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# **Analysis of the existing legal framework in the Republic of Azerbaijan and development of a road map for relevant approximation with the EU acquis related to climate action**

## **Final Report**

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## List of abbreviations

<b>AERA</b>	Energy Regulatory Agency of the Republic of Azerbaijan
<b>AQ</b>	Air Quality
<b>BAT</b>	Best Available Techniques
<b>BSEC</b>	Black Sea Economic Cooperation
<b>CAFE</b>	The Ambient Air Quality Directive 2008/50/EC, also called “Cleaner Air for Europe” Directive
<b>CC</b>	Climate change
<b>CCC</b>	Climate Change Center
<b>CFCs</b>	Chlorofluorocarbons
<b>CO</b>	Carbon Monoxide
<b>CO<sub>2</sub></b>	Carbon Dioxide
<b>COP</b>	Conference of the Parties
<b>EEA</b>	Environment Agency Austria
<b>ENP</b>	Eastern Neighborhood Policy
<b>EaP</b>	Eastern Partnership initiative
<b>EC</b>	European Commission
<b>ECVs</b>	Essential Climate Variables
<b>EE</b>	Energy Efficiency
<b>EEA</b>	European Environment Agency
<b>EMEP</b>	Co-operative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe
<b>ETS</b>	Emission Trading System
<b>EU</b>	European Union
<b>F-gases</b>	Fluorinated gases: hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulfur hexafluoride (SF <sub>6</sub> ) and nitrogen trifluoride (NF <sub>3</sub> )
<b>GCOS</b>	Global Climate Observing System
<b>GEF</b>	Global Environmental Facility
<b>GHG</b>	Green House Gases
<b>GoAZ</b>	Government of Azerbaijan
<b>HCFC</b>	Hydrochlorofluorocarbons
<b>HFCs</b>	Hydrofluorocarbons
<b>IED</b>	Industrial Emissions Directive (2010/75/EU)
<b>INDC</b>	Intended Nationally Determined Contribution
<b>IPPC</b>	Integrated Pollution Prevention and Control (former Directive 96/61/EC incorporated into the IED)
<b>KP</b>	Kyoto Protocol
<b>LCP</b>	Large Combustion Plant
<b>LRTAP</b>	Long Range Transboundary Air Pollution (Convention)
<b>MBM</b>	Market-Based Measure
<b>MLF</b>	Multilateral Fund (for the implementation of the Montreal Protocol)
<b>MENR</b>	Ministry of Ecology and Natural Resources
<b>MoE</b>	Ministry of Economy

<b>MoEn</b>	Ministry of Energy
<b>MoU</b>	Memorandum of Understanding
<b>MRV</b>	Measurement/Monitoring, Reporting and Verification
<b>NC</b>	National Communication
<b>NDC</b>	Nationally Determined Contribution
<b>NEC</b>	National Emission Ceilings
<b>NIR</b>	National Inventory Report
<b>NHS</b>	National Hydrometeorological Service
<b>NO<sub>2</sub></b>	Nitrogen Dioxide
<b>N<sub>2</sub>O</b>	Nitrous Oxide
<b>ODS</b>	Ozone Depleting Substances
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>SAARES</b>	State Agency for Alternative and Renewable Energy Sources
<b>SEAP</b>	Sustainable Energy Action Plan
<b>SRM</b>	Strategic Roadmap
<b>PA</b>	Paris Agreement
<b>PAH</b>	Polycyclic Aromatic Hydrocarbons
<b>PCA</b>	Partnership and Cooperation Agreement
<b>QA/QC</b>	Quality Assurance / Quality Control
<b>RAZ</b>	Republic of Azerbaijan
<b>RES</b>	Renewable Energy Sources
<b>SO<sub>2</sub></b>	Sulphur Dioxide
<b>SOCAR</b>	State Oil Company of the Azerbaijan Republic
<b>SSC</b>	State Statistics Committee
<b>TBT</b>	Technical Barriers to Trade
<b>UNDP</b>	United Nations Development Programme
<b>UNECE</b>	United Nations Economic Commission for Europe
<b>UNEP</b>	United Nations Environment Programme
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>UNIDO</b>	United Nations Industrial Development Organization

## 1. Introduction

**Republic of Azerbaijan (RAZ)** ratified the UN Framework Convention on Climate Change (UNFCCC) in January 1995, the Kyoto Protocol (KP) in July 2000, and subsequently the Paris Agreement (PA) in October 2016. With a population of around 10 million people (2020), the country contributes only 0.09% of total global greenhouse gas (GHG) emissions. As a **non-Annex I Party to the Convention**, Azerbaijan does not have quantitative commitments for greenhouse gas (GHG) emissions reduction. However, it is voluntarily implementing a range of activities to reduce emissions in contribution to the global efforts for climate change mitigation. Priority among those are measures to increase the share of renewable energy sources, application of more efficient energy technologies, the use of gas instead of fuel oil in thermal power stations, improvement of waste treatment technologies, as well as restoration of forests and the establishment of new forest areas. These priorities have been stated in the country's National Communications under the Climate Convention and promoted in several national strategic development programmes following its ratification (i.e. the 2003 National Programme on Environmentally Sustainable Social Economic Development, the National Programme on Forest Rehabilitation and Forestation from 2003 and the State Programme on the Use of Alternative and Renewable Energy Sources in Azerbaijan, adopted in 2004), although no binding targets have been adopted so far in the areas of renewable energy sources (RES), energy efficiency (EE) or forestry. The most recent set of strategic planning documents are **12 strategic roadmaps (SRMs)**, namely the main “Strategic Road Map on National Economy Perspectives” and 11 Sector Roadmaps, several of which are related to energy and climate policy development.<sup>1</sup> The SRMs were adopted by a Presidential Decree on 6 December 2016 and cover the 2016-2020 economic development perspective, a mid-term outlook up to 2025 and target vision after 2025.

As part of its international commitments under UNFCCC, the Government of Azerbaijan (GoAZ) ensures regular reporting of climate change related trends and developments in the form of national communications and biennial update reports. With this respect, RAZ submitted its **first, second and [third National Communications](#)** (NC) in 2001, 2010 and 2016 respectively. In addition to the NCs, Azerbaijan has also presented its **first and second Biennial Updated Reports** (BUR) respectively in 2015 and in 2018. Currently, with the support of United Nations Development Programme (UNDP) and the Global Environment Facility (GEF), the country is developing its **fourth National Communication**.

**[Azerbaijan's Intended Nationally Determined Contribution](#)** (INDC) as a non-Annex I Party was presented to the UNFCCC on 29 September 2015, committing to a target of **35% reduction of GHG emissions** by 2030, compared to the base year (1990), as its contribution to the global climate change efforts. Recent scientific studies<sup>2</sup> show that current policies and mitigation measures are not enough to meet Azerbaijan's emissions reduction target to the Paris Agreement. Within the [EU4Climate](#) regional project the country is committed to **update its NDC**, in view of

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<sup>1</sup> <https://minenergy.gov.az/en/dovlet-proqramlari/strateji-yol-xeriteleri>

<sup>2</sup> Reference : How can Azerbaijan meet its Paris Agreement commitments: assessing the effectiveness of climate change-related energy policy options using LEAP modeling ([Heliyon 6](#) (2020) e04697)

identifying realistic implementation strategy for GHG emissions reduction and prioritizing adaptation measures to strengthen climate change resilience of the country's economy.

According to the second BUR, nearly 80% of the GHG emissions in 2013 were released by the energy sector (fuel combustion), therefore this is the stakeholder with potential to make the most substantial contribution to the mitigation efforts. Yet, it is largely acknowledged that this potential, especially in the EE and RES development areas, remains uncapped.<sup>3</sup> **The Ministry of Energy (MoEn)** is the central executive authority that implements state policy in the energy sector. It was established in October 2013, through reorganization of the former Ministry of Energy and Industry when functions related to the industrial sector were transferred to the Ministry of Economy (MoE). In its control functions the MoE is supported by **the Energy Regulatory Agency (AERA)**, established in December 2017 by merging the State Energy Control Department and the State Gas Control Department. A **State Agency for Alternative and Renewable Energy Sources (SAARES)** was established in 2009 to promote RES development in the country, but after a number of transformations, it was abolished in January 2019 by a Presidential Decree. Until 2019, there was no energy strategy in Azerbaijan, neither targeted planning documents for EE or RES development. The main driving force for implementing reforms and updating the legal framework in the sector is the Presidential Decree on “The acceleration of reforms in the energy sector of Azerbaijan” from May 2019, which stipulates strict deadlines for the development of relevant draft legislative acts. Among the sectoral roadmaps, those on Oil and Gas Industries (Including Chemical Products) and on Public Utilities Development (Including Electricity, Heat, Gas, and Water) are the key strategic documents related to the energy sector. The [SRM on Public Utilities](#) contains **specific energy-related goals, including for renewables, natural gas and district heating sectors until 2020**.<sup>4</sup> The RES target is consequently picked up by the **National Sustainable Energy Action Plan (SEAP)**, developed in 2019. According to the SEAP, 430 MW is the 2020 target value of total installed power generation capacities from RES. The **planned capacities** of alternative and renewable energy sources to be installed amount at 840 MW by 2025 and 925 MW by 2030. This would mean a **share of RES in total installed capacities** of 20% in 2020, 25-30% in 2025, and 35-40% in 2030.<sup>5</sup> If reached, these targets are expected to contribute substantially to the goal of 35% GHG emissions reduction by 2030, as committed by Azerbaijan in its INDC. In the context of the energy sector reforms, the MoEn is currently in the process of adopting a new Law on the “Efficient Use of Energy Resources and Energy Efficiency”, developed in the framework of the EU4Energy regional programme.<sup>6</sup> Once adopted, this law will provide a general framework and define the legal, organisational and economic basis of the state policy in the field of energy efficiency.

