the parties in the legal way and notarized. The identification of the general rules of the land market relations and protection of the property rights in Azerbaijan is regulated by the Law "On Land Market".

I would like to note that the land owner, user or lessee has the right to construct temporary buildings, demolish the buildings and structures he has on the land, or reconstruct them, by fulfilling his responsibilities and limitations for the land according to the legal acts on protection of urban planning, apartment, nature and cultural heritage and others.

As an owner of the privatized enterprise or object, a legal or natural person of the Republic of Azerbaijan can buy the land on which this enterprise is located, or lease it with the right to

purchase that. But if the owner of the privatized enterprise or object is a foreign country, foreigner and stateless person, foreign legal person as well as international society or organisation, it only can lease the appropriate land without the right to purchase it.

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#### **4. Land Price**

Regarding the land price, according to the Azerbaijani Law “On Land Reform” (*Article 18*), when the land is sold or purchased, mortgaged, inherited or for other transactions, the land price is determined by market price, but not cheaper than its normative price. The normative price of land is calculated by the terms of the legal acts.

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#### **5. Gratuitous Assignment**

In accordance with the Azerbaijani legislation, in Azerbaijan, the land under individual domestic houses of legal usage, homestead of citizens as well as individual, collective and cooperative gardens, the gardens being at the disposal of state horticultural establishment is transferred to the owners of these assets gratis in the way specified in the legislation.

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#### **6. Lease**

Regarding the lease of land, according to the Azerbaijani Law “On Land Tenure” (*Article 5*), the following state land can be let on lease:

- Land under mining industry, ore mineral resources, the deposit of which is fixed, main pipelines, industrial, transportation, communications, energy, important soil-reclamation and water industrial entities;
- Land of water resources including the bottom of the Caspian Sea’s (Lake’s) part belonging to Azerbaijan;
- Land of summer and winter pastures;

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- Land of state research and educational institutions, their experimental entities, machine-testing stations, state veterinary, herbal sanitary services, seed farming and pedigree stock-breeding enterprises;
- Land under the enterprises of health improvement and rest homes;
- Land under state enterprises or projectible area for state objects, and
- Forest resources land

Giving to using, lease and privatization of the land of industrial, transportation, communication and other purposes as well as the land under the state enterprises and objects in Azerbaijan is implemented by the State Committee for Management of State Property. Although the lease of forest resources land is implemented transparently by the Ministry of Ecology and Natural Resources by taking into account the interest of the people living in the appropriate area. With the purpose of restoring forests, the forest and non-forest land not covered with sylvestral plants can be leased to lessee for the period from one to ten years. According to the Land Code (*Article 90.1*), the lessees or users of state or public land, by approbation of the appropriate competent state entity or municipality, can exchange their land for other lessees' or users' land on the same territory.

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## **7. Land Withdraw**

At the same time, according to the local legislation (*Land Code, Article 70.5*), the privatised, used and leased land can be withdrawn for the state needs. If the land of legal and natural persons is privatised for the state needs in the way specified in the legislation, its cost is fully reimbursed in advance for the market price by the enterprise, organisation or the competent state entity or municipality which buys this land.

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## **8. Mortgage**

Based on the mortgage agreement, the land of legal and natural persons can be mortgaged. Although, the mortgage of the land of general usage in population aggregates, including the city land where it is not allowed to construct buildings or structures on, and the land of the territories specially protected, as well as the state or municipal land of special usage is prohibited to be mortgaged.

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## **9. Land Donation**

On the other hand, according to the donation agreement, the owner of the land can donate his land or its part to any citizen or legal person of Azerbaijan, as well as to the ownership of state and municipality in the way specified in the Civil Code. It does not concern the state and municipal land. The using and leasing rights of the state and municipal land can be donated in the legal way.

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## **10. Hereditary Land Transmission**

The hereditary transmission of land is identified by the Azerbaijani legislation (*Land Code, Article 92*) as follows: in case of owner's death, the property right of all his land or its part is hereditably transmitted to other persons (heir) by testament or legislation in the way specified in the Civil Code. If there is no heir by either testament or law, or any of the heirs has not accepted inheritance, the land, which does not possess heirs, is transmitted to the state ownership; if the ex-owner of inheritance has been at the maintenance of old people's homes, nursing homes, the treatment, educational and social security entities, the land is transmitted to that entity's ownership.

The state and municipal land can be transmitted to the heirs only on the basis of using and leasing rights. If the land is hereditably transmitted to an under-age person, his legal authorized persons can let this land on lease until he is 18.

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## **11. Land Tax and Rental Payment**

In general, the using of the land in Azerbaijan is charged, and the payment for land is identified in the form of land tax and rental. The legal and natural persons pay land tax for their land. The land tax is calculated as a fixed payment regardless of the result of the land owners' or users' economic activity. The categories of the land tax are determined in the manner adopted by the appropriate competent state entity subject to the purpose, sizes, geographical position and quality of the land. In order to identify the land tax, its periodical rental calculation is carried out. For the land, the qualitative characteristic of which has not been identified, so as to calculate the land tax, the bonitation ball of the administrative district, where this land is located, is assumed as a basis.

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The land rental is the payment implemented by a lessee to a lessor for the time land using. If the lessor is a land taxpayer, the land tax is included in the rental. Otherwise, the rental payment does not include the land tax. I would like to note that according to the legislation (*Law "On Land Tenure", Article 14*), the rental payment can be determined by cash, nature or mixed forms by approbation of the parties.

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## **12. Land Transactions**

All transactions for land or real estate on (sale and purchase, using, mortgage, donation, hereditary transmission, etc.) are formalized by agreements. All the rights for land (except the using and leasing right for the period less than eleven months) are registered in the state

register of real estate in the legal way (*Law “On Land Market”, Article 19*). The protection and inviolability of the land rights, not registered in the state, is not provided by the state.

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### 13. Statistics

The land reforms implemented in Azerbaijan play a great role in the intensive economic development, increase of employment rate of population and improvement of the social security of citizens. I guess the changing dynamics of ownership forms of the land of all sorts in the circulation of agriculture could serve as evidence of that:

Years	Land, total	For ownership form		
		State Land	Public (Municipal) Land	Private Land
<b>Land of all sorts in the circulation of agriculture, thousand ha</b>				
<b>2000</b>	6756.8	3090.8	1990.9	1675.1
<b>2001</b>	7018.0	3356.6	1983.5	1677.9
<b>2002</b>	6999.9	3343.3	1977.9	1678.7
<b>2003</b>	6984.0	3315	1984.9	1684.1
<b>2004</b>	6986.0	3315.2	1982.8	1688
<b>2005</b>	6984.8	3310.6	1980.2	1694
<b>2006</b>	6990	3320.8	1971.2	1698
<b>2007</b>	6990.1	3320.3	1970.8	1699

### 14. Afterword

All these facts give me an opportunity to say that the land reforms founded by Heydar Aliyev, the Nation-wide Leader of Azerbaijan, and implemented under the direction of Mr. Ilham Aliyev, the President of the Republic of Azerbaijan, provide the widening of the entrepreneurs’ class, strengthening of the new agrarian relations and effective using of land within the implementation of “The State Programme of Socio-Economic Development of the Regions of Azerbaijan” for 2004 – 2008.

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Ladies and gentlemen,

In the end, I would just love to thank the organisers and sponsors of the seminar for the opportunity to make a speech on the Azerbaijani experience in the Management and Privatisation of State and Public Land, as well as every participant who was listening to me spending his time. I wish you all every success.

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Please do not hesitate to ask me questions.

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