

ABSHERON REHABILITATION PROGRAM

CONTAMINATED SITES REHABILITATION PROJECT

Resettlement Policy Framework

1. Introduction

National/ sector context – why cleanup of contaminated areas

The proposed “Contaminated Sites Rehabilitation” project is prepared in response to the Government of Azerbaijan’s request for the World Bank’s support towards achieving the ESP and that would be implemented under the support of the Bank. It consists of multiple investment interventions selected from priority activities listed in the *Environmental State Program (ESP)* and agreed with the concerned government agencies, focuses on finding practical solutions in operationalizing the ESP.

The “Contaminated Sites Rehabilitation” project proposed by the Ministry of Emergency Situations (MES) is part of the *Absheron Rehabilitation Program (ARP)* and includes the clean-up of two former iodine production sites and a 1,000ha oil production site north of the Baku international airport between the settlements of Buzovni and Mashtagi which is one of the main historic oil production fields.

Description of the project

The proposed project has five components.

Component A - Clean-up and rehabilitation of two former Iodine Sites

This component will develop immediate cleanup activities for the decontamination of the two former iodine production sites in Surakhani and Ramani.

Component B - Construction of a dedicated NORM storage facility

Azerbaijan currently has no facility to safely store or otherwise dispose of NORM. This component will finance the development and construction of a dedicated facility for the storage of radioactive waste from the two former iodine sites to be decontaminated under Component A, and of NORM from other site clean-ups such as for former oil production sites.

Component C - National Mapping and Remediation Program for NORM Contaminated Sites

This component will enable MES to execute at the national level an extensive survey program to map the NORM contaminated sites and subsequently investigate these sites to determine contamination levels, priorities and remediation or containment actions. This work should result in a national staged mitigation program for NORM contaminated sites.

Component D - Remediation Program for the 1,000ha Site

The objective of this project would be to develop and test approaches to cleaning up oil polluted land and returning it to use by cleaning-up 1,000 hectares of oil polluted land

with 350 wells between the Buzovni and Mashtagi settlements. It is expected that the land would be primarily used for housing.

Component E - Technical Assistance and Project Management

This component will provide financial support for the management and performance monitoring of the Project as well as for technical assistance towards institutional development, strategy development and planning.

2. Scope of impact

Project affected people

The project will carry out the rehabilitation of two former iodine sites. In one of the two former iodine site, Surakhani, 59 persons (13 families) are currently living in the abandoned factory buildings in close proximity to radioactive charcoal waste heaps. All these 59 individuals are Internally Displaced Persons (IDP). Project implementation will require the relocation of the IDP families before works commence, and as soon as possible. The exact scope of impact other than the relocation of IDPs will be determined based on the detailed site investigations and the detailed technical design of works that will be carried out during project implementation.

The project will also identify specific areas in the vast oil contaminated land between Buzovni and Mashtagi which stretch across 1,000ha that may be cleaned up in the subsequent series of Bank's support to the cleanup of Absheron peninsula. Cleanup of the "1,000ha" site may require relocation of some of these people and businesses, although, given the vastness of the polluted land, the cleanup activities will be conducted in a number of phases and areas that will not require relocation will be prioritized in early phases.

Since the exact nature and scope of impact in both Surakhani site and the "1,000ha" cannot be known prior to project implementation, the Resettlement Policy Framework has been prepared that sets out policies and procedures to apply on matters of land acquisition and physical resettlement, as well as income loss due to the project.

Description of the expected impact

The potential project impacts on local population include:

- Resettlement of IDPs and refugees¹ in the Surakhani former iodine plant;
- Displacement of some families who live in the "1,000ha" contaminated land, if proven necessary by preliminary site research;
- Demolition of structures (houses and commercial structures) on the "1,000ha site", if proven necessary by preliminary site research;
- Loss of income for the residents of the Surakhani site following relocation and, (if proven necessary by preliminary site research) for the owners of commercial undertakings in the "1,000ha" site.

