

COMPENSATION FRAMEWORK AND LAND ACQUISITION IN AZERBAIJAN

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5 COMPENSATION FRAMEWORK AND PROCEDURES FOR ACQUIRING RIGHTS TO LAND IN AZERBAIJAN

5.1 COMPENSATION MEASURES

Compensation measures are summarised in the Compensation Entitlement Matrices that form Tables 6.12-6.14. Detailed compensation measures and entitlements for different categories of affected people are described in Chapter 6.

5.2 ELIGIBILITY

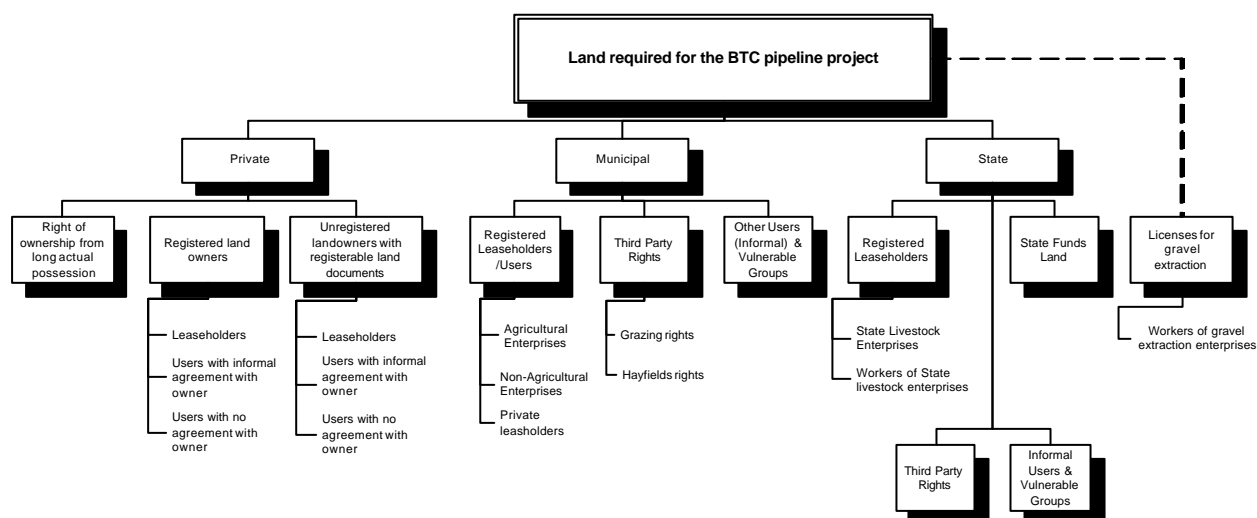
5.2.1 Types of Proprietary and Livelihood Interests Affected by the Project

A breakdown of the principal types of land owner, user and others with a proprietary or livelihood interest in land affected by the BTC Project is shown in Figure 5.1. This typology was used as the starting point for defining eligibility and entitlement to compensation.

In accordance with *OD 4.30*, all parties that can establish ownership or use rights, or that demonstrate they have been historical users of land (irrespective as to the whether they have formal title) will be entitled to compensation from the BTC Project. Also, enterprises and employees of enterprises that may experience losses of income or access to livelihood will be compensated.

Several types of user can be categorized as vulnerable, as they have no formal entitlement to compensation under Azeri law, or may experience procedural difficulties in establishing their eligibility. Entitlements of these users are discussed in Section 5.2.3.

Figure 5.1 Types of Ownership and Livelihood Interest in Land in Azerbaijan



5.2.2 Entitlement Categories

For the purposes of defining eligibility for compensation by the BTC Project, land owners, users and enterprises were categorized as follows:

- Private land owners
- Registered Users
- Un-registered users
- Employees of enterprises

A breakdown of the types of owner and user in each category is provided in Table 5.1.

