INDEPENDENT REVIEW MECHANISM
Compliance Review and Mediation Unit

SPOT-CHECK ADVISORY REVIEW OF PROJECT COMPLIANCE REPORT

PROJECT: South Tunisian Gas Pipeline (STGP) Project
COUNTRY: Tunisia

DECEMBER 2018
ACKNOWLEDGEMENTS

The Director of the Compliance Review and Mediation Unit (BCRM) and the Roster of Experts of the Independent Review Mechanism (IRM) would like to acknowledge the valuable support they received from the project sponsor, Entreprise Tunisienne d’Activités Pétrolières (ETAP); the project operator, OMV Aktiengesellschaft; the Management and staff of the African Development Bank Group (AfDB); the government ministries; and the local authorities in the project area. This support has been invaluable in facilitating the Spot-Check Advisory Review of Project Compliance of the South Tunisian Gas Pipeline (STGP) Project, which is the subject of this Report.
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<td>African Development Bank</td>
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<td>AfDB</td>
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<td>ANPE</td>
<td>Agence Nationale de Protection de l'Environnement (National Agency for the</td>
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<td>Protection of the Environment)</td>
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<td>BTOR</td>
<td>Back-To-Office Report</td>
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<td>CPF</td>
<td>Central Processing Facility</td>
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<td>Corporate Social Responsibility</td>
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<td>EAM</td>
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<td>Environmental and Social Management System</td>
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<td>ETAP</td>
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<td>Groupe Chimique Tunisien (Tunisian Chemical Group)</td>
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<td>GRM</td>
<td>Grievance Redress Mechanism</td>
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<td>GTP</td>
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<td>Health, Safety, and Environment</td>
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<td>International Finance Corporation</td>
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<td>Acronym</td>
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<td>IRM</td>
<td>Independent Review Mechanism</td>
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<td>IP</td>
<td>Investment Program</td>
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<td>ISS</td>
<td>Integrated Safeguards System</td>
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<td>LARP</td>
<td>Land Acquisition and Resettlement Plan</td>
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<td>Multilateral Development Bank</td>
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<td>ONAS</td>
<td>Office National de l’Assainissement (National Office of Sanitation)</td>
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<td>Regional Member Country</td>
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<td>SEIMAP</td>
<td>Socio-Economic Impact Mitigation Action Plan</td>
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<td>SO₂</td>
<td>Sulphur Dioxide</td>
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<td>STEG</td>
<td>Société Tunisienne de l’Electricité et du Gaz (Tunisian Company of Electricity and Gas)</td>
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<td>STGP</td>
<td>South Tunisian Gas Pipeline</td>
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<td>TNFO</td>
<td>AfDB Country Office in Tunisia</td>
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EXECUTIVE SUMMARY

The Spot-Check Advisory Review of Project Compliance on the South Tunisian Gas Pipeline (STGP) Project, sponsored by the Entreprise Tunisiene d’Activités Pétrolières (ETAP), was carried out to determine whether it complies with the applicable policies and procedures of the African Development Bank Group (AfDB). The Board of Directors of the African Development Bank (ADB) approved the spot-check exercise on 7 June 2017. The Independent Review Mechanism (IRM) is mandated to conduct such spot-check reviews by its Operating Rules and Procedures (2015). The objective of the review is to draw lessons for the purposes of advising Bank Management on compliance issues associated with high-risk projects and on improving sustainability outcomes of similar projects in the future.

On 26 June 2014, the Board of Directors of the ADB approved a corporate loan of USD 75 Million for 7 years to support the Investment Program (IP) of ETAP for the period 2013-2020, with the STGP Project as an anchor project. The IP’s objective is to further develop oil and gas production fields in the South Tunisian region, and expand the processing and transport infrastructure to channel gas from these fields to the Port of Gabès. The STGP Project will comprise a Central Processing Facility (CPF) in the desert area of Nawara, a 370 km Gas Transfer Pipeline (PPL), and a Gas Treatment Plant (GTP) in Gabès from which the treated gas will be sold and the condensates will be recovered to produce propane and butane. In addition, the Bank is to capitalize on its previous contribution to the Hasdrubal Project to assist ETAP to strengthen its Environmental and Social Management System (ESMS) by proposing the scope of the compensation plan.¹

The STGP Project, also known as the Nawara Development Project, is being implemented under a joint venture between ETAP as the project sponsor and OMV Aktiengesellschaft—an Austrian company highly experienced in oil and gas exploration and development—as the project operator. However, the Bank’s corporate loan will be used only to finance ETAP’s IP, including its share in the STGP. Therefore, ETAP is the sole borrower of the Bank. The total cost of the STGP Project was estimated at USD 1.1 billion that is shared on a 50-50 basis by ETAP and OMV. The AfDB disbursed the full amount of USD 75 million at signature loan and ETAP had already repaid USD 42 million (56%) of the loan by November 2017. Subsequent reimbursements to the Bank will be made on a semi-annual basis.

Since its start, the STGP Project was exposed to social and legal challenges that delayed its implementation by 3 years. These included (i) Heightened social tensions triggered first by the demands of the Tataouine community to have the GTP located in their region, and then the escalation into violent unrest in 2016 that halted all gas production activities in South Tunisia, including CPF construction, as a result of unemployment and repeated claims by the protestors for an equitable share in revenues from gas production in South Tunisia; (ii) The legal dispute between Max Streicher S.p.A. and Bouchamaoui Industries, the contractors jointly responsible for the civil works for the CPF and the PPL that affected construction activities, of which the arbitration was ongoing in 2017 but the contractors had moved to the sites; (iii) Difficulties in the compensation to farmers and other people affected by the project (PAPs) to be relocated from the site of the GTP and along the PPL; (iv) Delays in issuance of a construction permit for the GTP as a result of a prolonged administrative process in obtaining the legal order for the project to use the land for public interest; and (v) The discovery of subsoil anomalies (cavities) during the excavation for building foundations for the GTP, which required further mitigating measures. Therefore, it is anticipated that the gas from the concessions will not reach the GTP before November 2019.

¹ Project Appraisal Report (PAR), June 2014, pp. 4-5.
At the time of the IRM mission to Tunisia in November 2017, the progress of the project activities was as follows:

i. 78% of the CPF construction was completed and the remaining work was expected to be completed in 2019.

ii. The PPL work, which was 6 months behind schedule, was expected to be completed by end-2018 to early 2019.

iii. The GTP construction was expected to be completed by end-2018.

The STGP Project was classified as a Category 1 Project in accordance with the Environmental Review Procedures for Private Sector Operations of the African Development Bank (2000), requiring the preparation of a full Environmental and Social Impact Assessment (ESIA) with consultation and disclosure. Three ESIAs for the three components of the Project were prepared by OMV and were submitted to the Agence Nationale de Protection de l’Environnement (ANPE; National Agency for the Protection of the Environment) of Tunisia, which provided it’s no objection document. The ESIA Summary was published on the Bank’s website on 27 April 2014. In addition, the ETAP/OMV joint venture prepared a Land Acquisition and Resettlement Plan (LARP) in December 2014 as one of the conditions precedent for the disbursement of the loan, which as of the date of this Report, was not yet reviewed and approved by the Bank.

The IRM Team conducted a field mission to Tunisia from 8 to 17 November 2017 as part of the assessments of compliance of the STGP Project with the applicable AfDB environmental and social policies and procedures.

**Key findings and Recommendations for the Spot-Check Review**


The IRM found that the STGP Project is not yet in compliance with the Environmental Review Procedures for Private Sector Operations of the African Development Bank (2000) and the Loan Agreement (23 February 2015). During the field mission, the IRM found that ETAP had entirely delegated the responsibility for the implementation and monitoring of the Project’s Environmental and Social Management Plan (ESMP) to OMV. ETAP has not fully implemented the ESMS. The Health, Safety, and Environment (HSE) Department, which was established in 2010 as part of the AfDB-financed Hasdrubal Project coordinates the implementation of the ESMS. There was no in-house staff within ETAP dedicated to monitoring the environmental and social performance of its concessions, including the STGP Project. Furthermore, the Loan Agreement requires ETAP, as the project sponsor, to submit an annual report to the Bank within 90 days of every fiscal year.² This report, as required by the ESMS, should follow up on the environmental and social performances of ETAP’s concessions, and particularly the Nawara Concession, in accordance with the applicable laws and the AfDB directives. In reviewing ETAP’s Annual Report 2016, the IRM mission could not find any reference to the environmental and social performances of the 23 ETAP concessions, including the Nawara Concession. The Annual Report described corporate social responsibility (CSR) activities instead, which are different from the environmental and social safeguards activities that should be reported as required by the Loan Agreement.