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<sup>3</sup> References: [Renewables Readiness Assessment, Republic of Azerbaijan](#) (IRENA, December 2019); Energy Profile, Azerbaijan (IRENA, 2019).

<sup>4</sup> Source: In-Depth Review of the Energy Efficiency Policy of the Republic of Azerbaijan (Energy Charter Secretariat, 2019)

<sup>5</sup> Reference: Figures 24 and 25 in the National Sustainable Energy Action Plan.

<sup>6</sup> See EU4Energy at

[https://www.euneighbours.eu/sites/default/files/publications/2019-08/20190802\\_Brochure\\_Azerbaijan\\_EN.pdf](https://www.euneighbours.eu/sites/default/files/publications/2019-08/20190802_Brochure_Azerbaijan_EN.pdf)

The **Ministry of Ecology and Natural Resources (MENR)** is coordinating the environment and climate change policies in Azerbaijan and is the Designated National Authority for the UNFCCC. It was established in 2001, succeeding the former State Committee on Ecology. In addition, the State Committee on Hydrometeorology, which was previously an independent agency, became part of MENR, as **National Hydrometeorological Service (NHS)**. The Service is currently playing key role in producing and delivering weather, climate and hydrological information and services. **Complex meteorological observations** are carried out at 63 stations every three hours, while limited meteorological observations are carried out at 75 stations. The observations for atmospheric air pollution are carried out at 26 observation stations located in 8 cities (sampling three times a day).<sup>7</sup> The national emission inventory process, until recently carried out by the Climate Change and Ozone Center, is taken over by the newly established **Climate Change Center (CCC)**, Hydrometeorological Research Center and Environmental Monitoring Center within NHS. Another body with competencies in climate change is the Forest Development Service within MENR.

The main supervisory authority in the Ministry is the **State Ecological Security Service**. The Service is responsible for environmental protection, including compliance with climate legislation. This body and the **regional departments of ecology and natural resources** collect, analyze and verify emissions data provided by permitted entities, which submit annual reports in this regard to the regional statistical authorities. The **State Statistics Committee (SSC)** is assigned with the development, production and dissemination of official statistical data in the country, including handling of climate-related information.<sup>8</sup> Horizontal inter-sectoral coordination for implementation of the national climate change policies is entrusted to a **State Commission on Climate Change**, established in 1997 following the UNFCCC ratification, and comprising representatives of all ministries, committees, and agencies with assigned responsibilities in this policy area. Specific feature of Azerbaijani climate change policy is that the biggest state owned companies as the State Oil Company of the Azerbaijan Republic (SOCAR) and AzerEnergy are actively involved in development and implementation of CC mitigation actions promoted by the Government.

It is noteworthy that pursuant to the *Law “On suspension of inspections in the field of entrepreneurship”*, most inspections in the Republic of Azerbaijan, including those carried out in the field of environmental protection and industrial emissions control, have been **suspended for the period 2015-2021**. This approach has opened a *significant law enforcement gap* which will have tangible and costly consequences – for the people and natural resources, but also for the companies, as such negligence to the potential negative impacts on environment is creating competitive advantage for certain polluting businesses at the expense of more responsible ones. It is expected the level playing field to be reinstated with the abolition of this law as of 2021.

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<sup>7</sup> Source: 3rd National Communication of Azerbaijan.

<sup>8</sup> Source : [Azerbaijan’s Second Biennial Update Report 2018](#)



Republic of Azerbaijan *does not have binding commitments* for legal approximation in the environment sector with the EU, but is developing close relationship therewith, based on the **Partnership and Cooperation Agreement (PCA) with the European Community and its Members States**, in force since July 1999. Negotiations on a new agreement began in February 2017, but have not been completed yet. Once concluded, it will replace the PCA and is expected to bring relations between Azerbaijan and the EU to a qualitatively new level. Furthermore, Azerbaijan, EU and its Member States are cooperating closely as Parties to numerous international treaties directly or indirectly relating to environment and climate change. The **commitments under these international treaties** are enshrined into special implementing acts in the EU legislation, considered as part of the EU acquis. It is therefore recognized by RAZ that legal approximation with the acquis in the areas covered by international conventions would *bring an added value to the country's implementation efforts*. Azerbaijan is part of the EU's European Neighborhood Policy (ENP) and the Eastern Partnership initiative (EaP), as well as a member of the Organization of Black Sea Economic Cooperation (BSEC).

Energy is another area of close bilateral cooperation with the EU, where Azerbaijan is a strategic partner and plays a pivotal role in bringing Caspian energy resources to the EU market. A **Memorandum of Understanding (MoU) on a Strategic Partnership** between RAZ and the EU in the energy field was signed in 2006. The MoU identified 4 priority areas for bilateral cooperation: *legal approximation*, enhancing the *security of supply and transit* systems, development of *Renewable Energy Sources (RES)* and increased *technical cooperation*. In 2019 Azerbaijan joined the Eastern Europe Energy Efficiency and Environment Partnership (E5P), benefitting from further EU support in the energy sector. Dialogue and cooperation on sustainable transport are also getting high on the EU and Azerbaijan agenda. Thus, cooperation on the environment and climate goals has been strengthened further, as Azerbaijan is progressing on its sustainable energy pathway with strong support from the EU, including through the [EU4Energy](#) Initiative, and from international financing institutions.<sup>9</sup>

In this context, it was important for the purpose of the present analysis to reach a common understanding with Azerbaijani colleagues on what would be the *desired scope of a gap analysis* and *planned future action for legal approximation* with the EU in the climate change area. The UNDP country office in RAZ has provided useful information on the existing national legal and institutional framework for climate action and MRV, prepared by local experts. In the shared reports certain limitations in *institutional, technical and financial capacities* to meet the country's international commitments related to environment and climate change, especially in the MRV system, have been identified. This was a good basis to consider further steps with respect to climate-related legal framework development.

In order to address these gaps, an **analysis of the current climate-related legislation and development of a roadmap outlining further support** to the Republic of Azerbaijan in alignment with EU acquis was initiated in the end of 2019 within the EU4Climate regional programme. The gap analysis is performed by the Environment Agency Austria (EAA)'s

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<sup>9</sup> Source: [EaP Factsheets](#) (Azerbaijan)



international expert assigned with task 3 of the EU4Climate action plan 2019-2020. Conclusions and recommendations resulting therefrom are summarized in chapter 6 of the current report, which served as a basis of the road map in chapter 7, outlining possible further EU4Climate support.

Consequent on-line discussions (*carried out between March and November 2020 mainly via email communication and web-based discussions due to Covid19 pandemic*) confirmed the Beneficiary's willingness to pursue a more **integrated approach** in the approximation with the *climate-* and *air-* related acquis. Such approach is considered especially relevant to the establishment of the national system for emissions monitoring, verification, reporting and inventory. Against this background, the present analysis aims at encompassing the **synergy and interlinkages between the legal instruments** in the areas of *climate change*, *air quality* and *industrial emissions*, in view of founding common ground for further EU4Climate interventions in Azerbaijan, thus ensuring economy of scale by possible implementation of certain international commitments in more than one policy areas.

## 2. Executive Summary

The report hereinafter analyses the EU legal framework directly and indirectly related to climate change mitigation (**chapter 3**) and alignment with these acquis considered relevant to the Republic of Azerbaijan. Further in **chapter 4**, it scrutinizes approximation in the Azerbaijani legal system with the EU acquis implementing the Paris Agreement, regulating ozone depleting substances including F-gases, as well as air quality and industrial emissions legislation indirectly related to climate change. Based on this scrutiny, **chapter 5** summarizes in easy to absorb table format the findings of the analysis carried out and the recommendations for further steps in the legal approximation process considered relevant for the Republic of Azerbaijan. **Chapter 6** wraps up the recommendations into conclusions for each group of acquis examined, which will serve as a basis for planning further actions and support, including from EU4Climate regional project. **Chapter 7** then proposes seven measures to be implemented for a three-year period (2021-2023), taking into account the current level of approximation in Azerbaijan, assessed in this report and the priorities outlined in the country's Second BUR.

In chapter 3 the examined **EU climate-related legislation** is grouped into three clusters:

- ✓ Acquis related to the implementation of the Paris Agreement sets EU wide legally binding objectives for the period 2021-2030 based on three directives (regulating the EU emission trading system /ETS/, renewable energy, and energy efficiency), as well as the climate change monitoring system. This imposes the need of an integrated approach in building the environment and climate monitoring systems, which ensures consistency and economies at scale.
- ✓ Acquis related to ozone depleting substances (ODS) and fluorinated greenhouse gases (F-gases) provides for placing on the market, banning, labelling and licensing the import/export of controlled substances, products and equipment that contain, or whose functioning rely upon substances covered by the ODS and F-Gas regulations.
- ✓ Acquis on air quality protection and industrial emissions prevention and control are closely interlinked with the climate change legislation. Therefore, implementing

measures in these areas are often applied in synergy. In addition, there is increasing evidence that abatement costs of total benefits can be reduced significantly, if climate change and air pollution control strategies are developed jointly.