Table 5.1 Entitlement Categories Used for Determining Eligibility for Compensation in Azerbaijan

Entitlement Status	Eligible Project Affected People or Entities
Private Land owner	<ul style="list-style-type: none">▪ Land owners with registered land ownership certificates▪ Land owners with land passport (registerable) ownership documentation▪ Persons who obtained the right to register their ownership due to long actual, but undocumented, possession▪ Person with a notarised Power of Attorney to act on behalf of an absentee or otherwise incapacitated land owner▪ Trustee or Administrator appointed by the Civil Court to act for a missing land owner
Registered Users	<ul style="list-style-type: none">▪ State collective enterprises with registered leases over state or municipal land▪ Private users or entities with registered leases over State land▪ Private users or entities with registered leases over municipal land▪ Private users or entities with registered lease over private land▪ Private users or entities with third party rights (seasonal grazing and stock movement rights, hay making)
Un-Registered Users (potentially vulnerable)	<ul style="list-style-type: none">▪ Private users with verbal or informal (unregistered) agreement with land owner▪ Private users of state or municipal land without lease or formal agreement (see note)▪ Private users of private land without formal agreement with land owner (see note)
Employees of State Livestock Enterprises (potentially vulnerable)	<ul style="list-style-type: none">▪ Employees of State collective livestock enterprises allocated grazing land which is to be permanently or temporarily acquired for the BTC Co. project

Note: Subject to the user being recorded in the BTC preliminary land acquisition Memoranda of Understanding or other local verification that the user has utilized the subject land for two or more previous seasons.

During land privatization, land titles allocated to families had all members of the family as of 1996 listed on the land parcel ownership certificate. In these cases, the household head is responsible for signing project documentation relating to leases or assignment of rights. The household head must, however, obtain the written consent of all other people listed on the ownership documents.

In addition to the above categories, research is presently underway to ascertain whether there are any impacts on the assets or livelihood of gravel extraction enterprises that may be affected by restrictions on gravel borrowing in the vicinity of pipeline river crossings. At least one gravel extraction enterprise has fixed infrastructure (a rail spur) connecting to its extraction

operations close to a pipeline crossing. In this case, mitigation measures may need to extend beyond adjustment of the area licensed for extraction.

5.2.3 Comment on Some Vulnerable Groups

Several groups that fall within the above categories are potentially vulnerable and warrant further comment.

5.2.3.1 State Livestock Enterprise Employees

Much of the land area affected by pipeline corridor construction in Absheron, Garadagh and Hajigabul (and to a lesser extent in other districts) is State land that is leased to state livestock breeding enterprises for winter grazing. The graziers that use this land are nominally employees of the State livestock breeding enterprises. In Soviet times, these employees received wages from their enterprise employer. With the collapse of the Soviet centralised market system, the revenue and central government budgets that supported these enterprises have dwindled, and as a consequence enterprises have commonly been unable to continue to pay the wages of their workers. In response, employee graziers have reached informal arrangements with their enterprises whereby they forego wages in return for being able to raise their own livestock on state enterprise pastures, in addition to running state livestock.

Other than being employees of the enterprises, the graziers have no direct rights over the land that has been allocated to them, in spite of being totally reliant on it for their livelihood. There is no legal basis for payment of pasture related compensation to the employees, nor is it reasonable to expect that compensation paid to the enterprise will be directed back to the directly affected workers. In practice, loss of pasture will directly affect some state enterprise grazer employees without any formal avenue for their compensation. For this reason, the project has identified this group, comprised of about 92 workers and their families (N=450), for special attention. The principal of triangular negotiation (enterprise director, Land Acquisition Team, and affected family head) will be used to agree a split of compensation between the enterprise and the employee families, taking into account the specific circumstances of each group and their financial arrangements with the enterprise. The split agreed between the owner and employee family will be documented in land agreements, with cash later disbursed directly to the respective parties.

5.2.3.2 Informal (Un-registered) Users

Under Azeri law, informal users are not generally entitled to compensation unless they can demonstrate long, actual possession (see Section 3.2.4). Over the last twelve months, the Land Acquisition Team has encouraged both informal users and owners (including municipalities) to put in place written agreements covering existing use relationships, as a basis for determining entitlement to compensation. In other cases that may arise, where seasonal informal users not detected during surveys may lay claim to using land affected by the project, their historical use will be verified through reference to local people and municipal officers. Where informal users can demonstrate they have made use of project affected land for two or more years, they will have the same entitlements as registered users.

There are wide variety of informal arrangements between land owners and users. These include:

- Share cropping where the user of the land hands over a pre-agreed proportion of the harvest (or profit from the harvest) to the land owner as payment for use of the land

- Rental where the user pays the land owner a fixed annual, seasonal or monthly fee for use of the land
- Variations on the above

In order to take these differing arrangements into account in negotiating compensation entitlements, triangular negotiation will be used whereby the Land Acquisition Team, the owner and user will agree the split of compensation for crops (and in some instances for assets), based on the historical arrangements between the user and land owner. The split agreed between the owner and user will be documented in land agreements, with cash later disbursed directly to the respective parties.