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² Loan Agreement, 2015, para. 17.7 (c).
The IRM recommends the following:

a) The Bank should invite and assist ETAP to strengthen its HSE Department with qualified staff that will be responsible for the full implementation of the ESMS and the environmental and social performances of all its concessions, and in particular the Nawara Project.

b) The Bank should require ETAP to recruit reputable consultants, or work closely with OMV, to prepare an overall ESMP for the three project components with a clear division of roles, implementation budget, and thresholds or triggers for initiating corrective actions. In addition, ETAP should develop a consolidated reporting template for monitoring the implementation of the ESMP, and train its environmental and social staff on how to supervise the environmental and social aspects of the Nawara Project.

c) The Bank should ensure that the reporting by ETAP is in accordance with the terms of the Loan Agreement and should take necessary actions to ensure that ETAP complies with its reporting obligations under the Loan Agreement.

d) ETAP should ensure that the Bank staff has access to environmental and social performance reports prepared by OMV and that the Bank staff is well informed of any relevant decisions on the Project’s environmental and social performance activities.

B. Compliance with the Loan Agreement on the Environmental and Social Management System (ESMS)

In its Annual Environmental and Social Performance Monitoring Report 2011 ETAP stated that it adheres to the principle of sustainable development and the continuous improvement in HSE standards, with the concept of quality to be integrated in all its activities. The Report also provided an action plan for putting in place an ESMS in the new HSE Department, under the central production directorate. It presented a series of actions with specific objectives, priorities, responsibilities, human resources, and an implementation schedule.

The IRM finds that ETAP has not yet complied with the ESMS and its reporting requirements in the Project Appraisal Report (June 2014; PAR) and, subsequently, in the Loan Agreement. There is no evidence to show that the Bank has reviewed and followed up on the implementation of the ESMS by ETAP, nor is there evidence that the Bank has urged ETAP to strengthen the ESMS, though it is considered as a “development outcome” for which no indicators were provided in Annex 1 of the PAR and, therefore, was unfulfilled. The Bank’s design team went further by wrongly assuming that “frequent monitoring reports will be requested from ETAP for the STGP Project to demonstrate effective monitoring of impact on environment in compliance with national and Bank’s rules and procedures.” Such monitoring reports are non-existent, as the Loan Agreement did not require them. The Loan Agreement only calls for one annual report on the environmental and social performances of all its 23 concessions.

The IRM recommends that ETAP reviews its implementation of the ESMS based on the Action Plan of ETAP’s ESMS (2012), which should be updated and submitted to the Bank. The Bank should provide

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4 Ibid. p. 34-35.
5 See: PAR. The PAR indicates that in its first loan to ETAP in 2010 under the Hasdrubal Project, the Bank supported the design, development, and adoption of an ESMS by ETAP (see: p. 4, para. 2.13; and p. 19, para. 3.45). The Bank Management further stated: “The implementation of the ESMS has been closely monitored during Bank’s supervision missions and concluded to a satisfactory incorporation by ETAP of good environmental and social practices into its activities.”
6 PAR, p. 19.
ETAP with proper guidance and technical assistance, where necessary to help ETAP to operationalize fully the ESMS.


The IRM has determined that the STGP Project is in non-compliance with the AfDB Policy on the Environment (2004) because the Bank Management did not promote any changes in the national environmental impact assessment (EIA) legislation that does not require public consultation, the disclosure of the EIAs, as well as the review and approval of the Resettlement Action Plans (RAPs). The Project has made little effort to close the procedural gaps between the national laws and AfDB’s social and environmental policies, particularly the requirement for public consultations on the ESIA and RAPs. In fact, the IRM mission was not able to determine whether the Bank had clearly explained to ETAP the scope of the Bank’s corporate loan, which included the Bank’s role in helping ETAP to develop a proposal for scoping the compensation plan within the ESMS. The Bank Management has updated the IRM team with an important development that the new Tunisian Constitution of 2014 has incorporated the requirement for public consultation and the national environmental law is being revised to incorporate this important aspect.

The Bank staff showed evidence to the IRM that ETAP has:

(a) Developed an ESMS for mainstreaming the environment in all its operations, which is guided by a manual on the tools to be used, operational guidelines, as well as evaluation and monitoring systems for these tools.

(b) Strengthened its human, technical, and financial capacities to be able to systematically monitor the environmental performances of all its operations.

The IRM recommends that the Bank Management should closely monitor the comprehensiveness of the Project’s environmental and social review reports and require the staff to report on the consistency of the Project’s activities, including indicators and trends in connection to the Project’s compliance with AfDB policies and procedures.

D. Compliance with the AfDB Involuntary Resettlement Policy (2003)

The IRM found no evidence that the Bank’s design team and Management were involved in preparing and reviewing the LARP, particularly in order to ensure that there is compliance with the Bank’s Involuntary Resettlement Policy (2003). The IRM noted that the Policy was not used in the preparation of the LARP, which is exclusively based on the International Finance Corporation (IFC) Performance Standard (PS) 5: Land Acquisition and Involuntary Resettlement (2012). The IRM did not see any evidence that the Bank provided input to the LARP and made effort to at least justify why the AfDB Policy was not included in the LARP. Based on the chronology of events, it seems that the Bank staff started to pay attention to compensation issues during the appraisal in 2014, but not in 2013 during the preparation of the STGP Project. The early engagement by the Bank could have been effective, given that the requirements of national laws are not aligned with those of AfDB’s Involuntary Resettlement Policy (2003). As a result, the IRM considers that the Bank staff has failed to apply this Policy, which requires a comprehensive gap analysis and follow-up with the client in order to ensure that the Bank’s Policy requirements are reflected in the Project’s compensation plans. The IRM could not determine on what grounds the Bank team concluded in the PAR that the Project would not result in resettlement. When the Bank staff received the compensation records and the LARP after the project approval, they did not review or give its “no objection” as required by the Policy. More seriously, they overlooked ETAP’s submission of the LARP as a condition precedent to the loan disbursement.
The Bank supervision team recognized in its Back-To-Office Reports (BTORs) of 2016 and 2017 that the Bank had not yet received the RAP. As a result, the Bank was not able to provide the Project's final validation as planned in the Population Resettlement Framework (PRF). Therefore, it was not possible for the IRM mission to check the cost estimation of land and crop losses, the exact status of payment compensations, the number of vulnerable households, and the specific actions further planned. In its concluding section, the BTOR stated: “The Project does not yet fully comply with the requirements of the PRF and the Loan conditions of the Bank.” The IRM notes that the AfDB Involuntary Resettlement Policy (2003) does not require the preparation of a PRF and considers that the Bank staff did not ensure that the client fulfills the requirements of the Loan Agreement. As a result, the Project was fully disbursed at signature with no remedies for the Bank in the event that ETAP does not adhere to the loan conditions.

The Bank’s non-approval of the LARP to this date is a non-compliance with the AfDB Involuntary Resettlement Policy (2003), which requires that compensation should be paid before or soon after the start of the project works. It is also in contradicition with the PRF that stated, “the ETAP and OMV venture will validate the Resettlement Action Plan once the investigations have been completed and the exact number of the affected goods and people has been determined. The ADB will give the project's final validation. The AfDB reserves the right to make sure that the plans comply with the principles of this PRF.” 7 There was no evidence that the LARP was validated by the Bank.

Since the compensation process is still ongoing, the IRM recommends that:

(a) The ETAP/OMV joint venture update the LARP to reflect the status of its implementation, including the unpaid compensations; and a summary of the registered complaints by the Grievance Redress Mechanism (GRM), with a time-bound action plan to complete any pending cases before the GRM. The revised plan should be approved by the Bank.