The scrutiny of approximation with the climate-related acquis in chapter 4 follows the same three-cluster approach and is **guided by the respective international commitments** taken by Azerbaijan. RAZ is a Party to the Paris Agreement, Vienna Convention and the Montreal Protocol on ODS and F-gases. Henceforth, it is acknowledged that approximation with the relevant provisions of the ETS Directive, the MRV and ODS regulations, the acquis related to air quality and industrial emissions would help the country meet its international commitments.

The approximation efforts related to **acquis implementing the Paris Agreement** should be focused mainly on ensuring compliance with the transparency requirements of the UNFCCC and the PA. In line with these transparency requirements, a reliable greenhouse gas inventory system and a national MRV mechanism should be established. However, obligations of the various designated institutions for climate-related data reporting, collection, storage and exchange are not regulated by a legally binding instrument in Azerbaijan. A formal mandate is needed to assign clear implementation and enforcement roles to the relevant authorities and to facilitate the various stages of the MRV process.

One of the country's highest short-term priorities is to **strengthen the MRV system at installation level**. Although Republic of Azerbaijan has a system to monitor and report pollutants and a regulatory set-up to apply the *"polluter pays" principle*, it is urgently necessary to improve enforcement and to put more focus on GHG measurement in the MRV system. For regulating the stationary emission sources pursuant to the ETS Directive, it is recommended to carry out designation in accordance with the Guidance on Interpretation of Annex 1 of the ETS Directive and to apply a synergy approach to the approximation of relevant provisions of the Industrial Emissions Directive (IED). The Law "On the protection of atmospheric air" provides the legal basis for the MRV of polluting emissions, including GHGs, but implementing legislation and guidelines as well as an electronic platform for reporting and data management are missing. Corresponding capacity building for implementation and enforcement is identified among the most significant gaps.

**As for the ODS and F-gas regulation** – Azerbaijan acceded to the Vienna Convention, its Montreal Protocol and subsequent amendments, except the Kigali Amendment. Following the implementation of a series of projects, the National Strategy for the Protection of the Ozone Layer was adopted, leading to phasing out the import of controlled substances out. The Law "On the protection of atmospheric air" (2001) is the main legal act regulating emissions in the air, including ODS, complemented by the Laws "On Hydrometeorological activity" (1998) and "On Environmental Impact Assessment" (2018). They stipulate the basic principles and procedures for air quality assessment and protection (including the ozone layer). However, national legislation targeting implementation of the ODS Convention and the Montreal Protocol is not sufficiently comprehensive. It is strongly recommended to **adopt a specific legal act on ODS and F-gases** and to carry out corresponding capacity building. Establishment of a harmonized

reporting system covering both ODS and F-gases, as well as building a fully-fledged integrated database (which could be part of the MRV data management and reporting platform) are also recognized among the immediate needs. As Azerbaijan is in the process of ratifying the Kigali Amendment, **it is recommended** to strengthen its legislation and capacities after its adoption and in accordance with the respective new obligations.

As to **international commitments in the area of air quality protection**, Azerbaijan is Party to the LRTAP Convention since July 2002, but none of its Protocols were ratified by the country so far. Admitting the gap that on international level at this stage RAZ is not legally bound by emissions reduction commitments for the major air pollutants, an **action plan for gradually adopting the LRTAP Protocols** was developed in 2019. The plan is currently scrutinized by the relevant state bodies to be approved early next year.

With respect to **alignment with the air quality directives**, Azerbaijan has already launched the process through the implementation of a Strategic Plan on Air Quality and an Action Plan for the modernization of the monitoring network since 2016 (developed with the support of an EU Twinning project lead by Finland). According to this Plan, 25 new AQ monitoring stations should be installed by 2024. The activities implemented under the Strategic Plan are based on the two main legal acts in the AQ area - the framework CAFE Directive (2008/50/EC) and Directive 2004/107/EC. The AQ Action Plan does not address the setting of emission limit values for industries, permitting, inspection and compliance monitoring, but these actions are supported by the EU4Environment regional project.

It is strongly recommended to **ensure synergy and complementarity in these activities, prioritizing the IED 2010/75/EU**, to guarantee an integrated approach in alignment with the air- and climate- related acquis and at the same time, to meet the respective international obligations of the Republic of Azerbaijan. If applied in synergy, the actions contributing to alignment with the AQ and IE acquis will also enable Azerbaijani authorities to build a reliable MRV system for stationary sources, which is a key country commitment under the Paris Agreement.

Based on the comprehensive analysis, chapter 6 recommends **eleven steps to follow in the approximation process**, so that climate and related acquis are addressed in synergy and complementarity, while respecting the commitments Republic of Azerbaijan has assumed in the multilateral international agreements. **Seven out of these eleven steps have been summarized** in chapter 7, for consultation and selection of priority ones to be considered for support by EU4Climate as of 2021.

### 3. EU Legal Framework Related to Climate Change

EU climate-related acquis from which commitments arise for Eastern Partnership countries can be grouped into three clusters, as explained below.

### 3.1. Acquis related to the implementation of the Paris Agreement

The EU's first nationally determined contribution (NDC) under the Paris Agreement is to reduce greenhouse gas emissions by at least **40%** by 2030 compared to 1990. As part of the [European Green Deal](#) launched in December 2019, the European Commission proposed in September 2020 to raise the 2030 GHG emission reduction target to 55% compared to 1990. This proposal was endorsed by the European Council on 17 December 2020, which enabled the EU to present its [revised EU NDC](#) to the UNFCCC on 19 December 2020, enhancing its 2030 target to **55%** GHG emissions reduction compared to 1990.

Other key targets are to achieve at least **32%** share for renewable energy and **32.5%** improvement in energy efficiency (to be revised in the light of the new GHG reduction commitment when adopted). All key EU legislation for implementing these targets was adopted by the end of 2018, setting up EU-wide legally binding objectives for the period 2021-2030. Pursuant to the updated NDC though, the Commission has started the process of making detailed legislative proposals until June 2021, by looking at the *actions required across all sectors*, including increased energy efficiency and renewable energy. The legal package includes:

- The comprehensive **2030 climate and energy framework** comprising:
  - [revised Emission Trading System /ETS/](#) Directive 2003/87/EC;
  - revised [Renewable Energy Directive 2018/2001/EU](#); and
  - amended [Energy Efficiency Directive 2018/1999/EU](#)).
- **Climate Monitoring Mechanism (CMM)** comprising:
  - [Regulation \(EU\) No 525/2013](#) on a mechanism for monitoring and reporting greenhouse gas emissions and for reporting other information at national and Union level relevant to climate change;
  - Reporting requirements under [Commission Implementing Regulation \(EU\) No 749/2014](#) on structure, format, submission processes and review of information reported by Member States pursuant to Regulation (EU) No 525/2013; and
  - requirements for the EU inventory system under [Commission Delegated Regulation \(EU\) No 666/2014](#) establishing substantive requirements for a Union inventory system and taking into account changes in the global warming potentials and internationally agreed inventory guidelines.

The CMM will remain the relevant EU framework for monitoring and reporting GHG emissions until 1 January 2021. From then onwards, it will be replaced by the [Regulation on the Governance of the Energy Union and Climate Action](#), which brings it in line with the transparency requirements of the Paris Agreement.

A **climate change monitoring system** integrates satellite observations, ground-based data and forecast models to monitor and estimate changes in the weather and climate. Since the national monitoring systems all form part of a global network, it is vital that there is as much consistency

as possible in the way measurements and observations are made. With this respect, in 1992 the **Global Climate Observing System (GCOS)** was established to ensure that the observations and information needed to address climate-related issues are obtained and made available to all potential users.

As part of its role to provide continuous support to the UNFCCC, GCOS has established 20 Climate Monitoring Principles defining 50 Essential Climate Variables (ECVs)<sup>10</sup> to be measured consistently. Among the key ECVs are the *atmospheric variables* measured over land, sea and ice. These include *composition of the ambient air* or more specifically: carbon dioxide, methane and other long-lived greenhouse gases (N<sub>2</sub>O, CFCs, HCFCs, HFCs and other F-gases), ozone and aerosols, supported by their precursors (in particular NO<sub>2</sub>, SO<sub>2</sub>, HCHO and CO). The other set of essential variables are *terrestrial* (river discharge, water use, snow cover, glaciers, soil carbon, soil moisture, etc.) and *oceanic* (sea level, sea state, salinity, current, etc.).

The better information available, the more accurately future climate conditions can be assessed at local, regional, national and global levels. It has become particularly important in the context of climate change adaptation needs of the most vulnerable sectors as agriculture, forestry, water management, tourism, etc. This imposes the need of an **integrated approach in building the environment and climate monitoring systems**, which ensures consistency and economies at scale. It is especially relevant for the *atmospheric variables* to be measured according to GCOS Climate Monitoring Principles, and more specifically the *composition of the ambient air*, as pointed out in the previous paragraph.

### 3.2. Acquis relating to ozone-depleting substances and fluorinated greenhouse gases

Countries' commitments deriving from these acquis are related mainly to the establishment of a system for *placing on the market, banning, labelling and licensing the import/export of controlled substances*, of products and equipment that contain, or whose functioning relies upon substances covered by the ODS and F-Gas regulations.