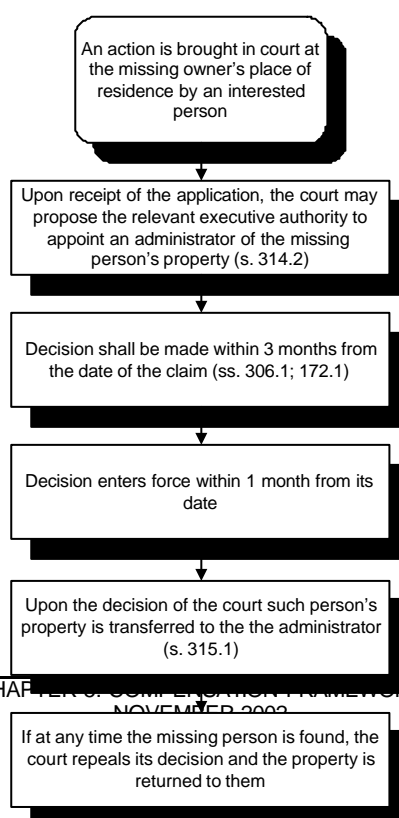
5.2.3.3 Person with Notarized Power of Attorney to Act on Behalf of Absentee

About 10 percent of nominated land owners reside away from their land parcel. A common situation is that the wife and family reside and work on the land parcel while the husband works in Russia, returning only occasionally. In these cases, if the nominal land owner is unable to return, he or she can organise for power of attorney to be vested with a spouse or next of kin to act on his or her behalf.

5.2.3.4 Person Granted Temporary Administration Rights in lieu of Missing Land owner

In cases where the land owner has gone missing, leaving for example a wife and family remaining and reliant on the land parcel for their livelihood, there is provision for the District Court to award ‘temporary’ administration rights over the land to a spouse or next of kin in order that they might receive the compensation entitlements. For eligible cases, the project will facilitate with lodging applications to the District Court. This process may take 2-3 months. Eligible cases include only those where it is impossible establish whether the person is alive, and where there has been no information about them or their location for two years or longer. The procedure is illustrated in the figure below.

Figure 5.2 Court Procedure for Declaring a Land Owner Missing (from the *Civil Code*)



Under Article 40.3 of the Civil Code, the administrator(s) of the missing person's property shall be appointed from his or her spouse, children or parents. All have equal rights (section 1159 of the *Civil Code*).

5.2.4 State and Municipal Land

Under the terms of the BTC Host Government Agreement, rights to use, possess and control the necessary municipal and state land will be granted by the State Authorities to BTC Co. at no cost to BTC Co. This includes rights to State Funds Lands such as forests and pastures. Any 'registered user' or 'other users' utilizing state or municipal land will be entitled to the types of compensation outlined in the project entitlement matrix (see Tables 6.12-6.14). In the case of municipal land, the State is legally obliged to pay municipalities for withdrawal of their lands, even though under the HGA, BTC Co. is not obliged to compensate for these costs.

5.3 VALUATION METHOD IN AZERBAIJAN

5.3.1 Background

In Azerbaijan, implementing regulations or precedents for defining procedures to be used for valuing land and assets are not yet in place. There have been very few land transactions outside of Baku from which to derive sales evidence to support "market prices". There is no established market-based land appraisal or valuation profession.

To overcome these shortcomings, the BTC Working Group has agreed the following principles for valuing land and assets:

- Where there are no clear principles defined in the laws of Azerbaijan, World Bank principles will be applied, in particular commitment to compensation for land and assets based on "full replacement cost" (see the Glossary, Section 1.13)
- For agricultural land, base land values were established using the Soviet-based cadastre system which values land based on land attributes (productivity of soils and regional agricultural characteristics), input costs and typical revenues achieved in each district
- Cadastre based values were then reviewed in each district by a Valuation Commission and adjusted upwards where necessary to reflect changes in crop types and productions levels
- Land compensation values were generally based on the highest producing areas in each district, rather than on the specific conditions along the pipeline corridor.
- Market prices for valuing crop production were determined based on Baku, Ganja or local market prices, whichever was highest
- Based on the cadastral values and crop production levels recommended by the district Valuation Commissions (Government "fixed rates"), BTC Co. has developed "project offered rates" which are at least equivalent to, but are generally higher than, the "fixed rates"