(b) The Bank should conduct an assessment of the Project’s compensation process to ensure that the PAPs are identified and adequately compensated to bring the Project into compliance with the Involuntary Resettlement Policy (2003). The Bank staff should report on the status of the remaining compensation and take remedial actions with ETAP.

E. Project Supervision

The IRM finds that the Bank Management has exercised due diligence in its supervision missions in line with the Environmental Review Procedures for Private Sector Operations (2000).

However, the issues raised in the BTOR (2016) were not addressed by ETAP and OMV. Furthermore, there are no remedial measures in the Loan Agreement in case ETAP does not fulfill the AfDB environmental compliance requirements. There are still unresolved environmental issues related to the disposal of hazardous and municipal wastes that should be followed up by the ETAP/OMV subcontractors, as well to the emissions of sulfur dioxide (SO2) from the nearby fertilizer plant belonging to the Groupe Chimique Tunisien (Tunisian Chemical Group).

The IRM recommends that the Bank supervision staff continue to follow up on the unresolved environmental issues, provide proper guidance to ETAP, and undertake the necessary actions.

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General Conclusions

The IRM mission concluded that the environmental and social performances of the STGP Project have been delegated by ETAP to the project operator, OMV. OMV has prepared comprehensive documents on the ESMS, environmental and social monitoring, health and safety guidelines, and more. Unfortunately, the ETAP/OMV partnership has not led to the transfer of knowledge on environmental and social systems from OMV to ETAP. The fact that ETAP is depending on OMV to ensure environmental and social compliance is not sustainable in the mid and long term, because in its capacity as the national agency for oil and gas exploration, ETAP should have an environmental and social system in place to commensurate with the international standards that OMV has adopted. In the STGP Project, the Bank had committed to strengthen the ESMS and environmental and social compliance. Unfortunately, this has not yet taken place.

In reviewing the state of the STGP Project’s compliance with the applicable AfDB policies and procedures, the IRM determined that:

a) A corporate loan may not be a good financing instrument to ensure environmental and social compliance if it is not supported by adequate remedies and tied with disbursements over the lifespan of the project, instead of an upfront advancement of loan upon signature. In the STGP Project, the IRM noted that the reimbursement of the loan is not related to the Project’s deliverables, and in addition, there are no remedies in the Loan Agreement to ensure such compliance. As a result, the Project has outstanding non-compliance issues but the Bank has no leverage to address them because the loan was fully disbursed. ETAP had already reimbursed 56% of the loan to the Bank by November 2017.

b) In its PAR (June 2014), the Bank took the position that strengthening the ESMS is a project outcome. Unfortunately, the ESMS is not fully operationalized. The Bank’s involvement in this process could have helped the integration of AfDB policies at the early stages of preparation of the Project’s environmental and social action plans by ETAP/OMV.

c) All the above shortcomings can still be resolved if the Bank Management works closely with ETAP to provide the right tools and instruments for strengthening the ESMS and the environmental and social compliance for all 23 concessions of ETAP, and particularly for the STGP Project.
1. Background and Objectives of the Spot-Check Review

1. The Operating Rules and Procedures of the Independent Review Mechanism (IRM Rules 2015) mandates the Independent Review Mechanism (IRM) to undertake an advisory role which is divided into two activities: (1) the spot-check advisory review of project compliance, carried out by one of the IRM Experts; and (2) advisory services provided by the Director of the Compliance Review and Mediation Unit (BCRM). The scope of these advisory services is to enhance institutional learning by providing independent opinions on systemic issues, and technical advice on any projects and programs financed by the African Development Bank Group (AfDB) to strengthen their positive social and environmental impacts. The services are carried out when: (a) the BCRM receives a request for such advice or technical opinion from the President and/or the Boards of Directors; or (b) the President and/or the Boards approve a proposal by the BCRM to undertake similar services.

2. The specific objective of the spot-check review is to draw lessons from the experience of the IRM for the purpose of advising Management on compliance issues associated with ongoing high-risk projects. The spot-check review examines whether or not there has been an infringement of any AfDB operational policies or procedures in respect of a project’s design, appraisal and/or implementation.

3. This spot-check review focuses on the South Tunisian Gas Pipeline (STGP) Project in Tunisia. It was initiated by the BCRM and discussed with Management. Under the IRM Rules 2015, the BCRM is to undertake two spot-check reviews of two high-risk projects per year. In light of the proposal by the BCRM, the Boards of Directors approved the two projects that will undergo a spot-check review for the year on 7 June 2017. These projects are:

   (a) The Form Ghana Reforestation Project, Ghana; and

   (b) The South Tunisian Gas Pipeline Project, Tunisia.

4. In selecting these two projects, preference was given to the regional distribution of the projects, taking into account the benefit to be derived from selecting one project that is at an early stage of preparation (Form Ghana Reforestation Project) and another project at an advanced stage of implementation (the STGP Project). The exercise concerning this project aims at identifying any issues of non-compliance. This will enable the Bank Management to coordinate with the client to implement mitigation actions to ensure that the Project complies with the applicable AfDB policies and procedures.

5. Three reasons motivated the selection of the STGP Project by the BCRM and the Management:

   a) Type of project: Given that the STGP Project is ongoing and was prepared under previous environmental and social policies, the spot-check review would enable the Bank to address any gaps which might compromise the objectives of the Project.

   b) Good opportunity for learning lessons from the experience of a foreign company implementing the Bank’s safeguards requirements: The spot-check review would establish where the Bank could support the client, Entreprise Tunisienne d’Activités Pétrolières (ETAP), to benefit from this arrangement (i.e., having OMV as the responsible party for implementing the ESMP) in building its capacity and expertise in the safeguards domain.

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8 IRM Operating Rules and Procedures, 2015, para. 1(b).
9 Ibid., Rule 73.
c) *Reported non-compliance with safeguards requirements:* The IRM mentioned to the Boards of Directors that, considering that the Project was facing problems to meet the environmental and social requirements of the Bank (as reported by Bank staff in the BTOR), the spot-check review would add value to this process in terms of identifying what has worked and what has not. It would recommend possible ways for the Bank to ensure the project complies with the applicable environmental and social safeguards policies and procedures.

6. Upon approval by the Boards, the IRM started with the spot-check review for the project in Ghana, followed by the STGP Project.

7. This Report relates to the spot-check review of the STGP Project. The IRM conducted a desk review of the documents related to this Project and conducted a field mission to Tunisia from 8 to 17 November 2017. The IRM mission visited the project sites and interviewed ministry officials responsible for the Project; the two project sponsors, ETAP and OMV; their subcontractor, ASEA Brown Boveri (ABB); the local authorities in the project area; the Bank staff responsible for the Project; and other stakeholders.

8. The IRM would like to emphasize that the findings of this Report are based on the observations made and information gathered during the IRM field visit in Tunisia, and information made available by Bank Management at the time of the spot-check exercise. The factual issues have already been verified with Management. Accordingly, this Report is submitted to the Board of Directors for consideration.

2. Project Description

9. On 26 June 2014, the Board of Directors of the African Development Bank (ADB) approved a seven-year (2015-2022) corporate loan of USD 75 million to finance ETAP’s Investment Program (IP) with the STGP Project as the flagship project. The objective of the IP is to further develop oil and gas production fields in the South Tunisian region, and expand the processing and transport infrastructure to channel gas from these fields to the Port of Gabès.

10. The borrower of the corporate loan is ETAP, the national petroleum company responsible for oil and gas exploration and production activities in Tunisia. It was established in 1972 and is classified as a non-administrative public corporation under the supervision of the Ministry of Industry, Energy and Mines. It operates as a business concern when dealing with third parties and is therefore governed by business law.

11. ETAP’s IP projects are developed under Joint Venture agreements between ETAP and international oil and gas companies. For the STGP Project, ETAP and OMV Aktiengesellschaft share their stakes on a 50-50 basis.