These commitments are similar to the ones that countries undertake under the **Vienna Convention** on the Protection of the Ozone Layer and **Montreal Protocol** on the Protection of the Ozone Layer from Substances that Deplete the Ozone Layer. The 1987 United Nations Environment Programme (UNEP) Montreal Protocol is widely recognized as one of the most successful multilateral environmental agreements to date whose implementation has led to a tangible global decrease in the impact of ODS on the atmosphere. The Agreement covers the phase-out of over 200 individual ODS and controls the consumption and production of these substances, not their emissions. It phases down their consumption and production in a step-wise manner, with different timetables for *developed* and *developing* countries (referred to as "[Article 5 countries](#)"). Under this Treaty all parties have specific responsibilities related to the phase out of the different groups of ODS, control of their trade, annual reporting of data and national

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<sup>10</sup> Source: GCOS at <https://public.wmo.int/en/programmes/global-climate-observing-system?name=ClimateMonitoringPrinciples>

licensing systems to control ODS imports and exports. Developing and developed countries have *equal but differentiated responsibilities*, yet both groups of countries have binding, time-targeted and measurable commitments.

Since its entry into force on 1 January 1989, it has undergone five substantial revisions<sup>11</sup>, most recent of which the **Kigali Amendment**, which entered into force on 1 January 2019 and added HFCs to the list of controlled substances. Upon 30 November 2020, 112 Parties<sup>12</sup> to the Protocol accepted the Amendment, committing to cut the production and consumption of HFCs by more than 80% over the next 30 years. The EU ratified the Kigali Amendment on 27 September 2018.

Specific **EU acquis implementing these international treaties** are:

- [Regulation \(EC\) No 1005/2009](#) on substances that deplete the ozone layer (the ODS Regulation); and
- [Regulation \(EU\) No 517/2014](#) on fluorinated greenhouse gases (the F-gas Regulation).

The **EU has gone beyond the rules of the Montreal Protocol** to tackle some of the remaining challenges in this area. While the Montreal Protocol regulates the production of these substances and their trade in bulk, the **Ozone Regulation from 2009** *prohibits their use* in most cases. Moreover, it regulates not only substances in bulk, but also those *contained in products and equipment*. In addition, Regulation (EC) 1005/2009 sets *licensing requirements* for all exports and imports of ODS. It also covers *five new substances* in addition to those (over 90 chemicals) controlled under the Montreal Protocol.<sup>13</sup>

Regarding **F-gases** – they are often used as *substitutes* for ozone-depleting substances (CFCs, HCFCs and halons), because they do not damage the atmospheric ozone layer. However, F-gases are powerful GHGs, with a global warming effect up to 23 000 times greater than CO<sub>2</sub>, and their emissions has been rising sturdily until between 1990 and 2014<sup>14</sup>. Hydrofluorocarbons (HFCs) are considered the most relevant F-gas group from a climate perspective, even though they are relatively short-lived, while the other two F-gas groups – perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>) can remain in the atmosphere for thousands of years.

**The current EU F-gas Regulation** (517/2014), which applies since 1 January 2015, replaced the original one from 2006. It strengthened the previous measures by *limiting the total amount* of F-gases that can be sold in the EU and *phasing them down in steps* by 2030. In addition, the Regulation *bans the use of F-gases in many new types of equipment* where less harmful alternatives are widely available, such as fridges, air conditioning, foams and aerosols. It also requires *checks, proper servicing and recovery of the gases* at the end of the equipment's life, thus preventing emissions of F-gases from existing equipment. Thanks to the current F-gas

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<sup>11</sup> <https://ozone.unep.org/treaties/montreal-protocol/amendments>

<sup>12</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XXVII-2-f&chapter=27&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-2-f&chapter=27&clang=_en)

<sup>13</sup> Source: Ozone-depleting substances reports provided by the European Environment Agency (EEA).

<sup>14</sup> According to EEA data, emissions of F-gases in the EU almost doubled from 1990 to 2014 – in contrast to emissions of all other GHGs, which were reduced. Thanks to EU legislation on fluorinated gases, F-gas emissions have been gradually falling since 2015.



Regulation, the EU's F-gas emissions will be cut by two-thirds until 2030 compared to their 2014 levels.

### 3.3. **Acquis indirectly related to climate change**

On EU level the **policies on climate change, air quality protection and industrial emissions control are closely interlinked**, therefore implementing measures in these areas (including *monitoring, information sharing and reporting*) are often applied in synergy. Ground-level ozone and black carbon aerosols for instance are air pollutants and warming agents like CO<sub>2</sub>, which at high levels seriously damage human health and vegetation, including crop yields. Poor air quality is also caused by emissions of nitrogen oxides, methane and other volatile organic compounds that combine in the lower atmosphere to produce ozone, thus contributing to climate change. Ozone reductions are therefore best achieved by cutting emissions of all precursors.

Furthermore, many of the sources of air pollutants and greenhouse gases are the same. The need for a **combined strategic planning that meets the challenges of both climate change and air pollution** has thus become more and more obvious for the benefit of a well-informed political decision-making. There is also increasing evidence that abatement costs in relation to the total benefits can be reduced significantly if climate change and air pollution control strategies are developed jointly. Combining both sets of policies provides a win-win situation whereby medium-term efforts to control air pollution will support long-term strategies that aim to limit climate change.

Hence, a relevant gap analysis should not treat these issues separately as we strive to achieve sustainable low carbon development in a cost effective way. **Such integrating approach was applied** to the present acquis approximation analysis undertaken for the Republic of Azerbaijan. More specifically, the following air- and emissions- related acquis have been considered together with the climate change ones, when assessing the needs and recommending further actions for legal approximation in both policy areas.

- [The Ambient Air Quality Directive 2008/50/EC](#), also called “Cleaner Air for Europe” or CAFE Directive.

It consolidated the original Air Quality Framework Directive 96/62/EC and its 3 daughter directives establishing **standards for a range of pollutants** including SO<sub>2</sub>, ozone, particulate matter (PM<sub>10</sub>) and nitrogen dioxide (NO<sub>2</sub>). It also sets standards for fine particulate matter (PM<sub>2.5</sub>). On international level these same pollutants are regulated through **emission standards (ceilings) set in the Gothenburg Protocol** to the Convention on the Long Range Transboundary Air Pollution (**LRTAP Convention**). In the EU the [National Emission Ceilings \(NEC\)](#) Directive 2016/2284/EU is implementing the Gothenburg Protocol.

- **CAFE and NEC, together with** [Directive 2004/107/EC](#) relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air, provide the current framework for the control of ambient concentrations of air pollution in the EU. The control of emissions from mobile sources, improving fuel quality and integrating



environmental considerations into the transport sector are also part of this framework, but not a subject of the present analysis.

- The [Industrial Emissions Directive \(IED\) 2010/75/EU](#), which has consolidated the EU legal framework on industrial emissions comprising 7 older pieces of legislation, namely: Directive 96/61/EC on integrated pollution prevention and control (IPPC) and 6 so-called “sectoral” directives – on large combustion plants (LCP), on waste incineration, on solvents emissions, and 3 directives related to the production of titanium dioxide.

Recent data from the European Environment Agency (EEA) show that fuel combustion and fugitive emissions from fuels (without transport) was responsible for 53 % of the EU-27 greenhouse gas emissions in 2018, which makes it the highest GHG emissions source. The main piece of legislation *regulating emissions from large combustion plants and industrial installations* is namely the **Industrial Emissions Directive**. While the **EU ETS** is the key EU policy instrument for reducing industrial GHG emissions *cost-effectively*.

All **installations covered by the IED** (around 50 000 in the EU) require a *permit* to operate. Permit conditions are based on the respective "BAT Conclusions", where the Best Available Techniques (BAT) and the associated BAT Emission Levels are defined for each particular industrial sector. The IED regulates granting and reviewing of integrated permits and introduces minimum requirements for environmental inspections of the installations and activities in its scope, as well as self-monitoring and reporting of compliance with the permits by the economic operators.

As for the **ETS Directive** – it is mainly dealing with CO<sub>2</sub> emissions and applies to heavy energy-using installations in power and heat generation, as well as several energy-intensive manufacturing industries. The ETS includes more than 11 000 power stations and industrial plants across the EU, covering around 45% of total GHG emissions from the EU countries.

Participants in the ETS must have an *approved monitoring plan*, according to which they commit to measure their emissions and *report on an annual basis*. The monitoring plan is incorporated in the *integrated permit* that is issued to each installation pursuant to the IED. This is how **the IE and ETS directives are interlinked** and the implementation of the latter is not feasible without introducing certain provisions deriving from the former (namely integrated permitting, respective BATs, monitoring and reporting provisions). Therefore, **coordination with the permitting provisions of the IED** is explicitly required by Article 8<sup>15</sup> of the consolidated ETS Directive.

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<sup>15</sup> **Article 8. Coordination with Directive 2010/75/EU.** “Member States shall take the necessary measures to ensure that, where installations carry out activities that are included in Annex I to Directive 2010/75/EU of the European Parliament and of the Council, the conditions and procedure for the issue of a greenhouse gas emissions permit are coordinated with those for the issue of a permit provided for in that Directive. The requirements laid down in Articles 5, 6 and 7 of this Directive may be integrated into the procedures provided for in Directive 2010/75/EU.”