The Soviet-era cadastre-based approach has some benefits. Since 1991, there has been a serious decline in Azerbaijan agricultural production. This has been attributed to many factors including the fragmentation of farm holdings into small parcels as a result of privatization, deterioration of irrigation infrastructure and farm equipment, lack of finance for key inputs such as quality seed, fertilisers and pesticides and the loss of markets in the former Soviet states. Land valuations based on current crop yields would result in values not representative of the true productivity of the land. The cadastre values are based on Soviet era production levels when agriculture was based on large, efficiently run farms with mechanized production and

adequate application of fertilisers and pesticides. The cadastre prices are thus a fair reflection of each district's real (rather than current) production potential. Some anomalies in cadastral prices were also noted and rectified by the district Valuation Commissions.

Anecdotal evidence suggests that an indirect benefit of the BTC Project has been that the areas planted in crops along the corridor this season have been far more extensive than in recent years, in an apparent effort by land owners and users to maximise their entitlement to compensation.

5.3.2 Permanent Acquisition of Land in Azerbaijan

Under the *Land Code*, compensation price must be based on market price, provided that such price is not less than the cadastral or normative price for the subject land (*Land Code*, article 96.5). Normative or cadastral rates for lands in each district are established by *Cabinet of Ministers Resolution No. 158 On Establishment of New Normative Prices for Land in the Azerbaijan Republic (23 July, 1998)*.

For the purposes of the BTC Project, all cadastral rates (and crop compensation rates) were reviewed by a Valuation Commission that was set up by the head of the district executive authority for each district. The Valuation Commission typically includes a representative of the district Agricultural Industry Association (usually the Chairman), a representative of the district Financial Department, a representative of the Land Department as well as interested parties' representatives. The Valuation Commissions made some adjustments to the rates established in the *Cabinet of Minister's Resolution No. 158* to take into account changes in crops that were being grown in each district and to correct some other anomalies in cadastral rates that may have been detrimental to affected land owners and users.

The BTC Project will pay compensation for permanent acquisition of land based on "project offered rates". These will use government normative or cadastral rates as the starting point, but will generally be higher to encourage affected people to willingly negotiate and to take into account any unforeseen transaction costs.

5.3.3 Annual Crops

Compensation payable for loss of annual crops is determined by the Valuation Commission for each district. As a starting point, the Valuation Commission uses certified data on the productivity of crops and average price of produce as issued by the district Department of Statistics¹. The formula used for calculating compensation for annual crops is as follows:

$$CrC = ((RP \times Yd) - CC) \times A \times T$$

Where:

CrC	compensation for loss of income from annual crops
RP	retail price of produce (Az. Manat / 100 kg)
Yd	yield (100 kg / hectare)
CC	growing costs including material inputs, agro-technical activities, transportation, taxes and duties (Az. Manat / hectare)
A	area cleared by the project (hectares)
T	number of lost growing seasons

¹ The procedure to be used in preparing these certificates is prescribed in Cabinet of Ministers Resolution No. 164 (25 November, 1996)

For the BTC Project, crop yields were assumed at the highest normative rate for the district. Selling prices were based on the Baku, Ganja, or local market price, whichever was highest. These two assumptions lead to rates that are favourably high for land owners and users along the corridor. An example of how the Valuation Commission in Shamkir applied the formula is shown in Table 5.2. Compensation rates calculated for other districts are included in Annex A.

Annual crops are typically planted on a rotational basis in areas affected by the project. The Land Acquisition Team recorded information on in-ground crops and planned crops as part of Preliminary Memoranda of Understanding signed with all land owners and leaseholders. Information on users' planned cropping, where present, was also recorded. Compensation will be calculated on the basis of the crop information provided by owners and users at this time.