¹ The definition of IDPs and refugees in Azeri legal framework is not necessarily consistent with international practice, however, in this RPF, refugees are defined as those people who are displaced from home due to physical conflict but who are not regarded as IDP under the relevant laws mentioned below.

In order to mitigate these negative social impacts the MES has prepared the Resettlement Policy Framework (RPF) which sets out policies and procedures for the displacement of households both from Surakhani and “1,000ha” oil contaminated sites.

3. Legal and institutional framework

National Legal framework

The current Azerbaijan legislation providing instructions on matters relating to land, land acquisition and compensation for other property losses are the following:

- The Land Code, 25 June 1999;
- The Civil Code, 1 December 1998;
- Cabinet of Ministers Resolution No 42, 15 March 2000;
- Cabinet of Ministers Resolution No 110, June 1999.

The current Azerbaijan legislation on matters related to refugees and the Internally Displaced People (IDP) are the following:

- The law of the Republic of Azerbaijan “On status of refugees and internally displaced (persons displaced within the country) persons”, May 21, 1999
- The law of the Republic of Azerbaijan “On social protection of internally displaced persons and persons equated to them”, May 21, 1999
- Presidential Order #187, “About the State Committee of Azerbaijani Republic on Affairs of Refugees and Compelled Immigrants”, February 1, 2005
- Presidential Order #298, “About additions made to the “State Program on Improvement of living conditions of refugees and compelled immigrants and on employment increase”, July 1, 2004

The law of the Republic of Azerbaijan “On status of refugees and internally displaced (persons displaced within the country) persons, May 21, 1999” provides general principles and defines the legal status and rights of IDP and non-IDP refugees, describes main principles and mechanism of state assistance to these people.

The article 2 of the law of the Republic of Azerbaijan “On social protection of internally displaced persons and persons equated to them”, May 21, 1999” defines that those refugees who came from outside the territory of Azerbaijan due to conflict with Armenia are provided the equal entitlements and legal status as IDPs. The same law defines measures regarding the provision of shelters for IDP and non-IDP refugees and the social protection of IDP, in addition to the associated responsibilities of the State.

Presidential Order #187, “About the State Committee of Azerbaijani Republic on Affairs of Refugees and Compelled Immigrants, February 1, 2005” defines role and functions of the State Committee for Refugees and IDPs (SCRI) as a central executive body responsible for the implementation of state policies on the settlement, repatriation and the social protection of IDPs and non-IDP refugees, in addition to the improvement of their household conditions.

Presidential Order #298, “About additions made to the “State Program on Improvement of living conditions of the refugees and compelled immigrants and on employment increase”, December 31, 2007” provides amendments to the State Program approved on July 1, 2004. The revised Presidential Decree provides the Plan to develop apartment buildings and new settlements to accommodate IDPs and non-IDP refugees temporarily settled in Baku, Absheron and other rayons. The Plan specifies that the new apartments to be built will be provided with necessary infrastructure, such as electricity, water supply, educational, cultural, health and other necessary social entities.

Gaps between active legislations in Azerbaijan and the World Bank OP 4.12.

Many of the key tenets of the WB’s OP 4.12 are covered in full or in part by current Azerbaijani legislation. This includes:

- the requirement to pay compensation in advance where land is compulsorily acquired (Land Code, article 70.5);
- the need to compensate based on full market value or through grant of another land plot or building of equal quality, size and value (Land Code articles 8 and 70.5);
- the need to avoid, wherever possible, impacts on agricultural land and forests (Cabinet of Ministers Decree No. 42, section I, article 2);
- the requirement to compensate for losses, whether temporary or permanent) in production or damage to productive assets and crops (Cabinet of Ministers Decree No. 42, Sections I and II); and
- provision for pre-judicial avenues for resolution of disputes and rights of appeal.