#### 4. Alignment with the EU Climate and Air Acquis Relevant to Azerbaijan

Following the integrating approach of EU acquis related to **climate change, air quality protection and industrial emissions**, the analysis of legal alignment relevant for the Republic of Azerbaijan has been built on the respective three clusters, as elaborated further below. It should be acknowledged that many provisions of the environment acquis appear as *pre-condition* for the application of the climate ones. These include but are not limited to: setting up emission limit values and caps on concentration of pollutants; introduction of integrated permitting system and BAT requirements; establishment of public consultation and access to information procedures; development of integrated environmental monitoring and information systems, etc.

Approximation with the *climate-related* acquis covers the EU legislation related to implementation of the Paris Agreement, Vienna Convention and the Montreal Protocol on ODS and F-gases, to which RAZ is a Party. According to articles 148 and 151 of the Azerbaijani Constitution, international conventions and treaties to which the country is a Party are an integral part of the national legal framework and all their provisions apply directly on the area subject to regulation. Hence, approximation with particular provisions of the ETS Directive, the MRV and ODS regulations would come **in support of Azerbaijan's meeting its international commitments**.

Alignment with the acquis related to *air quality and industrial emissions* is also considered relevant for Azerbaijan, given the fact that the national Law “On the protection of atmospheric air” from 2001 provides the legal basis for a number of climate change- related provisions, such as emissions permitting, monitoring and control related to stationary sources, definition of air pollutants to be measured, as well as determination of emission limit values for selected air pollutants (incl. GHGs). The *air and industrial emissions* regulatory framework will therefore be a strong driver for the establishment of a robust **installation level MRV system**, which according to the 3<sup>rd</sup> NC is getting quite high on the country's climate policy agenda.

As regards approximation with the *energy-related acquis* (namely the EU directives on promotion of RES, on energy efficiency and on the energy performance of buildings), it is **not subject to the present gap analysis**, since support for implementing the alignment commitments in this area (*pursuant to the MoU on a Strategic Partnership with the EU in the energy sector*) is provided primarily by the [EU4Energy initiative](#),<sup>16</sup> as well as various energy efficiency and renewable energy projects benefitting from bilateral financing.

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<sup>16</sup> Drafting of the laws on energy efficiency and renewable energy, the National Action Plan on energy efficiency, concept for a long term Energy Strategy, development of energy labelling and eco-design requirements for energy using products, etc. are among the priority actions supported by EU4Energy in Azerbaijan.

#### 4.1. Relevant approximation with the acquis implementing the Paris Agreement

The approximation efforts in this cluster are to be focused mainly on **ensuring compliance with the transparency requirements** of the UNFCCC and the PA<sup>17</sup>. More specifically, this applies to the preparation and review of national GHG emission reports and inventories (NIRs), national communications (NCs) and biannual update reports (BURs) required under the existing measurement, reporting and verification (MRV) system for developing countries<sup>18</sup>, which are likely to stay the same under the Paris Agreement's enhanced transparency framework.

In line with these transparency requirements, a **reliable greenhouse gas inventory system**, and a **national MRV mechanism should be established**. The [Second BUR](#) of Azerbaijan recognizes that a well-developed MRV system is an essential prerequisite to access available international support, market incentives and new financial mechanisms under the PA, as it would provide credibility to the mitigation actions and the emissions reduction achieved. Although Republic of Azerbaijan has a system to *monitor and report* pollutants emitted in the ambient air and a regulatory set-up to *apply the "polluter pays" principle*, it is clearly acknowledged that there is a **pressing need to improve enforcement** and to put more focus on GHGs measurement in the existing MRV system. To that end BUR-2 proposes concrete priority measures which were confirmed in consultations with the local experts and are duly taken into account in the present gap analysis (*see Table 5.1*). They are **targeting the following gaps identified** with respect to the development and implementation of a strong and reliable MRV system in Azerbaijan:

- ✓ lack of institutional capacity in relevant ministries and the State Accreditation Center;
- ✓ lack of experience and knowledge of the operators of installations;
- ✓ lack of experience and knowledge with respect to the needed verification activities;
- ✓ legislative gaps (including accreditation standards);
- ✓ lack of templates and guidelines.

One of the highest short-term priorities identified is to **strengthen the MRV system at installation level**. As mentioned earlier, at present measurement and reporting of emissions is carried out annually by operators themselves. They submit annual emission reports to the State Statistics Committee, after verification by the central and regional Departments of Ecology and Natural Resources under MENR. Part of these annual reports covers the following GHGs: carbon dioxide (CO<sub>2</sub>), nitrogen oxide (N<sub>2</sub>O), methane (CH<sub>4</sub>), hydrofluorcarbons (HFCs), sulfur hexafluoride (SF<sub>6</sub>) and perfluorocarbons (PFCs). In addition, preliminary studies carried out identified 67 installations that would operate under a fully-functioning MRV system.<sup>19</sup> It should be noted that the GHGs subject to reporting are defined on the basis of **Annex II of the ETS Directive**, while the designation of installations follows the sector profiles of **Annex I thereof**.

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<sup>17</sup> For more information on the existing and planned transparency framework, see the [Guide to transparency under the UNFCCC and the Paris Agreement](#)

<sup>18</sup> [Handbook on Measurement, Reporting and Verification for developing country Parties](#)

<sup>19</sup> Reference: tables 26 and 27 in the Second BUR of Azerbaijan.

In this context, there is a solid background for the *installation level* measurement, reporting and verification system to be based on the relevant EU acquis, namely to align the national regulatory framework with selected provisions of **the ETS Directive** and **three regulations**, as follows:

- ETS Directive 2003/87/EC<sup>20</sup> (more specifically the provisions on identifying GHGs and large emitters thereof, pursuant to articles 14-17, annexes I and II);
- Regulation (EU) No 601/2012 on the monitoring and reporting of GHG emissions<sup>21</sup>;
- Monitoring Mechanism Regulation (EU) 525/2013<sup>22</sup>;
- [Commission Implementing Regulation \(EU\) 2018/2067](#) on the verification of data and on the accreditation of verifiers pursuant to Directive 2003/87/EC.

For regulating the stationary emission sources pursuant to the ETS Directive, it is recommended to carry out designation on the basis of the [Guidance on Interpretation of Annex I of the EU ETS Directive](#) and to apply a **synergy approach with the approximation of relevant provisions of the Industrial Emissions Directive**, more specifically (*see also sections 3.3. and 4.3*):

- Chapter III and Annex V setting *minimum requirements for emissions from LCPs*;
- Chapter II and Annex I addressing *integrated pollution prevention and control* (IPPC) and BAT for certain large industrial installations and activities; as well as
- Annex IV providing for *public participation in the decision making process*.

According to preliminary information received from the local experts, the Law “On the protection of atmospheric air” provides the legal basis for MRV of polluting emissions, including GHGs. It regulates *registration* of emitters, *permissions* for and *reporting* of emissions in the air. Nevertheless, **implementing legislation and guidelines are missing** (*e.g. for verification and accreditation of verifiers, emissions limit values, enforcement of emission permits, etc.*), as well as an **electronic platform** for reporting and data management. Respective **capacity building** for implementation and enforcement is also needed and identified among the most significant gaps.

#### **In conclusion for the cluster of acquis implementing the PA:**

It is acknowledged that as a non-Annex I Party to the UNFCCC Azerbaijan has already established the **basic national system for MRV under the existing transparency arrangements**. It has designated a formal coordinating body (MENR), as well as other institutions involved in the process (NHS, CCC), and has established a horizontal inter-institutional coordination and verification mechanism (the State Climate Change Commission).

However, obligations of the various designated institutions for climate-related data reporting, collection, storage and exchange are not regulated by any *legally binding* instrument.

<sup>20</sup> Directive 2003/87/EC has been changed. Current [consolidated version](#) from 01/01/2020 should be considered.

<sup>21</sup> Current [consolidated version](#) from 01/01/2019 should be considered upon approximation.

<sup>22</sup> Current [consolidated version](#) from 24/12/2018 should be considered.

A formal mandate is needed to assign clear implementation and enforcement roles to the relevant authorities and to facilitate the various stages of the MRV process. It could be in the form of **implementing regulation** (on MRV) or **legally binding guidelines** adopted by the Government.

Based on the present analysis, on information in BUR-2 and consultations with the Beneficiary's experts, the following steps have been identified as most relevant to increase national capacity for establishing a strong and reliable MRV system at installation level in Azerbaijan.

**Step 1. Identification of installations subject to regulation with respect to GHG emissions** (*relevant provisions of the ETS Directive and IED to be taken into account*). As a result, sectors and stakeholders, including a sector-based list of operators to report GHG emissions will be identified and will be subjected to consequent capacity building measures.

**Step 2. Development of legally binding provisions for implementing the national MRV system** (*based on 3 relevant EU regulations regarding measurement, reporting and verification of emissions*). As a result, appropriate provisions for implementing the national MRV system will be established, following a comprehensive legal, technical and institutional analysis of the current situation, options analysis and development of an implementation roadmap for the preferred legal option.

**Step 3. Development of MRV guidelines and templates** (*based on EU best practice*) – measurement, reporting and verification templates; annual emission report templates; guidelines on monitoring, reporting and verification; sectoral examples and other technical guidelines to be provided to all stakeholders. Guidelines on the recognition of verification bodies should also be developed to enable the respective accreditation process.