12. The total cost of the STGP Project was estimated at USD 1.1 billion that is shared on a 50-50 basis between ETAP and OMV. ETAP’s share of USD 550 million is secured from ETAP resources (USD 192 million), and credits from (i) the European Investment Bank (EIB; USD 150 million), (ii) the AfDB (USD 75 million), (iii) commercial banks (USD 120 million), and (iv) ETAP’s own resources (USD 12 million). The AfDB disbursed the full amount of USD 75 million at loan signature, of which USD 42 million (56%) of the loan was already reimbursed to the Bank by ETAP as of November 2017. Subsequent reimbursements to the Bank will be made on a semi-annual basis.
13. The STGP Project comprises the following three components (Figure 1):

a. A Central Processing Facility (CPF) located near the Nawara-1 production well site and associated upstream facilities: the CPF will collect gas received from all southern fields to be compressed. The resultant commercial gas will be transported via the new gas pipeline and condensates will be transported via the existing Trapsa oil pipeline.

b. A Gas Transfer Pipeline (PPL) to export rich gas, condensates, and commercial products (natural gas, propane, and butane): the PPL will be 28 in. in diameter and 370 km in length, with a design capacity of 10 million standard cubic metres per day.

c. A Gas Treatment Plant (GTP) in Gabès to produce marketable products (natural gas, propane, and butane): The GTP will be located on the coast in the Ghannouch industrial area near Gabès and will include liquid petroleum gas (LPG) storage facilities. The processing plant will be designed for a processing capacity of 10 million standard cubic metres a day.

Figure 1: Site Map of the STGP Project in Tunisia

a. **Project Social Risks**

14. According to the Project Appraisal Report (PAR), the main type of risk for the STGP Project is social risk. The original design concept of the Project included a compression receiving system to be constructed in Hammouda, where a pipeline would directly connect to Gabès. However, because of the difficult economic conditions in Tataouine—including the highest unemployment rate in the country—and the fact that most of the country’s gas resources are located in that region, the population requested the construction of the GTP in Tataouine and not in Gabès. This has created some resistance despite many consultations, communication, and sensitization on the economic unviability of the request.

15. The final proposal was to connect a new pipeline into the STGP Project that will be diverted to Tataouine in order to develop a small-scale GTP at Tataouine. Although this solution has not been entirely accepted, the Government of Tunisia is determined to process gas in Gabès for strategic reasons and the construction of the small-scale GTP in Tatouine is underway.

b. **Project Environmental Impacts**

16. The STGP Project is classified as a high-risk Category 1 project. The STGP Project is governed by the regulations of the Agence Nationale de Protection de l’Environnement (ANPE; National Agency for the Protection of the Environment) of Tunisia. ETAP prepared a full Environmental and Social Impact Assessment (ESIA) for all three components of the Project—the CPF, the PPL, and the GTP—which was approved by ANPE. In addition, an Environmental and Social Management Plan (ESMP) was prepared in line with the applicable national legislations as well as the Bank’s procedures, and the ESIA Summary was published on the Bank’s website on 27 April 2014.

17. According to the PAR, the impacts during implementation of the project, such as wastewater discharges, are mitigated through the collection and treatment of the wastewater prior to their discharge into the environment. It stated that “the project’s negative effects are mostly temporary and localized. The project will not result in resettlements, as there is neither habitation nor agricultural activity at the sites except for minor agriculture activities at the GTP location. The Project sites are already developed/industrialized areas and there are no fauna and flora of importance.”\(^{11}\) In addition, there is a waste management plan prepared in line with the International Organization for Standardization (ISO), specifically the ISO 14001; and the majority of the waste during construction would be inert waste that can be used for site filling without any negative impact. Finally, the evaluation of ESIA data found that the Project is environmentally feasible and would not have serious effects on the environment if the existing and proposed mitigation and compensation measures were implemented. Residual issues associated with the Project were expected to be minor and not likely to have long-term significance for the environment.\(^{12}\)

c. **Social and Gender-Related Impacts**

18. According to the PAR, the Project is expected to create 1,000 temporary jobs during construction, and 102 direct jobs (out of which 8% is expected to be for women) and 330 indirect jobs when the CPF, the

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\(^{11}\) Project Appraisal Report (PAR), June 2014, p. 15, para. 3.34.

\(^{12}\) Ibid., pp. 15-16.
PPL, and the GTP are operational. The Project will have a strong social impact on the country and the region through the implementation of both corporate social responsibility (CSR) programs and community development projects. These will include:

(a) **“Skills to Succeed” Program in Tataouine**: The sponsors are currently implementing a EUR 3 million multifaceted vocational training initiative that was launched to improve the employability of local youth and women in various industries.

(b) **Tataouine Hospital**: The facility has an annual budget of TND 400,000, which aims to provide the community of Tataouine with high-quality emergency medical care by supplying needed equipment and to improve available emergency assistance.

(c) **Sfax Business Development Project**: The initiative, with an annual budget of TND 350,000, aims to establish a sustainable procedure to clean and maintain areas in collaboration with the Sfax Municipality, the Governorate of Sfax, the Sfax Labor Union, and selected organizations in the neighborhoods. The mission of the Project is to create a serene business setting by promoting environmental activities and green businesses through engaging program beneficiaries in the process.

(d) **Kembout Water Tank Project**: With an annual budget of TND 250,000, the Project aims to assist the community in the town of Kembout by rebuilding a damaged water tank and an old piping network. The implementation will be carried out in collaboration with SONEDE, the Tunisian water distribution facility.\(^{13}\)

3. **Project Implementation**

19. The Project’s implementation experienced serious delay due to:

(a) Social unrest in Tataouine that interrupted all gas production activities in South Tunisia, including construction activities for the CPF in 2017. The key factor behind this region-wide unrest was the loss of employment by workers from Tataouine and other neighboring areas that had been employed by different companies but their contracts had come to an end. In addition, the people in this under-developed South Tunisian region were demanding additional benefit through more employment opportunities from the oil and gas activities developed and being developed in their region;

(b) Legal dispute over the revision of pricing between Max Streicher S.p.A. and Bouchamaoui Industries, the contractors that were jointly responsible for civil works along the PPL that affected contractors’ movements to the site;

(c) The prolonged compensation process, including the settlement of disputes involving the Medenine community—who blocked the PPL works and were claiming rights to compensation for their lands, the ownership of which is disputed by the Kebylie community. Issues were also seen in the compensation of 2 people affected by the project (PAPs) whose properties were affected through acquisition of right of way, one close to the GTP and the other located within the PPL road reserve.

\(^{13}\) PAR, p. 16.
This situation was coupled with delays by the Project in obtaining the legal order to use land for public interest; and

(d) Additional engineering measures to treat the cavities discovered when constructing the foundation of the GTP.

20. It is therefore not anticipated that the gas from the concessions will reach the GTP before November 2019.

21. The Project’s progress was reported in the Bank’s BTOR (2016; Table 1).

**Table 1: Progress achieved in the implementation of the STGP Project (2016)**

<table>
<thead>
<tr>
<th>Project Component</th>
<th>Planned</th>
<th>Expected</th>
<th>Reason for Delay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Central Process Facility (CPF)</td>
<td>July 2016</td>
<td>October 2019</td>
<td>• Social unrest in Tataouine and Douz/Boulabal</td>
</tr>
<tr>
<td></td>
<td>Extended to December 2016</td>
<td></td>
<td>• Delay in issuing a desert working permit</td>
</tr>
<tr>
<td>Gas Transfer Pipeline (PPL)</td>
<td>September 2016</td>
<td>March 2018</td>
<td>• Land management dispute in the Kebili Governorate and strikes in Kamat/Douz</td>
</tr>
<tr>
<td>(370 km, 24” inner diameter)</td>
<td></td>
<td></td>
<td>• Low performance of EPC contractor, Max Streicher S.p.A. and Bouchamaoui Industries</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• Delay in formation of joint venture between the Italian EPC and Beshmanwi</td>
</tr>
<tr>
<td>Gas Treatment Plant (GTP)</td>
<td>October 2016</td>
<td>July 2018</td>
<td>• Discovery of subsoil anomalies (cavities) during the excavation phase</td>
</tr>
<tr>
<td>Initial Gas Production</td>
<td>October 2016</td>
<td>November 2019</td>
<td>• Delay in obtaining construction permit</td>
</tr>
</tbody>
</table>


4. The Spot-Check Advisory Review of Project Compliance

4.1 Compliance with the Environmental Review Procedures for Private Sector Operations of the African Development Bank (2000)

4.1.1 The Facts
22. The STGP Project is classified as a Category 1 project in accordance with the Bank’s Environmental Review Procedures for Private Sector Operations of the African Development Bank (2000). A full ESIA was prepared by OMV on behalf of the consortium for all three components of the Project: the CPF, the PPL, and the GTP. The ESIA was approved by the ANPE. An ESMP was prepared in line with applicable national legislation as well as the requirements of the Bank. The ESIA Summary was published on the Bank’s website on 27 April 2014. In addition, a Populations Resettlement Framework (PRF) was also prepared to, among other things, identify the process and modalities of consulting and compensate the potentially affected people. The PRF was published in the Bank website on 27 April 2014.