Table 5.2 Calculation of Annual Crops Compensation for Shamkir District (Example)

Crop	Revenue					Expenses					Compen- sation rate
	Gross Yield	Loss	Net Yield	Market price	Income	Materials	Agro. inputs	Transport	Taxes	Total costs	
	'00s kg/ Ha	%	kg/ Ha	'000s AzM/ 100kg	'000AzM/ Ha	'000s AzM / Ha					
Wheat	40	1	3,900.6	65,000	2,574	230	230	150	25	635	1,939
Clover	40	3	19,400	25,000	4,850	150	250	200	27	627	4,233
Potato	250	2	24,500	100,000	24,500	2,500	1,800	680	30	5,010	19,490
Corn	60	1	5,900.4	80,000	4,752	610	820	460	20	1,910	2,842
Onion	250	2	24,500	60,000	14,700	560	1,600	550	20	2,730	11,970
Cucumber	270	5	25,600.5	50,000	12,825	440	1,200	600	20	2,260	10,565
Tomato	200	5	19,000	40,000	7,600	280	920	480	20	1,700	5,900

Source: Shamkir Valuation Commission, 2002

Notes:

1. Clover assumes harvest once every five years
2. Other rates: Garden 10,834,987 AzM/Ha
Pasture 450,000 AzM/Ha

Land acquisition agreements will be signed at the end of growing season 2002 and people will be given notice against planting crops in the forthcoming growing season, and for three years thence. There should not, therefore, be any requirement to compensate in-ground crops.

5.3.4 Potential Crop Yield Reduction

Based on advice from the Ministry of Agriculture, a one-off lump sum allowance will be provided to affected land owners and users to make up for any loss of income that might be experienced while construction affected soils recover their structure and reduce crop yields. Using the crop compensation rates derived by the formula in Section 5.3.3, an allowance equivalent to 30% of the full season's annual crop compensation for the equivalent of 3 growing seasons will be paid (equivalent to $T = 0.9$ in the annual crop compensation formula).

5.3.5 Perennial Crops (Trees, Shrubs and Vines)

Perennial crops such as fruit trees, grape vines, and currant bushes will be valued on a per tree or per shrub basis using the following formula:

$$TrC = (RP \times Yd \times Rtr - CC) \times YRT + (SPr + ACC) \times RTr$$

Where:

TrC	compensation for tree/shrub/vine lost to the project
RP	retail price of produce (Az. Manat / kg)
Yd	yield (kg/tree)
RTr	number of removed trees or shrubs
CC	production costs (Az. Manat / tree)
YRT	period taken for a new seedling to achieve the yields of the tree, shrub or vine lost
SPr	cost of seedling/sapling (Az. Manat / seedling)
ACC	input costs (fertiliser, spraying etc)

An example of how the above formula was applied by the Valuation Commission in Shamkir is provided in Table 5.3.

Table 5.3 Calculation of Compensation for Fruit Trees for Shamkir District (Example)

Type of Tree	Yield	Market price	Income	Input Costs	Net Income	Maturity of Tree	Income to maturity	Sapling cost	Input costs	Compensation amount
	kg/tree	AzM/kg	AzM/tree	AzM/tree	AzM/tree	Years	AzM/tree	AzM/tree	AzM/tree	AzM/tree
Fig	40	500	20,000		20,000	10	200,000	5,000	10,000	215,000
Cherry Plum	20	500	10,000		10,000	10	100,000	5,000	10,000	115,000
P/granate	25	500	12,500		12,500	10	125,000	5,000	10,000	140,000
Cherry	10	500	5,000		5,000	10	50,000	5,000	10,000	65,000
Grapes	20	1,500	30,000	10,000	20,000	7	140,000	5,000	10,000	155,000
Date palm	150	1,500	225,000	5,000	220,000	10	2,200,000	10,000	10,000	2,220,000
Mulberry	30	2,000	60,000	5,000	55,000	10	550,000	20,000	10,000	580,000

Source: Shamkir Valuation Commission, 2002

5.3.6 Loss of Use of Grazing Land (Pasture)

Rates of compensation for grazing land were calculated using the following formula. Values of grass consumption/sheep/season and typical stocking rates (sheep/hectare) for each district were based on advice from the Ministry of Agriculture. Because the majority of pasture is arid or semi-arid, stocking rates along the corridor are typically very low, in the order 1-4 sheep per hectare.

$$PstC = GrC \times SR \times A \times T$$

Where:

PstC	compensation for loss of pasture
GrC	grass consumption (Az. Manats / sheep / season)
SR	stocking rate, sheep/hectare (1-4 sheep / hectare / season)
A	area of pasture damaged during the construction period
T	number of lost growing seasons

5.3.7 Clearing of Forest

Forest clearing will be compensated based on the following formula.

$$FC = (WC \times RPr) + (RCC \times A)$$

Where:

FC	compensation for loss of forest
WC	cubic metres of timber to be lost estimated by forestry specialist
RPr	retail price of timber (construction timber, firewood as applicable) – Az. Manat / cubic metre
RC	re-afforestation costs including labour, site preparation, agro-technical activities and seedlings (Az. Manat / hectare)
A	area of forest lost to project

5.3.8 Compensation for Immovable Assets and Land Attachments

This covers a range of items such as fences, walls, animal enclosures, small irrigation channels, drains, wells, hand pumps, artesian bores, water pumps, hay sheds, animal shelters and roads. These items will be valued on the basis of full replacement cost as defined by the World Bank. The Land Acquisition Team will be assisted in valuing these items on a case-by-case basis using appropriate technical specialists from district Departments of Construction, Departments of Agriculture and others as required.

5.3.9 Compensation for Restrictions of Use and Access to the Pipeline During Operations

Under the present land laws, there is no specifically prescribed procedure for valuing compensation for restrictions of use. While not strictly applicable, the conversion fee of 20 percent of government cadastral land valuation specified for conversion of agricultural land to non-agricultural use² was used as a guide. The BTC Project will pay compensation to private land owners for two components: (i) rights to access the two pipelines during operations for maintenance and emergencies; and, (ii) right to restrict uses within the 58-metre pipeline protection zone. The rights to restrict access will be compensated at 20 percent of the government cadastral price of land.

Access to the pipelines will be via an 8-metre strip of land directly over each pipeline (BTC and SCP). For the right of access in emergencies (and in lieu of paying damage for in-ground crops, should an incident occur), a lump sum payment equivalent to 55 percent of the government cadastral price of land will be paid.

² See Cabinet of Ministers Resolution No. 42 *On Procedures for Determination and Payment of the Amount of Agricultural and Forestry Production Losses and Damage*, article 2.

$$ALUF = (0.2 \times LPr \times ExL) + (0.55 \times LPr \times PiL)$$

Where:

ALUF access and use restriction fee (Az. Manat)
LPr project offered price for land (Az. Manat / hectare)
ExL area of land affected by the 58 metre pipeline protection zone (hectares)
PiL area of land in the 8 metre + 8 metre strips directly over each pipeline

Note: Formula is presently being reviewed by the Ministry of Forests and Ecology

5.3.10 Compensation for Temporary Access Roads

Compensation for temporary access roads will be calculated on a similar basis to the land temporarily acquired for the pipeline construction corridor. Compensation will cover the following components:

- Loss of annual crop production (see Section 5.3.3)
- Potential crop yield reduction for three years (see Section 5.3.4)
- Loss of any trees or perennial crops (see Section 5.3.5)
- Loss of use of grazing land (see Section 5.3.6)
- Loss of immovable assets and land attachments (see Section 5.3.8)

Upon construction completion, the land used for temporary access roads will be reinstated to its pre-project condition and returned to the owner or user.

5.3.11 Minimum Compensation Amount

In recognition of the time and costs involved for a project affected land owner or user in preparing documentation and collecting compensation, a minimum compensation amount of 500,000 Az Manats will be paid to any private owner, leaseholder or user whose land is affected by temporary or permanent acquisition for the BTC Project. If the calculated compensation amount is less than the minimum compensation amount, the payment will be rounded up to 500,000 Az Manats.

5.4 LAND ACQUISITION PROCEDURE IN AZERBAIJAN

5.4.1 Background

Under the HGA, the BTC Co. is entitled to use of a 22-metre “construction corridor”, which may be widened in certain circumstances. The BTC Project has reached an understanding with the developers of the SCP project, which will also be allocated a construction corridor contiguous to the BTC Pipeline construction corridor, whereby BTC Co. can make use of part of the SCP corridor during construction. This wider construction corridor will enable BTC Co.’s contractors to utilize standard pipeline installation techniques and will also enhance construction safety. A similar right to sharing during later construction of the SCP pipeline is envisaged. Accordingly, the BTC and SCP projects are pursuing a joint land acquisition strategy.

5.4.2 Private Land Acquisition

5.4.2.1 Pipeline Corridor

The State (through the Land Acquisition Team) will negotiate and enter into registerable lease agreements with all private land owners, which will provide the basis upon which the BTC Project will be granted the following rights:

- rights for exclusive use of the 44-metre construction corridor for the construction period (2003-2005)³; and,
- rights to restrict use over a 58-metre exclusion zone for the life of the BTC Project.