**Step 4. Training and capacity development for relevant stakeholders** – capacity development activities, workshops and on-the job trainings targeting designated government staff (including Azerbaijan Accreditation Center), operators of installations that measure and report GHG emissions, verifiers and other stakeholders – to be organized for each sector and stakeholder.

**Step 5. Development of online MRV data management and reporting platform** – an installation based online data management system should be developed within the scope of the MRV legislation, where data regarding GHG emissions, as well as other pollutants that require monitoring, can be handled as part of a larger *environmental information management system*.

#### **4.2. Relevant approximation with the acquis relating to ozone-depleting substances and fluorinated greenhouse gases**

The acquis regulating placement on the market and use of ODS and F-gases are related to the implementation on EU level of the **Vienna Convention** and the **Montreal Protocol with its Amendments**. Their provisions are trade- and use- related, therefore approximation with the relevant EU acquis is required also in view of reducing technical barriers to trade (TBT).

**Azerbaijan acceded** to the Vienna Convention, its Montreal Protocol, including the London and Copenhagen Amendments in June 1996. The ratification of the Montreal Amendment followed in 2000, and in June 2012 the Beijing Amendment was approved by Presidential decree. The

country has not joined the Kigali Amendment to the Protocol yet, but is preparing to do so, with support by the United Nations Industrial Development Organization (UNIDO). As a developed country, formerly part of the Soviet Union, Azerbaijan is assigned with the obligations of a **non-article 5 Party** to the Montreal Protocol, required to accelerate phase out of HCFC by reducing consumption to 0.5% of baseline by 2020 and phasing out all consumption by 2030.

The initial country **Programme for the phase-out of ODS** was compiled in 1997 at the initiative of UNEP, based on a data survey of ODS consumption in various sectors, conducted by the national Ozone Team. In 1998, the Parties to the Montreal Protocol noted that Azerbaijan was in *non-compliance with its control obligations* and the Government then requested GEF assistance to enable it to comply with the respective provisions. Subsequently, a number of projects have been implemented with the financial support of GEF and technical assistance provided by UNEP and UNIDO. As a result, the national **Strategy for protection of the ozone layer** has been adopted and the import of controlled substances to Azerbaijan has been phased out accordingly.<sup>23</sup> The Strategy is considered already outdated and its revision should be foreseen, especially when the country adopts the Kigali Amendment to the Montreal Protocol.

**MENR** is the responsible institution for reporting within the Vienna Convention, through the Climate Change and Ozone Center, recently integrated into the newly established **Climate Change Center** under the NHS. Import of controlled substances is only allowed with a specific license issued by MENR pursuant to quotas established according to the Protocol. It is acknowledged that the **institutional capacity** currently in place is insufficient to meet all commitments deriving from the Montreal Protocol and Azerbaijan is at risk of further non-compliance without significant technical assistance (e.g. with its monitoring and reporting obligations).

The **Law “On the protection of atmospheric air”** (2001) is the main legal act regulating emissions in the air, as well as ozone depleting substances including fluorinated greenhouse gases. It sets out the basic principles and procedures in the field of air quality assessment and protection (including the ozone layer) and the respective obligations of operators of stationary emission sources. ODS and F-gases are also partly regulated by the Laws “On Hydrometeorological Activity” (1998) and “On Environmental Impact Assessment” (2018). The basic structure for *monitoring and reporting* of air pollutants, including ODS in the country is established. Nevertheless, incompleteness/limitedness of **national legislation** targeting implementation of the ODS Convention and the Montreal Protocol is considered as a gap.

Furthermore, an **Automated Information System on ODS** is needed on country level. It is strongly recommended to design a harmonized reporting system for both ODS and F-gases and to elaborate a technical concept for a fully-fledged integrated database (*which could be part of the MRV data management and reporting platform*). **Alignment with the following EU acquis** is recommended when developing the specific national legal framework (*see also section 3.2*):

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<sup>23</sup> Source: Air Quality Governance in the ENPI East Countries, National Pilot Project – Azerbaijan (*EU supported project 2014, Report on activity 1 “Improvement of Legislation on Assessment and Management of Ambient Air”*).



- ODS Regulation 1005/2009;
- F-gas Regulation 517/2014 (and subsequent implementing acts).

A general conclusion drawn for this cluster is that the national ODS legislation in the RAZ is currently in line with the requirements of the Vienna Convention and the Montreal Protocol. The main identified needs in view of complying with the country's international obligations deriving from these treaties are related to the adoption of a specific **legal act on ODS and F-gases** and respective **capacity building**, as well as the **development of an integrated data base** encompassing both ODS and F-gases.

**Azerbaijan being a non-article 5 country** of the Montreal Protocol, approximation of the future national implementing legislation with the provisions of the EU Regulations on ODS (1005/2009) and on F-gases (517/2014) would be very relevant. Main **provisions to be introduced** pursuant to these regulations relate to:

- ✓ establishment of a system for labelling of products and equipment that contain, or whose functioning relies upon substances covered by the ODS and F-gas regulations;
- ✓ establishment of reporting systems for acquiring emission data from the relevant sectors;
- ✓ establishment of a ban on the production and placing on the market of controlled substances, except for specific uses;
- ✓ definition of the conditions for production, placing on the market and exempted use of controlled substances;
- ✓ establishment of a licensing system for the import and export of controlled substances for exempted uses and reporting obligations for respective undertakings;
- ✓ establishment of procedures for monitoring and inspecting leakages of controlled substances and obligations to recover, recycle, reclaim and destruct used substances (*if applicable*).

**Legal basis** for adopting these provisions is provided by the framework Law “On the protection of atmospheric air”. As reference and guidance to that end, it is recommended to use the Commission [Guidelines](#) and [implementing acts](#) published after adoption of the F-gas Regulation (2014-2019), which provides for the HFC licensing system, quota allocation, labelling requirements, authorization, monitoring and reporting procedures.

As Azerbaijan is in the process of **Kigali Amendment ratification**, it would be appropriate to strengthen its legislation and capacities after its adoption and in accordance with the respective new obligations to be assumed (*feasibly with support by GEF, UNEP or/and UNIDO*).

#### 4.3. Relevant approximation with the acquis indirectly related to climate change

According to the Second BUR of Azerbaijan, in 2016 nearly 80% of GHG emissions originated from the fuel combustion, comprised emissions generated from natural gas combustion. Therefore, **addressing energy-intensive activities** by capping the allowed emissions in the air through relevant permits, and by verifying compliance through regular monitoring and reporting has been brought higher in the country's reform agenda. At the same time, **building a reliable**



**MRV system** at *stationary sources level* was recognized as a key milestone in the Azerbaijan's commitments under the UNFCCC and the Paris Agreement. Moreover, the Law “On the protection of atmospheric air” is the one providing a *general framework* for both air quality and climate change mitigation, while the *institutional responsibilities* for air- and climate- related measurements are both under the auspices of MENR (with the Environmental Monitoring Center and the National Hydrometeorological Service respectively).

Such governance approach shows a will and provides an opportunity to build a fairly **integrated system for regulating GHG and other air polluting emissions** (e.g. in terms of assessment, permitting, monitoring and control). In this context, and following discussions with designated local experts, an **integrated approach has been applied in the present analysis** as well, extended to cover the EU acquis that are *relevant and indirectly related* to climate change (*see also sections 3.3 and 4.1*).

Such integrated approach aims at ensuring *economy of scale* by possible implementation of certain international commitments in more than one policy areas, namely *climate change, air quality and industrial emissions*. This would mean more specifically alignment with the following acquis:

- **Ambient Air Quality Directive 2008/50/EC, Directive 2004/107/EC** relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air, and **Directive 1999/32/EC** relating to reduction in the sulphur content of certain liquid fuels. Relevant to *climate action* (especially MRV) are the provisions related to establishment of a reliable system for *air quality monitoring* and mechanisms for *air quality assessment* in relation to the various air pollutants.
- **Industrial Emissions Directive 2010/75/EU (IED)**, where relevant to climate action (ETS, MRV) are all provisions related to *permitting and promotion of BATs, emission limit values* (for LCP, but also other energy intensive industries covered by the IED), *compliance monitoring and reporting*.

Regarding international commitments in the area of air quality protection, Azerbaijan is Party to the **LRTAP Convention** since July 2002, but none of its Protocols has been ratified by the country so far. Therefore, on international level at this stage RAZ is **not legally bound by emissions reduction commitments** for the major air pollutants addressed thereby. Those are to be set on national level. Admitting this gap, in 2019 the Ministry of Ecology and Natural Resources developed with the support of the UN Economic Commission for Europe (UNECE) an **action plan for gradually adopting the LRTAP Protocols**. The plan is currently scrutinized by the relevant state bodies in view of approving it early next year. Furthermore, within the ongoing regional project EU4Environment (Result 3.1. Smart Environmental Regulation)<sup>24</sup>, a report and a **roadmap aimed at reaching compliance with the LRTAP Convention**, while improving the overall air quality regulation in Azerbaijan, will be developed with support by the

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<sup>24</sup> For detailed country planning within EU4Environment, see: <https://www.oecd.org/environment/outreach/EU4Environment-final-work-plan-Azerbaijan-2020.pdf>.

Organization for Economic Cooperation and Development (OECD). A study on the existing *air quality regulation and permitting* will be performed and recommendations will be formulated for *priority air pollutants* to be monitored and for specific *emission limit values* to be set.