There are, however, six broad areas where provisions required under OP 4.12 extend beyond those required under Azerbaijan legislation. These are as follows:

- Resettlement planning and procedural requirements

There is presently no requirement to prepare a formal Resettlement Action Plan (RAP) under Azerbaijan law, nor to undertake any of the component activities of a resettlement action plan such as, as a ‘census’, socio-economic survey, consultation with project affected people, monitoring or reporting. There are no specific references in the legislation to ‘involuntary resettlement’. Also, there is no explicit consultation requirement in Azeri law.

- Compensation eligibility in Azerbaijan

The categories of people who must be compensated under Azerbaijan legislation are narrower than those defined under OP 4.12. Under the legislation, the only people and entities entitled to compensation are those with registered property rights, for example, registered landowners, leaseholders, users and those with registered third party rights or those who have legally obtained the right to register their title but whom, for some reason, have not completed registration. This potentially precludes many categories of affected people that would be entitled to compensation under the OP 4.12.

- Provisions for Illegal land use in Azerbaijan

Although the Azeri law does not make provision for people with no legal title, the practice on the ground is often different. Anecdotal information suggest that people with no legal titles to their businesses are given compensation of the value of the business but

are not provided with income restoration measures, they are also given assistance with physical relocation. This practice on the ground does adhere to the World Bank OP4.12; but as it is not in law, it is conducted on a discretionary case-by-case basis and is not systematically monitored.

- Extent of Compensation and Resettlement Assistance

Under current legislation of Azerbaijan, compensation is payable for loss of land, buildings, crops, profit and other damages arising from the acquisition of land for a project. However, moving cost or rehabilitation support to restore previous level of livelihood are not recognized under the Azeri law as a responsibility of the government, and no government agency is charged to carry out such a responsibility.

- Property measurement

Under the WB safeguard policies, compensation for lost properties will be calculated based on full replacement cost, in other words, compensation should be equal to what enables the PAP to restore their livelihood at the level prior to the resettlement. Under the Azeri law, compensation is equal to the market value of lost properties.

- Income restoration

Under the OP 4.12, lost income due to project implementation should be compensated. Azeri law, however, does not recognize compensation for such lost income.

4. Principles of resettlement and land acquisition

The physical relocation and land acquisition, as well as mitigation of any income loss, that result from the current and subsequent phases of the project, including the cleanup of the Surakhani former iodine site and other contaminated area known as “1,000ha” site, will be carried out according to the following principles:

- Unless it is unavoidable, MES will start cleanup activities in “1,000ha” site where no private individuals reside or conduct commercial activities.
- The PAP will be sufficiently informed of the nature of the project and the expected impact.
- The PAP will be consulted prior to and participate in the decision on relocation sites. All PAP will be given detailed information regarding the process of land acquisition and physical relocation that clearly spells out their rights and entitlements and implementation procedures.
- Loss of access or income as a result of physical works will be minimized and due compensation will be provided.
- A census will be undertaken at the earliest stage of the preparation of cleanup activities to determine the PAP as well as their asset ownership and economic activities that will be affected.
- Cutoff date will be set for each RAP to be developed and announced clearly to the public and the PAP that determines the eligibility to compensation.
- Once the precise cleanup site and the scale of impact as well as the PAP are determined, the MES will consult and agree with the Bank on the format and details of the RAP to be prepared for the segment.
- All PAP will receive compensation, in the form of cash that is equal to the replacement cost of the lost assets without depreciation, or alternative shelters and

assets that are equivalent in value to the lost shelters and other immovable assets without depreciation. Normative price will not be used when compensation for loss of land is established.

- A RAP will be prepared that details project impacts and compensation packages for each category of project impact.
- Legality of the residency/ property ownership will not affect the eligibility for compensation, however, those PAPs without due titles to the affected land will not be compensated for loss of land.
- The RAP(s), once prepared, will be consulted with the PAP.
- MES will establish a visible, full time field "interlocutor" during implementation of the RAP(s), who will be responsible for interacting with and providing sufficient information to PAP.