The State shall subsequently enter into one or more registerable lease agreements for the grant to BTC Co. of the aforementioned rights.

There will be no transfer of ownership of the pipeline corridor land at any stage during construction or operations. Ownership title shall remain with the existing private land owners throughout pipeline construction and operation phases. The exception to this will be in cases where an owner refuses to lease their lands under conditions offered by the State Authorities.

Compensation arrangements for land owners and users affected by acquisition of rights for construction and restrictions of use are described in Chapter 6.

5.4.2.2 Above Ground Installations (AGIs) and Permanent Access Roads

The State (through the Land Acquisition Team) will negotiate, purchase and register ownership title to the land required for the AGI sites and permanent access roads.

In the case of AGIs and associated access roads, the State will acquire full ownership title to the subject land.

Compensation arrangements for owners and users affected by permanent land acquisition are described in Chapter 6.

The State shall enter into one or more registerable agreements with BTC Co. for the grant of rights to the relevant land parcels to enable BTC Co. to construct and operate pipeline related facilities until termination of the latest HGA and abandonment of the facilities.

5.4.3 State and Municipal Land Acquisition for the BTC Pipeline

Rights of exclusive use and rights to restrict use over all publicly held land (i.e. land held by the State and municipalities) that is required for the construction corridor, AGI sites and permanent access roads, shall be granted to BTC Co.

³ This 3-year construction period is to accommodate construction of both the BTC and SCP pipelines. Completion of an agreement to cover the entire three-year period simplifies processing and avoids the need for project affected people to be subjected to negotiations and signing of two agreements in quick succession.

All economically displaced users of State and municipal lands will be eligible to receive compensation for damages including lost profit and seasonal crops compensation. Compensation entitlements are described in Chapter 6.

As with private land, a Cabinet of Ministers Decree will confirm the acquisition of acquired lands by the State and the grant of rights to the relevant land parcels to BTC Co. for construction (44-metre Construction corridor for 2003-2005) and rights to restrict use (58-metre protection zone and around AGI sites for the life of the projects).

Under the terms of the HGA, BTC Co. will be granted rights to State and municipal land free of cost. The State is, however, required to pay municipalities to obtain the rights necessary for construction and operation of the BTC Project.

5.4.4 Acquisition of Rights to Land Procedure in Azerbaijan

The key steps of the procedure for acquiring rights to land for the BTC Project are illustrated in Figure 5.3.

5.4.5 Land Acquisition Schedule - Azerbaijan

Key land acquisition activities will occur within the following timeframes:

Activity	Timing
Final land acquisition negotiations with affected land owners, lessees and users and execution of agreements between them and the State.	October 2002 to February 2003
Issuance of the Cabinet of Ministers Decree enabling land acquisition for the BTC Projects	March 2003
Compensation disbursement	March - June 2003
Project (Lease) Agreement with the State granting BTC Co. its land use rights	To be determined

5.4.6 Negotiation Procedure

The procedure that will be adopted for negotiations with land owners and users is illustrated in Figure 5.4. The objective of the procedure is to reach a mutually acceptable agreement with land owners and users without recourse to compulsory purchase (eminent domain). Prior to negotiations commencing in each district, the Governor will establish a Dispute Resolution Group. The Dispute Resolution Group will have the same or similar membership to the valuation commission (see Section 5.3.2).

In the event agreement cannot be reached, in the first instance, the Land Acquisition Team will reconvene and attempt to develop a proposed solution (eg. re-measurement of the property, re-clarification of ownership, reconsideration of compensation rates to take in specific circumstances of the owner or user, etc). If necessary they will draw on experts to provide third party opinions. If possible, a revised proposal will be put to the disputing land owner or user.

If agreement still cannot be reached, the matter will be referred to the district Dispute Resolution Group, which will consider the matter, undertake further investigations if necessary and propose a solution to the land owner.

If agreement still cannot be reached, an application for compulsory acquisition will be lodged with the court, which will follow the procedures described in Figure 3.1.

5.4.7 Notarization and Registration

In accordance with *OD 4.30*, all notarization, registration and other transaction costs will be covered by the project. Under the terms of the HGA, notarization and registration costs associated with land ownership transfers and leases will be met by the State. BTC Co. will provide assistance to ensure timely processing. BTC Co., through the arrangements described in Section 3.7, will also assist land owners and users to initiate legal procedures to appoint an administrator for missing owners, or set up a power of attorney in the case of absentee owners, at no cost to the affected parties.