With respect to alignment with the AQ directives, Azerbaijan has already launched the process – through the implementation of an overarching **Strategic Plan on Air Quality**, adopted by the Ministry of Ecology and Natural Resources and an Action Plan for the modernization of the **air quality monitoring network** in the country, which is under implementation since 2016. According to the Plan, 25 new AQ monitoring stations are to be installed by 2024, at the expenses of the state budget. Five of those have already been set up as part of the Finnish-led Twinning project on air quality (2016-2018). Installation of another three was planned for 2020, but works have been delayed due to the Covid-19 crisis.

Furthermore, adoption and implementation of **new air quality standards** in line with EU and WHO guidelines, and **emission standards** for particular stationary sources are also envisaged (*covering at least the major pollutants*). The AQ Action Plan does not address the setting of *emission limit values* for industries, *permitting, inspection and compliance monitoring*, but these actions are subject of support by the EU4Environment regional project, as outlined above. It is strongly recommended to ensure **synergy and complementarity** in these activities, so that an integrated approach in alignment with the air- and climate- related *acquis* would be guaranteed, while meeting the respective international obligations of the Republic of Azerbaijan.

Given the above presented background information, the **following observations** are made for the cluster of AQ and IE *acquis, indirectly related to climate change mitigation* action in Azerbaijan.

- An Air Quality Strategic Plan is under implementation in the country, aiming at alignment of the national monitoring network, as well as air quality and emission standards with the EU requirements. It is noteworthy that all activities implemented under the Strategic Plan are **based on the two main acquis in the AQ area**, namely the framework CAFE Directive (2008/50/EC) and Directive 2004/107/EC.
- In order to ensure complementarity and synergy in the alignment process with the *acquis*, **priority should also be given to the provisions of the IED 2010/75/EU**, establishing a procedure for *integrated permitting*, emission limit values for *large combustion plants*, *reporting* and *monitoring*, which are relevant to climate action.
- If applied in synergy, the actions contributing to alignment with the AQ and IE *acquis* will also enable Azerbaijani authorities to **build a reliable MRV system** at *stationary sources level*, which is recognized as key country's commitment under the Paris Agreement and could be considered for **support by EU4Climate**.

## 5. Legal Approximation with EU Acquis Relevant to Azerbaijan and Proposed Actions

This chapter presents in short the **findings of the analysis carried out** with respect to acquis *directly or indirectly relating to climate change* and summarizes the **recommendations for further steps in the legal approximation process** considered relevant for the Republic of Azerbaijan.

The tables below summarize the **relevant approximation actions** identified in national documents as NCs, BURs and expert reports, **progress achieved to date, needs acknowledged** for further support<sup>25</sup> **and recommended actions** with respect to the three clusters of climate-related EU acquis, subject to the present analysis.

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<sup>25</sup> Assessed on the basis of Q&A communication with the Beneficiary representatives, UNDP country office and designated local experts.

**Table 5.1: Actions for approximation with the acquis related to PA implementation**

EU Acquis	Identified approximation actions relevant to RAZ	Progress achieved	Needs identified & Recommended Action
<p><b>The ETS Directive 2003/87/EC</b> (articles 14-17; Annexes I and II) and <b>Commission Implementing Regulation (EU) 2018/2067</b> on the verification of data and accreditation of verifiers pursuant to Directive 2003/87/EC.</p>	<p>Identifying <b>relevant installations</b> and <b>greenhouse gases</b> (Annexes I and II of the ETS Directive);</p> <p>Establishing a <b>system of monitoring, verification and reporting</b> at installation level.</p>	<ul style="list-style-type: none"> <li>• <b>The Law “On the protection of atmospheric air”</b> provides the legal basis for <i>registration</i> of emitters, <i>permissions</i> for and <i>reporting</i> of emissions in the air.</li> <li>• <b>Measurement and reporting</b> of emissions is carried out annually by operators themselves.</li> <li>• Annual emission reports are submitted to the SSC, after <b>verification by the central and regional Departments</b> of Ecology and Natural Resources.</li> <li>• The reports cover GHGs, defined on the basis of <b>Annex II</b> to the ETS Directive.</li> <li>• Following the sector profiles of <b>Annex I</b> to the ETS Directive, preliminary study identified <b>67 installations</b> that would operate under a fully-functioning MRV system pursuant to the Directive.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Identification of installations</b> to be completed pursuant to Annexes I of the ETS Directive. To that end the <a href="#">Guidance on Interpretation of Annex I of the EU ETS Directive</a> (excl. aviation activities) could be used as reference.</li> <li>• Installations covered by <b>Annex I of the Industrial Emissions Directive (IPPC)</b> should also be considered in the process, as many of those are subject to the ETS/MRV provisions as well.</li> <li>• <b>Implementing legislation and guidelines are missing for verification and accreditation of verifiers, emissions limit values, enforcement of emission permits, etc.</b></li> <li>• <b>Electronic platform</b> for reporting and data management is needed.</li> <li>• Strengthening the <b>MRV system at installation level</b> and respective <b>capacity building</b> are identified as the highest short term priorities.</li> </ul>

EU Acquis	Identified approximation actions relevant to RAZ	Progress achieved	Needs identified & Recommended Action
<p><b>Regulation (EU) No 601/2012</b> on monitoring and reporting of GHG emissions</p> <p>and</p> <p><b>Regulation (EU) No 525/2013</b> (articles 5 and 12)</p>	<ul style="list-style-type: none"> <li>• Establishment of GHG emissions <b>monitoring, reporting, verification and enforcement systems</b>, as well as public consultations procedures;</li> <li>• Establishment of a <b>national inventory system</b> of greenhouse gas emissions relevant to climate change;</li> <li>• Establishment of a system for <b>policies, measures and projections</b>.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Basic national system for MRV</b> is established.</li> <li>• <b>NHS and its Climate Change, Hydrometeorological Research and Environmental Monitoring Centers</b> are assigned with implementing functions by MENR.</li> <li>• <b>Basic NIR system</b> is in place.</li> <li>• As UNFCCC National Designated Authority, <b>MENR coordinates preparation of the GHG inventories, NCs and BURs</b> of Azerbaijan. It is supported by the NHS and its Climate Change, Hydrometeorological Research and Environmental Monitoring Centers.</li> <li>• A <b>horizontal inter-institutional coordination</b> mechanism is established with the State CC Commission.</li> </ul>	<p><b><u>Proposed steps to address the needs/gaps:</u></b></p> <ol style="list-style-type: none"> <li><b>1. Identification of installations</b> subject to regulation with respect to GHG emissions;</li> <li>Development of <b>legally binding provisions</b> for implementing the national MRV system (including provisions on <i>verification and accreditation of verifiers, emissions limit values, enforcement of emission permits</i>).</li> <li>Development of <b>MRV guidelines and templates</b> (based on EU best practice);</li> <li><b>Training and capacity building</b> for relevant stakeholders;</li> <li>Development of <b>online MRV data management and reporting platform</b>.</li> </ol>

**Table 5.2. Actions for approximation with the acquis related to ODS and F-gases**

EU Acquis	Identified approximation actions relevant to RAZ	Progress achieved	Needs identified & Recommended Action
<p><b>Regulation No 1005/2009</b> on substances that deplete the ozone layer</p> <p><b>Regulation 517/2014</b> on fluorinated greenhouse gases (F-gases)</p> <p>and</p> <p>Commission <a href="#">Guidelines</a> and <a href="#">implementing acts</a> (to be used as reference and guidance)</p>	<ul style="list-style-type: none"> <li>Establishment of a system for <b>labelling of products</b> and equipment that contain, or whose functioning relies upon ODS or F-gases;</li> <li>Establishment of <b>reporting systems</b> for acquiring emission data from the relevant sectors;</li> <li><b>Ban</b> on production and placing on the market of controlled substances, except for specific uses;</li> <li><b>Definition of the conditions</b> for production, placing on the market and exempted use of controlled substances;</li> <li><b>Establishment of a licensing system</b> for the import and export of controlled substances for exempted uses and <b>reporting obligations</b> for respective undertakings;</li> <li>Establishment of <b>procedures for monitoring and inspecting</b> leakages of controlled substances.</li> </ul>	<ul style="list-style-type: none"> <li><b>Programme for the phase-out of ODS</b> and a framework <b>Strategy for the protection of ozone layer</b> are in place.</li> <li>The Law “<b>On the protection of atmospheric air</b>” provides the framework regulating this area. ODS and F-gases are also partly regulated by the Law “<b>On Hydrometeorological activity</b>”.</li> <li><b>MENR</b> is the designated competent authority, supported by the <b>NHS and its Climate Change, Hydrometeorological Research and Environmental Monitoring Centers</b>.</li> <li>Ratification of the <b>Kigali Amendment</b> is prepared with support by UNIDO.</li> </ul>	<ul style="list-style-type: none"> <li><b>National legislation</b> targeting implementation of the ODS Convention and the Montreal Protocol is not sufficiently comprehensive.</li> <li>An <b>Electronic Information System on ODS</b> is needed to ensure a harmonized reporting on ODS and F-gases.</li> <li>The <b>ODS Strategy</b> needs update.</li> </ul> <p><b><u>Proposed lines to take:</u></b></p> <ol style="list-style-type: none"> <li>As Azerbaijan is in the process of <b>Kigali Amendment ratification</b>, it would be appropriate to strengthen its legislation and capacities <u>after</u> adoption of the Amendment and in accordance with the respective new obligations to be assumed.</li> <li><b>Preliminary assessments and a road map</b> will be needed for approximating the specific provisions of the F-gas Regulation by developing respective implementing acts.</li> <li>Further support <b>by GEF, UNEP and UNIDO</b> to be sought with this respect.</li> </ol>