23. The ESIA Summary stated that it is noteworthy that within the Hasdrubal financing framework, the Bank requested ETAP to develop and monitor the implementation of an Environmental and Social Management System (ESMS) for all of ETAP’s activities in compliance with international standards. The Bank assisted ETAP in this assignment and approved the ESMS. ETAP currently holds participation interests in 23 concessions that are all under production. ETAP investments are required in these concessions to either: (i) increase the production profile of hydrocarbon resources by drilling additional wells; or (ii) maintain, as long as possible, the current production levels and delay depletion of the concessions.

24. The ESIA Summary also noted that OMV is tasked to ensure the monitoring of the project jointly and in partnership with other actors and participants. The monitoring is carried out periodically through the preparation of environmental and social monitoring reports.

25. Each stakeholder has the responsibility to contribute to the monitoring of environmental impacts. OMV, as the project sponsor, supervises the monitoring of the development of each component of the Project and its impact on nature and local communities. Through the ANPE, the environmental authorities are also inclined to oversee the Project’s compliance with the required standards. In addition, local authorities too have the right to ensure the implementation of environmentally complying measures, especially where it involves their respective communities.

26. In compliance with its own procedures, OMV has set up a department of 6 staff for the implementation of the monitoring program as well as the ESMP. The team comprises members of staff that specialize and are trained to that purpose. Furthermore, for the social aspects, two consultants have been recruited to help manage the agreement with concerned persons and they represent OMV at various information groups and mediation meetings.

27. Finally, the ESIA Summary indicated the estimated costs to be incurred by the implementation of preventive and mitigation measures, and the environmental and social management program. The outlined cost figures were considered to be indicative, but generally composed of between an estimated 1 to 5% of investment costs (Table 2).

<table>
<thead>
<tr>
<th>Project Components</th>
<th>Investment (TND)</th>
<th>Compensation for Land Occupation</th>
<th>Maintenance and Annual Consumables</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nawara Production center</td>
<td>-</td>
<td>25,000</td>
<td>528,000</td>
</tr>
</tbody>
</table>

14 Environmental and Social Impact Assessment (ESIA) Summary, 27 April 2014, p. 3.
15 Ibid., p. 21.
16 Ibid., p. 25, Table 5. Note: Figures in Table 5 were revised by the IRM team as there were some calculation errors.
### 4.1.2 The Findings

28. ETAP’s financial resources of USD 550 million consists of USD 192 million from ETAP resources; credit from the EIB (USD 150 million), the AfDB (USD 75 million), and commercial banks (USD 120 million); and from ETAP’s own resources (USD 12 million).

29. In principle, the STGP Project has to follow the following standards:

   (a) The International Finance Corporation (IFC) Environmental and Social Performance Standards (PSs) of 2009;

   (b) The Environmental Review Procedures for Private Sector Operations of the African Development Bank (2000); and

   (c) The national laws, that is, Tunisia’s Decree 2005-1991 on EIA procedures.

30. ETAP has not been fully engaged in the implementation of this Project. Under the current arrangement, it has devolved the responsibility of dealing with environmental and social issues to the project operator, OMV, which took the lead in preparing the EIAs. ETAP was involved in the preparation of the LARP.

31. In essence, the ESIA Summary stated, “OMV is tasked to ensure the monitoring of the project **jointly and in partnership with other actors and participants.** The monitoring is carried out periodically through the preparation of environmental and social monitoring reports. Every stakeholder has the responsibility to contribute to the monitoring of the environment. OMV, as the project sponsor, supervises the monitoring of the development of each component of the Project and its impact on nature and local communities.”

   There is no mention of the role of ETAP in the ESIA Summary except in one sentence that states: “ETAP will ensure the security and protection of zones of intervention and pipeline’s right of way.”

32. During the field visit from 8 to 17 November 2017, the IRM mission did not see evidence that ETAP was fulfilling its role as the borrower of the Bank. ETAP has not fully operationalized the ESMS, in form and substance, i.e., a system guided by clear procedures, managed by competent staff, set to predict environmental and social risks, and able to respond to relevant compliance issues. As Management has informed the IRM team, implementation of ESMS activities has been very slow since 2014, when the ESMS coordinator left ETAP without proper transfer of knowledge or handover to the relevant staff in the HSE Department. There are no dedicated environmental and social specialists within the ETAP staff that are familiar with the ESMPs of the three ESIs, and who monitor the environmental and social performance of the Project. Three staff members of ETAP represent ETAP at the Operating Committee, which has its interests shared on a 50-50 basis with OMV. The Operating Committee is responsible for making all decisions related to all operations and works of the STGP.

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17 Ibid. p. 21.
18 Ibid. p. 8.
Project. ETAP staff are familiar with the environmental management and monitoring plans of the three components of the project as well as the land acquisition plans and grievance management.

33. Furthermore, the Bank has no formal agreement with OMV. It is not party to the arrangement in which ETAP has delegated the management of environmental and social issues to OMV. Therefore, the Bank cannot directly monitor the implementation of the measures indicated in the ESMP. This is unfortunate because the Bank’s direct involvement in this process could have helped the integration of AfDB policies during the early stages of the preparation of the environmental and social action plans by OMV.

34. Although OMV has some environmental experts, they focus mostly on health and safety measures and have collected relevant data. There is no report yet on the implementation of the environmental and social mitigation measures of the Project as a whole based on the ESMPs of the CPF, the PPL, and the GTP. This is despite the fact that three ETAP staff sit in the Operating Committee and are familiar with the environmental and social issues in the three components of the Project.

35. The Loan Agreement (23 February 2015) requires ETAP, as the borrower, to submit an annual report to the Bank within 90 days of every fiscal year.19 This report, as required by the ESMS, should follow up on the implementation of the environmental and social performances of the 23 concessions of ETAP, including the Nawara Concession. The Annual Report described the CSR activities, but says nothing about the environmental and social safeguards performances of the 23 concessions.

4.1.3 Conclusions

36. The IRM has concluded that:

(a) The Bank has not fulfilled its obligations to ensure that ETAP is supervising the STGP Project to ensure that the Project is in compliance with the relevant AfDB policies.

(b) Contrary to the provision of the Loan Agreement, ETAP has not fulfilled its obligations of reporting on the environmental and social performances of its concessions, particularly the Nawara Concession, in a form and substance acceptable to the Bank.

4.1.4 Recommendations

37. The IRM recommends that the Bank take specific steps for the following:

a) The Bank should have ETAP strengthen its environmental and social unit with qualified staff that will be responsible for the environmental and social performances of all its concessions, and in particular the Nawara Project.

b) The Bank should enable ETAP to retain the services of reputable consultants, or work closely with OMV, to prepare an overall ESMP for the three project components with a clear division of responsibility, budget, and thresholds or triggers for initiating corrective actions. In addition, ETAP should be encouraged to develop a consolidated reporting template to monitor the

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19 Loan Agreement, 2015, para. 17.7 (c).
implementation of the three ESMPs, and train its environmental and social staff on how to supervise the environmental and social aspects of the Nawara Project.

c) The Bank should collect relevant reports from ETAP in accordance with the terms of the Loan Agreement and should take necessary actions to ensure that ETAP complies with its reporting requirements.

d) ETAP should guarantee that the Bank staff has access to OMV’s reports and data related to the ESMP and environmental and social performances.
4.2 Compliance with the Loan Agreement to Strengthen the Capacity to Implement the Environmental and Social Management System (ESMS)

4.2.1. The Facts

38. The ESMS was not defined either in the ETAP Loan Agreement or in the Loan Agreement of the Hasdrubal Project of 8 July 2010.\(^\text{20}\) The latter Loan Agreement was in the amount of USD 150 million. However, it is ETAP’s “Rapport Annuel de Suivi de la Performance Environnementale et Sociale de 2012 [Annual Environmental and Social Performance Monitoring Report 2012]” that describes it. The ESMS, as defined in the Annual Monitoring Report, includes all the procedures, standards, and guidelines to be applied to the activities of ETAP.\(^\text{21}\) It defines strategies and responsibilities in order to install an efficient ESMS that can handle environmental issues associated with the Project, and enable the continuous improvement of the environmental performance of the Project.