5. Implementation

Ministry of Emergency Situations (MES) is the project implementation agency of the Project. The State Committee of Refugees and IDPs (SCRI), however, is legally charged under national laws on matters of relocation and accommodation of refugees and IDPs. The relocation of IDPs in the Surahani site, therefore, will be carried out by the SCRI. The Deputy Prime Minister sent a letter to the World Bank, dated February 8, 2008, which states that the SCRI will implement the relocation of IDPs prior to the start of works. The Social and Communication Coordinator who will be hired in the Project Management Team (PMT) represents the MES and help SCRI prepare the Resettlement Action Plan (RAP).

The potential displacement in the "1,000ha" site, whose scope and scale is to be determined during project implementation, will be the sole responsibility of the MES. The PMT, under the leadership of the Social and Communication Coordinator, will prepare the RAP as per the policies and provisions of this RPF. If it proves that IDPs need to be relocated from the "1,000ha" site, the RAP will be prepared by the SCRI, together with the Social and Communication Coordinator, as in the Surakhani site.

The SCRI has considerable experience in the accommodation and relocation of IDPs in recent years. SCRI has been implementing programs to relocate IDPs from tent-camps, railroad wagons and so-called "Finnish Camps" into housing units supplied with utilities and other basic infrastructure services. The below characterizes the current program of relocating IDPs in and around the Greater Baku area:

- Since little land is available in the area, construction of new apartments and housing units to accommodate IDPs have been implemented on a step by step basis only after land is made available to the SCRI from the land reserves of Baku city.
- The Resettlement Department of the SCRI is responsible for the relocation of IDPs, and develops relocation plans and selects target IDP groups for relocation.
- A baseline is taken to determine the IDPs eligibility for relocation, well before a relocation plan is finalized and prior to the announcement of the planned relocation. The SCRI visits the target IDP groups selected for relocation and conducts a census to collect key information such as the number of family members, IDP status, places of registration, etc.

- IDPs are given alternative relocation sites to choose from, and a grievance redress mechanism is built in the relocation process. The SCRI usually offers alternative relocation sites if IDPs are unwilling to accept the first offer. In one example, IDPs refused housing in a distant new settlement were offered two other options: (i) moving to new individual houses on the outskirts of the city after 3 months; or (ii) moving to newly-built apartments inside the city after 12 months. The IDPs who selected either of these options rented apartments at their own-cost until the selected housing was ready, but they were given a guarantee that they would be relocated to the selected housing as the units were finished.
- The SCRI allows IDPs with an established residence in the Greater Baku to continue living there even if they are officially registered in other districts. Many IDPs in the Greater Baku area have migrated from their official place of registration. If they are targeted for relocation, they are given the option to officially move their place of official registration to Baku so that they can stay in the area. In the case of IDPs resident in Baku who have already been allocated a housing unit in one of the new settlements far from the city, they are offered the choice of either returning to the unit they have been provided, or of surrendering that unit in order to be allocated a new unit in Greater Baku.
- From the initial notification of a relocation plan until the actual move, the SCRI's field staff visit beneficiary IDPs regularly and update them on progress. The IDPs are provided with access to direct telephone lines to the Resettlement Department of the SCRI so their questions can be addressed.
- Moving cost of the relocated IDPs is covered by the SCRI.
- The SCRI would relocate any IDPs displaced by the Project as part of a larger IDP relocation plan to one of the apartment buildings being built on land provided by the city. Alternatively, they might be offered individual units on the periphery of the city.

It is thus considered that the relocation programs implemented by the SCRI address many gaps with Bank OP 4.12 identified above, except that the SCRI does not prepare a Resettlement Action Plan (RAP) in a manner required under the OP 4.12. The Social and Communication Coordinator of the PMT in the MES will therefore prepare a RAP in cooperation with the SCRI and submit it to the Bank prior to the relocation of IDPs. Any IDPs to be relocated under the Project will be consulted of the relocation plan and provided with alternatives if they have strong and legitimate concerns about the plan offered.