**Table 5.3. Actions for approximation with the acquis indirectly related to climate change (air quality and industrial emissions – only provisions relevant to climate change mitigation)**

EU Acquis	Identified approximation actions relevant to RAZ	Progress achieved	Needs identified & Recommended Action
<p><b>Directive 2008/50/EC</b> on ambient air quality and cleaner air for Europe (CAFE) and</p> <p><b>Directive 2004/107/EC</b> relating to arsenic, cadmium, mercury, nickel and PAH in ambient air</p>	<ul style="list-style-type: none"> <li>Establishment of standards for normative and methodological <b>assessment and classification of zones and agglomerations</b>;</li> <li>Development of normative and methodological documents for <b>assessing ambient air quality</b>, determining the critical levels of pollution of ambient air and the threshold of critical load for the various air pollutants;</li> <li>Design of the <b>air quality monitoring network</b> in line with the requirements of the CAFE Directive.</li> </ul>	<ul style="list-style-type: none"> <li>The <b>Law “On the protection of atmospheric air”</b> provides the framework for regulating the AQ area.</li> <li><b>Strategic Plan</b> on Air Quality is in place.</li> <li>Action Plan for <b>modernization of the air monitoring network</b> is under implementation.</li> <li>An <b>action plan for gradually adopting the LRTAP Protocols</b> is developed with the support of UNECE.</li> <li>A roadmap aimed at reaching <b>compliance with the LRTAP Convention</b>, while improving the overall air quality regulation in Azerbaijan, will be developed with support by OECD within the EU4Environment project.</li> </ul>	<ul style="list-style-type: none"> <li><b>Air quality standards</b> to be aligned with the EU and WHO requirements;</li> <li><b>Emission standards</b> for particular stationary sources to be established;</li> <li><b>Emission limit values</b> for industries, permitting, inspection and compliance monitoring need to be aligned with the EU governance principles.</li> <li><b>Lack of capacity to enforce</b> new, stricter standards on individual operators.</li> </ul> <p><b>Proposed lines to take:</b></p> <ol style="list-style-type: none"> <li><b>Regarding thresholds / limit values for substances</b> – all required are set by the CAFE Directive in its Annexes II, XI, XII and by Directive 2004/107/EC in its Annexes I – to III. These parameters could be introduced directly in the Azerbaijani legislation.</li> <li><b>Permitting and monitoring of compliance therewith</b> to be regulated in line with the IED requirements.</li> </ol>



<p><b>Directive 2010/75/EU</b> concerning industrial emissions</p>	<p>The following <b>provisions of the IED are relevant to climate action:</b></p> <ul style="list-style-type: none"> <li>• Chapter III and Annex V <i>setting minimum requirements for pollutant emissions from LCPs</i>;</li> <li>• Chapter II and Annex I <i>addressing integrated pollution prevention and control (IPPC)</i> and BAT for certain large industrial installations and activities;</li> <li>• Annex IV providing for <i>public participation in the decision making process</i>.</li> </ul> <p>All three set of provisions are needed for the <b>approximation with the ETS Directive and implementation of the MRV regulations as well.</b></p>	<ul style="list-style-type: none"> <li>• IED has not been considered for approximation yet.</li> <li>• The 67 installations identified for the MRV system under the ETS Directive are a good basis for applying emission limit values, new approach to permitting (IPPC) and control.</li> </ul>	<p><b>3.</b> In order to ensure complementarity in the alignment process with the acquis, <b>priority should be given</b> to the IED provisions, establishing a procedure for integrated permitting, emission limit values for large combustion plants, reporting and monitoring, which are relevant to climate action.</p> <p><b>4.</b> If applied in synergy, the actions contributing to alignment with the AQ and IE acquis will also <b>enable Azerbaijani authorities to build a sustainable MRV system</b> at the level of stationary sources.</p>
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## 6. Conclusions and Recommendations

For the three clusters of acquis, subject to the present analysis, the following **recommendations for further steps in the approximation process** are proposed to the Republic of Azerbaijan:

### *To approximate Acquis implementing the UNFCCC/Paris Agreement*

1. **Identification of installations subject to regulation with respect to GHG emissions** – to be completed pursuant to Annexes I of the ETS Directive. To that end the [Guidance on Interpretation of Annex I of the EU ETS Directive](#) is recommended for reference, in synergy with relevant provisions of the Industrial Emissions Directive (*see also point 11*).
2. Development and adoption of **legally binding provisions for implementing the national MRV system** (including provisions on verification and accreditation of verifiers, emissions limit values, enforcement of emission permits). They shall also define the roles and responsibilities of the institutions involved in GHG Inventories, BURs and NCs preparation, data provision and handling, timelines, QA/QC procedures, and submissions to UNFCCC.
3. Establishment of an **online MRV data management** and reporting platform.
4. Development of **MRV guidelines and templates** (based on EU best practice), as well as relevant **training materials** for targeted stakeholders.
5. **Carry out a series of trainings and capacity building actions** targeting experts from competent institutions, businesses and other relevant stakeholders.

### *To approximate Acquis relating to ODS and F-gases*

6. Establish legally binding **procedures for monitoring and inspecting leakages** as well as **reporting and data handling** of controlled ODS.
7. Establish an **Electronic Information System on ODS** to ensure a harmonized reporting on ODS and F-gases.
8. Carry out **preliminary assessments to determine** the quantities of F-gases handled by companies involved in F-gas activities in Azerbaijan.
9. On this basis – **develop a roadmap for approximating** specific provisions of the F-gas Regulation (517/2014) and **draft respective implementing acts**, establishing among others rules for leak checks; national training and certification requirements; system for labeling, reporting and data handling.

! As Azerbaijan is in the process of Kigali Amendment ratification, it would be appropriate to strengthen its legislation and capacities (as suggested above) **after adoption of the Amendment** and in accordance with the respective new obligations to be assumed.

*To approximate Acquis indirectly relating to climate change (on air quality and industrial emissions)*

- 10. Air quality standards** to be aligned with the EU and WHO requirements. Regarding thresholds / limit values for substances – it is recommended to take over in the Azerbaijani legislation the standards set by CAFE Directive in its Annexes II, XI, XII and by Directive 2004/107/EC in its Annexes I – to III.
- 11. Emission limit values for industries and particular stationary sources, permitting, inspection and compliance monitoring** to be aligned with the EU governance principles. To that end, it is recommended to consider the relevant provisions in the Industrial Emissions Directive that are also relevant to climate action, more specifically:
- minimum requirements for pollutant emissions from LCPs (Chapter III and Annex V);
  - addressing integrated pollution prevention and control (IPPC) and BAT for certain large industrial installations and activities (Chapter II and Annex I);
  - providing for public participation in the decision making process (Annex IV).

! If applied in synergy, the actions contributing to alignment with the AQ and IE acquis will also enable Azerbaijani authorities to build a **sustainable MRV system at the level of stationary sources**.

Measures in the three acquis clusters are proposed for a three-year period (2021-2023), taking into account the current level of approximation in Azerbaijan, assessed in the present report and priorities outlined in the country's Second BUR.

The proposals are intended to **guide the competent institutions on national level in prioritizing actions and agreeing on a roadmap for support by EU4Climate** (*within the duration of the project and depending on the availability of resources*), as well as other relevant programmes or projects supported by development partners and/or national funds.

## **7. Proposed Actions for Alignment with the Relevant EU Climate Acquis**

Table 7.1 below **summarizes seven activities, proposed for consideration within the EU4Climate framework**. They have been chosen out of eleven actions, presented in chapter 6 of this report. This is justified by the assumptions that alignment with the ODS/F-gas Acquis is tackled by a specially dedicated project supporting the process of Kigali Amendment ratification (GEF support), while approximation with the Air Quality Acquis is following a national action plan, supported by a Twinning project (lead by Finland). The actions proposed hereby are subject to discussions on national level and agreement with the EU4Climate Implementing Partner (UNDP). Once agreed, they will be the basis for a **roadmap of alignment with the climate acquis relevant to Azerbaijan**, to be followed in the next three years.

**Table 7.1. Proposed activities for alignment with EU climate-related Acquis in the Republic of Azerbaijan, to be supported within the EU4Climate regional initiative**

No	Activity	2021				2022				2023			
		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
1	<b>Identification of installations</b> subject to regulation with respect to GHG emissions (based on the ETS Directive and taking into account the relevant provisions in the Industrial Emissions Directive /IED/).												
2	Establishment of emission <b>limit values for the identified industries and particular stationary sources, permitting, inspection and compliance monitoring</b> to be aligned with the EU governance principles relevant to climate action (as set in the Industrial Emissions Directive).												
3	Development and adoption of <b>legally binding provisions for implementing the national MRV system.</b>												
4	Establishment of an <b>online MRV data management and reporting platform.</b>												
5	Development of <b>MRV guidelines and templates</b> (based on EU best practice).												
6	Development of <b>relevant training materials</b> for targeted stakeholders												
7	Carry out a <b>series of trainings and capacity building actions</b> targeting experts from competent institutions, businesses and other relevant stakeholders.												