39. The action plan and the state of implementation of the ESMS in 2012 included the following table (Table 3):

<table>
<thead>
<tr>
<th>No.</th>
<th>Action</th>
<th>Status/Timeline</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The restructuring and validation of ETAP’s organogram, taking onto consideration new changes and new orientations</td>
<td>Ongoing</td>
</tr>
<tr>
<td>2</td>
<td>The increase of ETAP staff</td>
<td>Implemented</td>
</tr>
<tr>
<td>3</td>
<td>The establishment of a local community liaison unit headed by an officer</td>
<td>Implemented</td>
</tr>
<tr>
<td>4</td>
<td>An updated ETAP website</td>
<td>Implemented</td>
</tr>
<tr>
<td>5</td>
<td>The formalization, communication, and dissemination of the social and environmental policy</td>
<td>Was planned for 2014</td>
</tr>
<tr>
<td>6</td>
<td>The development of a training plan for environmental and social responsibilities, and for health, safety, and environment (HSE) staff, taking into account the future orientation of ETAP</td>
<td>Implemented</td>
</tr>
<tr>
<td>7</td>
<td>The preparation of a cartography for concessions and operators</td>
<td>Implemented</td>
</tr>
<tr>
<td>8</td>
<td>The generalization of the “Environmental and Social Responsibility” in the concessions agreement</td>
<td>Implemented</td>
</tr>
<tr>
<td>9</td>
<td>The preparation of a self-evaluation questionnaire on the environmental and social responsibilities and the labor health and safety, and those inherent for operators and concessions</td>
<td>Implemented</td>
</tr>
<tr>
<td>10</td>
<td>The development of an audit plan for environmental and social responsibilities on the basis of major social orientations of the ETAP policy</td>
<td>Was planned for 2014</td>
</tr>
<tr>
<td>11</td>
<td>The development of environmental assessments of enterprise activities, particularly those related to concession</td>
<td>Was planned for 2014</td>
</tr>
</tbody>
</table>

\(^\text{20}\) Accord de prêt No. 200130005380, Projet No. P-TN-FDO-004.

\(^\text{21}\) ETAP, [Annual Environmental and Social Performance Monitoring Report 2012], 2012, p. 28.
| 12 | To formalize monitoring procedures for operators, for internal and external communications, and for recording control and management of hazardous waste | Was Planned for 2014 |
| 14 | To conduct an audit on the control of regulatory, environmental, social, health, and work safety applicable to ETAP activities | Was planned for 2014 |
| 15 | To launch a call for tenders for procuring individual protection equipment | Completed |
| 16 | To construct a multidisciplinary social, cultural, sports, and leisure center | Completed |

40. In the PAR, the role of the Bank was stated as “to strengthen its Environmental and Social Management System (ESMS)” by “proposing the scoping of the compensation plan.” The PAR stated that “the adoption by ETAP of an environmental and social management system (ESMS) will enable it to meet the requirements of other multilateral banks.”

22 Subsequently, in its incremental development outcomes, it is stated that “The ESMS outlines the policy, procedures and action plan which will help ETAP to ensure compliance and monitoring of environmental and social performance of all its activities. The implementation of the ESMS has been closely monitored during the Bank’s supervision missions. The Bank staff has assessed the incorporation by ETAP of good environmental and social practices into its activities to be satisfactory. This will be reinforced with the STGP (Nawara) Project and frequent monitoring reports will be requested from ETAP to demonstrate effective monitoring of impact on the environment in compliance with national and Bank’s rules and procedures.”

41. In the Loan Agreement, the only reference to the ESMS is that, as per the inherent ESMS requirement, it requires reporting on environmental and social performances. However, the Loan Agreement has not included a definition of the ESMS in Article 1.1, which could have been helpful for ETAP to differentiate between its current HSE structure and the ESMS.

4.2.2. The Findings

42. Based on the IRM mission observations and discussions with ETAP and clarification by Bank Management, the IRM team understood that in 2010 under the Hasdrubal Project, the AfDB technically assisted ETAP to recruit a technical assistant who elaborated the ESMS and enhanced the capacity of the ESMS Coordinator housed in the HSE Department. The implementation of the ESMS started in 2010 and process was made as reflected in the ETAP’s Annual Environmental and Social Performance Report of 2012.

43. As stated earlier, ETAP does not have adequate resources and the capacity to implement fully the ESMS, considering that the ESMS Coordinator resigned from ETAP in 2014 without proper handover and no replacement has been done. There was no proper documentation or evidence to indicate that ETAP had indeed implemented the actions it planned in 2014, which are very complex, such as action

22 PAR, para. 3.43.
23 Ibid., para 3.46.
24 Loan Agreement, para. 17.7 (c).
44. Furthermore, the Bank wrongly assumed that “frequent monitoring reports will be requested from ETAP to demonstrate effective monitoring of impact on the environment, in compliance with national and Bank’s rules and procedures.” Such a statement is confusing because the only requirement in the Loan Agreement is an annual report—and not frequent monitoring reports—which the IRM considers inadequate. There are also no remedies in the Loan Agreement in case the Project is in non-compliance with the applicable Bank policies and procedures. In addition, an ESMS is neither required by the Bank’s Environmental Review Procedures (2000) nor the national Decree 2005-1991 on EIAs. However, the Bank asked ETAP to implement the ESMS as a best practice. The ESMS was developed in 2010 and all that remained was it implementation to help ETAP monitor and report on implementation of environmental and social mitigation measures in the STGP Project. Moreover, OMV is implementing the IFC standards, which require development of an ESMS. These standards are followed by the EIB, which is the sole lender of OMV and a co-financing partner of the Bank in the corporate loan to ETAP.

45. In the ESIA Summary, it is stated that: “It is noteworthy that within the Hasdrubal financing framework, the Bank requested from ETAP and monitored the implementation of an ESMS for all ETAP’s activities in compliance with international standards. The Bank had then assisted ETAP in this assignment and approved the ESMS.”

46. There is no evidence to show that the Bank has reviewed and followed up on this action plan, or that it urged ETAP to strengthen the capacity of the relevant staff in HSE Department in order to implement fully the ESMS, particularly after the resignation of the ESMS Coordinator in 2014. The ESMS is considered an “incremental development outcome” for which no indicators were provided in Annex 1 of the PAR.

47. An ESMS is an important tool that refers to the management of an organization's environmental and social programs in a comprehensive, systematic, planned, and documented manner. It includes an organizational structure; outlining planning, capacity, and resources for developing, implementing, and monitoring policies for environmental and social risks; and the same to mitigate these risks adequately. It is defined in the Integrated Safeguards System (ISS) of the AfDB of 2013, (which was not applicable to the STGP Project) as “a set of policies, procedures, tools and organizational capacity used to identify and manage the environmental and social risks associated with an organization’s portfolio and ensure that the Bank’s Operational Safeguards are applied by its clients in its investment projects or sub-projects. A key element of an ESMS is the management commitment, organizational capacity, resources and expertise needed to implement safeguards requirements effectively to assure compliance with the Bank’s Operational Safeguards.”


26 ESIA Summary, p. 3.

48. The ESMS should have been strengthened as required by the Loan Agreement and its implementation prioritized to enable ETAP to report on environmental and social performance of the STGP Project.

49. The OMV has developed a comprehensive environmental management system based on the typical Plan-Do-Check-Act cycle to ensure continuous improvement. Based on the IRM mission, there was no evidence that ETAP was taking any action to migrate this system from the project level to the corporate level. This system can be a catalyst for ETAP to enhance the capacity of its HSE Department to manage environmental and social issues relating to all its concessions. This was precisely one of the objectives of the AfDB corporate loan to ETAP.