All compensation payments are exempt from all taxes. Land owners and users will be explicitly advised of this at the time of payment disbursement.

Figure 5.3 Procedure for Acquiring Rights to Land

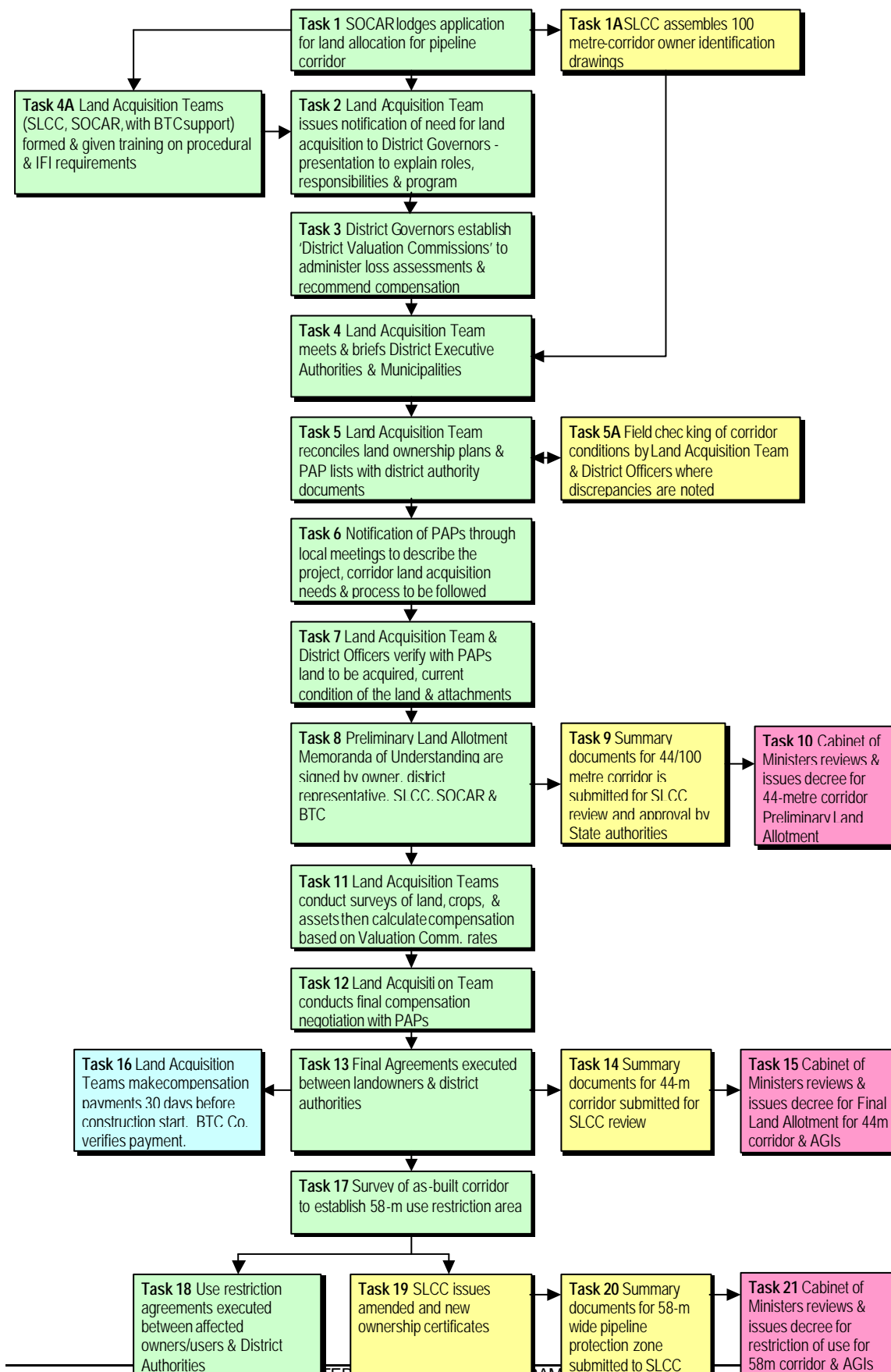


Figure 5.4 **Negotiation Procedure for Land Acquisition**