6. Agreements

The following principles govern implementation of this policy framework:

- The MES will ensure that Resettlement Action Plan(s) (RAP) are prepared following provisions of this PRF and OP 4.12 for any cleanup activities that will be carried out under the current and subsequent phases of the project, including the cleanup of the Surakhani iodine site and the "1,000ha" site.

- Relocation of IDPs will be implemented by the SCRI. The MES will coordinate between the SCRI and the Bank, submit the RAP for approval and report the progress in implementation.
- The MES will not conduct any works that may entail displacement before Bank's approval of a Resettlement Action Plan.
- When IDPs and non-IDP refugees are relocated, they will be consulted of the relocation plan to be offered by the SCRI, and their preferences will be considered in developing alternative plans if they are unwilling to accept the initial offer.
- Salvage materials of the investments financed by the PAPs in the past will be provided to them free of charge, and transportation cost will be covered and disturbance allowance be provided by the MES for the relocation of non-IDPs, and by the SCRI for the relocation of IDPs. However, any salvage materials from the Surakhani site, which are highly contaminated, will not be provided to the IDPs.
- The MES will develop the list of each segment of cleanup activities requiring land acquisition and/or resettlement and will develop an implementation plan based on this RPF and the approved RAP(s).
- The Bank will review drafts of the respective RAP(s) and recommend revisions, as needed.
- MES will establish a monitoring capacity to monitor the preparation and implementation of the RAP(s), report the implementation status periodically to the Bank.
- The Bank will participate in different aspects of preparation, implementation and monitoring of the RAPs during regular missions.
- MES will promptly inform the Bank of significant unforeseen problems or circumstances that may affect outcomes of the RAPs and implementation plans.

7. Entitlement Matrix

Type of Losses	Category of PAP	Entitlement	Remarks
Loss of land	Legal owners	Cash compensation at replacement cost or alternative land nearby	Land acquisition only if unavoidable; areas that are not used nor owned for residential or commercial purposes will be prioritized
	Non-legal owners	Alternative land to be provided on a lease basis from public land reserve	Land acquisition only if unavoidable; areas that are not used nor owned for residential or commercial purposes will be prioritized
Demolition of structures for land cleanup	Residential houses	Cash compensation at replacement cost without depreciation, or alternative structure to be provided; salvage materials are provided to the owners free of charge and transport cost covered, except from contaminated sites	Areas without any existing structures will be prioritized; IDPs and non-IDP refugees will be provided with alternative housings with basic infrastructure and utility services from SCRI
	Commercial structures	Cash compensation at replacement cost without depreciation, or alternative structure to be provided; salvage materials are provided to the owners free of charge and transport cost covered, except from contaminated sites	Areas without any existing structures will be prioritized
Damage to roadside structures for road widening	Residential houses	Cash compensation at replacement cost without depreciation	For severe damage (>30%), compensation for entire structure
	Commercial structures	Cash compensation at replacement cost without depreciation	For severe damage (>30%), compensation for entire structure
Loss of income	Business owners	Cash compensation equivalent of one year revenue	Only in case of permanent closure of business
	Employees of businesses to be closed	Cash compensation equivalent of 6 months salary	Only in case of permanent closure of business
Temporary income loss	Business owners whose access to shoppers is restricted due to civil works	Installation of temporary access	EMP will include measures
Damage to utility lines	Utility companies	Consult with utility companies during design stage	Temporary disruption of services
		Notification of service disruption to users	

Annex 1

Sample Table of Contents of Resettlement Action Plan

1. Baseline planning surveys
2. Avoidance or reduction of displacement
3. PAPs (Project Affected People)
4. Vulnerable groups
5. Consultation and participation
6. Coordination with civil works
7. Contractual arrangements with partner institutions
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11. Budget and funding
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