4.2.3. Conclusions

50. The IRM has concluded that ETAP is not yet in compliance with the Bank’s corporate loan requirement to reinforce implementation its existing ESMS and the reporting requirements as outlined in the PAR and subsequently in the Loan Agreement.

4.2.4. Recommendations

51. The IRM recommends that should ETAP review its implementation of the ESMS based on the Action Plan of ETAP’s ESMS (2012), which should be updated and submitted to the Bank. The Bank should provide ETAP with proper guidance and technical assistance, where necessary to help ETAP to operationalize fully the ESMS.


4.3.1. The Facts

52. The AfDB’s Policy on the Environment (2004) affirms the Bank’s commitment to sustainable development. The following include some key principles that have gained general acceptance and are articulated in a number of international agreements:

(a) A strong and diversified economy shall be recognized as a just means to enhance the capacity for environmental protection. However, all development-related decision-making processes shall integrate economic, social, and environmental considerations.

(b) Environmental management tools, like environmental assessments, shall be used to ensure that economic activities are environmentally sustainable and to monitor systematically environmental performance.

53. The goals that the Policy on the Environment (2004) is expected to achieve include helping Regional Member Countries (RMCs) build their capacities to bring about institutional changes to achieve sustainable development. Furthermore, the Policy states that sustainable development requires the integration of environmental and developmental concerns at the outset of the decision-making process, so as to align core macro-economic strategies that include trade and environment. However, such

30 Ibid., para. 5.3.11.
developments can only be achieved when there are systems based on good governance, including transparency, accountability, a participatory approach, and decentralization.

54. The Policy on the Environment (2004) also states, “Institution and capacity-building have become significant components of the Bank’s lending operations. This tendency will be reinforced by incorporating formal training activities on environmental management principles in all Bank-funded projects that have potential negative impacts on the environment.”

With regard to policy implementation, the Policy specifies that the Bank will adopt the following approaches aimed at adjusting its lending operations and realigning some of its existing institutional arrangements:

(a) Mainstreaming environmental sustainability considerations in all Bank operations;
(b) Strengthening existing environmental assessment procedures and developing new environmental management tools;
(c) Clearly demarcating internal responsibilities in implementation;
(d) Assisting RMCs to build adequate human and institutional capacities to deal with environmental management;
(e) Improving public consultation and information disclosure mechanisms;
(f) Building partnerships to address environmental issues, harmonize policies, and disseminate environmental information; and
(g) Improving compliance monitoring and evaluation of operations.

55. As part of the institutional support and capacity building for RMCs, the Policy on the Environment (2004) clearly states that “A key problem is that existing environmental legislation is often not adhered to. The Bank in line with other multilateral development banks (MDBs) believes that the future lies in strengthening local capacity in RMCs to adopt and implement their own environmental and safeguard systems. It is particularly important that local and national legislation, standards and guidelines be strengthened and promoted as far as possible over and above Bank guidelines as they are tailored for specific conditions in RMCs. Simultaneously, there is a corresponding need to harmonize environmental standards and guidelines within and across Africa.”

4.3.2. The Findings

56. In reviewing the PAR and the Loan Agreement, there was no mention of sustainable development though a reference is made to the Bank’s Policy on the Environment (2004) that applies to the STGP Project. The IRM notes that the key prerequisites for sustainable development, such as the integration of economic, social, and environmental considerations, were not adequately considered and that ETAP did not systematically pursue its environmental performance at the project level.

57. Furthermore, none of the seven approaches for policy implementation was pursued. In addition, the Bank Management did not seek any changes in the national EIA legislation that does not require public consultation, the disclosure of the EIAs, as well as the review and approval of the Resettlement Action Plans (RAPs). The Project has not made any effort to close the procedural gaps between national laws.

31 Ibid. para. 5.3.13.
32 Ibid. para. 6.1.
33 Ibid. para. 6.16.
and AfDB’s social and environmental policies, particularly in relation to public consultations on the ESIA and the RAP. The Bank Management has updated the IRM team that the new Tunisian Constitution of 2014 has incorporated the requirement for public consultation and the national environmental law is being revised to incorporate this important change.

4.3.3. Conclusions

58. The IRM is of the view that the Bank staff and Management did not apply the AfDB Policy on the Environment (2004). The Project is thus in non-compliance with this Policy.

4.3.4. Recommendations

59. The IRM recommends the following:

(a) The Bank staff should ensure the following:

(i) ETAP should develop an ESMS for mainstreaming environmental considerations in all its operations, which is guided by a manual on the tools to be used, operational guidelines, as well as evaluation and monitoring systems;

(ii) ETAP should strengthen its human, technical, and financial capacities to be able to monitor systematically the environmental performances of all its operations.

(b) The Bank Management should closely monitor the comprehensiveness of Project’s environmental and social review reports and require the staff to report on the consistency of the Project’s activities, including indicators and trends in connection to the Project’s compliance with AfDB policies and procedures.


60. The laws and policies applicable to the STGP Project are the following:

(a) The national laws;

(b) The AfDB Involuntary Resettlement Policy (2003); and

(c) The IFC PS5: Land Acquisition and Involuntary Resettlement (2012).

A. The National Laws

61. Under the national laws, the compensation process is governed by both the civil code and Hydrocarbons Code (1997; amended 2016), which under Article 85 explicitly provides that compensation should be settled amicably. This process includes landowner identification, publishing the list of owners in a gazette and posting the same in governorates and local councils for 2 months, and organizing face-to-face meetings with the landowners to discuss compensation. The identification of landowners is done by judicial experts. The court appoints a certified land valuer to conduct land valuations. The law also requires the project to avoid relocation to the greatest extent possible. If this is not feasible, the project should negotiate the public interest, the value of assets, and the compensation with the PAPs. Unsatisfied PAPs can complain to the administrative tribunal, which also has jurisdiction to decide
whether or not the project is for public interest. It also requires prior consent of landowners; otherwise, the entry of the land valuer into their houses is considered as trespassing. Finally, the Minister of Energy can negotiate with the terms of relocation with the PAPs under Article 25 of the Hydrocarbons Code. If the PAPs refuse, the Minister can offer either double amount or order “stop-of-use” of the properties in question.


62. The AfDB Involuntary Resettlement Policy (2003) requires that “Compensation at the full replacement cost for loss of lands and other assets should be paid prior to the project’s implementation.”34 The Policy also states that the payment should be made prior to the land acquisition or soon after the start of the project implementation activities.35

C. IFC PS5: Land Acquisition and Involuntary Resettlement (2012)

63. Where the project’s impacts on land, assets, or access to assets become significantly adverse at any stage of the project, the client should consider applying the requirements of the IFC PS5, even where no land acquisition or land use restriction is involved. In this regard, the IFC PS5 states: “When displacement cannot be avoided, the client will offer displaced communities and persons compensation for loss of assets at full replacement cost and other assistance to help them improve or restore their standards of living or livelihoods, as provided in PS5. Compensation standards will be transparent and applied consistently to all communities and persons affected by the displacement. Where livelihoods of displaced persons are land-based, or where land is collectively owned, the client will, where feasible, offer the displaced land-based compensation. The client will take possession of acquired land and related assets only after compensation has been made available and, where applicable, resettlement sites and moving allowances have been provided to the displaced persons in addition to compensation. The client will also provide opportunities to displaced communities and persons to derive appropriate development benefits from the project.”36

64. Moreover, the Loan Agreement considered the submission of the RAPs for all three components of the STGP Project—the CPF, the PPL, and GTP—as a condition precedent to the first disbursement.

4.4.1. The Facts

65. In August 2013, the Bank published in French a provisional report on the social and economic study of ETAP and the STGP Project.37 The report stated in Section 4 on the [National Regulations and Policies of the Bank to which the Project must Comply]: “[Since the pipeline will follow the same route as the existing pipeline, no specific problems or land activities are anticipated. The plant itself will take place in an industrial site and the aspects of the land are already well studied and regularized].” In the Section on [Risks and General Recommendations],” it is stated: “By borrowing the easements of the existing pipeline, the STGP Project does not pose any risk as such.” The report also confirmed what was mentioned in the PAR, i.e. that there was no resettlement.

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35 Ibid., para. 4.1.6.
37 [Economic and Social Study of the South Tunisian Gas Project Project], August 2013.
66. In April 2014, the Bank published an executive summary of the Population Resettlement Framework (PRF). This document examined how the people likely to be affected by the implementation of the Project should be considered as well as the modalities to compensate them. The aim of the study was to elaborate a PRF for the PAPs affected by the construction and exploitation activities of the SGTP Project. The PRF Summary stated that “the ETAP and OMV venture will validate the Resettlement Action Plan once the investigations have been completed and the exact number of the affected goods and people has been determined. The ADB will give the project's final validation. The AfDB reserves the right to make sure that the plans comply with the principles of this PRF.”

67. Contrary to the PRF, and in line with the ETAP’s social and economic study of the STGP Project, the PAR stated: “The project’s negative effects are mostly temporary and localized. The project will not result in resettlements, as there is neither habitation nor agricultural activity at the sites except for small agriculture activities at the GTP location. The Project sites are already developed/industrialized areas and there are no fauna and flora of importance.” The PAR also mentioned that “the Bank in its leadership role has identified, prepared and commissioned the socio-economic report as well as the resettlement scoping report of the Nawara project. These reports have been used by all lenders and helped maximize social benefits induced by the project.”

68. Eight months after the PRF Summary, in December 2014, OMV published the Nawara Project: Land Acquisition and Resettlement Plan (LARP) in English on behalf of its joint venture partner, ETAP. The LARP was prepared by two consulting firms: Environmental Assessment & Management S.A. (EAM), a local consulting firm; and Environment Resources Management Iberia S.A. (ERM), a Spanish consulting firm. The comprehensive report was prepared in accordance with IFC PS5: Land Acquisition and Involuntary Resettlement (2012). The LARP stated that: “At the time that EAM/ERM were contracted, the land planning and compensation process was well progressed, with some landowners already having received compensation. As a result of the review, EAM/ERM undertook a socio-economic survey and discussed with OMV concerning certain potential changes to be introduced to further align the process with the requirements of the IFC. EAM/ERM then proceeded to support OMV in the development of this LARP by documenting activities that had already been undertaken by the Joint Venture, and those that were to be considered going forward, to complete the land acquisition and compensation process.”

69. The LARP indicated that each of the three Project facilities would require some form of land acquisition. The CPF will permanently require a total of 13 ha of desert land and the GTP site in Gabès will be built on a 38 ha site designated for industrial use. The PPL construction will require temporary land acquisition in the form of a working strip of 15 m on each side of the pipeline (total 30 m). Once the pipeline is laid, the Project would require a permanent right of way, which will mean the acquisition of 5 m of land on either side of the centerline (total 10 m).

70. The LARP outlined the total land acquired (Table 4).

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39 PAR, p. 15, para. 3.34.
40 Ibid; p. 19, para. 3.47.
42 Ibid. p. 10.
In line with national laws, the land acquisition process began in 2013. In keeping with these laws and the IFC standards, the ETAP/OMV joint venture sought to define a route that would avoid physical displacement and minimize impact on people’s livelihoods by aligning the PPL route with an existing government pipeline. Cadastral work was conducted in early 2013, which was used to map the required land and identify the rightful owners, including heirs, tenants, and other users entitled to compensation. The information regarding private land users was published in the local councils’ offices to inform the people about the Project and the willingness of ETAP and OMV to negotiate settlement agreements for the acquisition of land rights for the construction and operation of the pipeline. Information on the acquisition of lands used collectively by the people was discussed directly with the respective local councils (conseils de gestion).

In 2013, ETAP and OMV were given a court-appointed land valuer who conducted an asset inventory and land demarcation of both privately owned and collectively used lands that would be acquired by the Project. Subsequently, negotiations were held between the ETAP/OMV joint venture, private landowners, and local councils responsible for their respective collective lands. By December 2014, compensation agreements were signed between the ETAP/OMV party and owners of privately registered as well as unregistered lands. In the case of unsatisfied landowners, a second valuation was carried out by a different valuer. This process was expected to be completed by April 2015.

The ETAP/OMV partnership obtained the Decree of Public Use issued by the Ministry of State Property and Land Affairs at the end of 2014. The decree permitted the STGP Project to acquire land and to relocate owners following sufficient legal notice. As a result, the Project’s lands in the Governorate of Tataouine were fully acquired for public use.

Table 4: Total Land Acquisition for STGP Project

<table>
<thead>
<tr>
<th>Governorate</th>
<th>Type of Landownership</th>
<th>Total Length (KM)</th>
<th>Working Strip (ha)</th>
<th>ROW (ha)</th>
<th>Total Plots/CdG</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gabès</td>
<td>Private Landowners (registered)</td>
<td>8</td>
<td>24</td>
<td>8</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>Private Landowners (non-registered)</td>
<td>19</td>
<td>62</td>
<td>20</td>
<td>86</td>
</tr>
<tr>
<td></td>
<td>Private State Land</td>
<td>4</td>
<td>11</td>
<td>4</td>
<td>35</td>
</tr>
<tr>
<td></td>
<td>Collective Land (permanently divided)</td>
<td>63</td>
<td>193</td>
<td>64</td>
<td>11 CdG</td>
</tr>
<tr>
<td>Medenine</td>
<td>Collective Land (land communally used)</td>
<td>2</td>
<td>5</td>
<td>2</td>
<td>10 CdG</td>
</tr>
<tr>
<td>Kebili</td>
<td>Collective Land (land communally used)</td>
<td>52</td>
<td>157</td>
<td>52</td>
<td>5 CdG</td>
</tr>
<tr>
<td>Tataouine</td>
<td>Public State Land</td>
<td>217</td>
<td>613</td>
<td>130</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>365</td>
<td>980</td>
<td>279</td>
<td></td>
</tr>
</tbody>
</table>

74. The LARP presents information on the status of land acquisition from private landowners and collectively used lands in the Governorates of Gabès, Kebili, and Medenine (Table 5).

Table 5: Status of Land Acquisition in the Governorates of Gabès, Kebili, and Medenine (December 2014)

<table>
<thead>
<tr>
<th>Type of Landowner</th>
<th>Gabès</th>
<th>Kebili</th>
<th>Medenine</th>
<th>Expected Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>KM</td>
<td>KM of Compensation Completed</td>
<td>%</td>
<td>KM</td>
</tr>
<tr>
<td>Collective</td>
<td>63</td>
<td>0</td>
<td>0</td>
<td>52</td>
</tr>
<tr>
<td>Private R*</td>
<td>7.4</td>
<td>1</td>
<td>13.5</td>
<td>0</td>
</tr>
<tr>
<td>Private NR**</td>
<td>20</td>
<td>16</td>
<td>80</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>94.9</td>
<td>21.5</td>
<td>15.3</td>
<td>52</td>
</tr>
</tbody>
</table>

R*: Registered Private Landowners
NB: NR**: Non-Registered Private Landowners

Source: OMV, LARP, p. 125.

75. The owners of lands acquired by the Project were grouped as follows: agricultural farmers who have the legal title ‘titre bleu’ to state-owned lands, communal land users, and users with no title. The Land Commission Agency (L’Agence de Foncière) gives land free of use to projects. Two mediation rounds were held during 2015 and 2017 in the industrial zone in Ghannouch to compensate for land acquisition for the GTP. A total of TND 800,000 was paid to affected farmers at the end of 2016-early 2017, since their lands were acquired for the rights of way for the pipeline in the industrial area and the sub-pipeline for its connection to the Société Tunisienne de l’Electricité et du Gaz (the national utility company; STEG) distribution line. There are two pending cases related to the land acquisition for the pipeline to be connected to the STEG network. In addition, there are also two people outside the GTP area who complained about dust pollution to their vegetation; one accepted compensation and the second one filed a legal case.

76. The LARP further informs that stakeholder engagement as part of the Nawara resettlement process was conducted in a changing socio-political environment, beginning during the presidency of Ben Ali, through the Tunisian Revolution in 2011, and into the first democratically elected government. With this in mind, engagement and consultation was only possible with government departments and ministries, including local-level authorities, in line with Tunisian legal requirements. The public consultations in a form acceptable to the Bank were only permissible and feasible when national laws were amended in 2016. The consultations post-2016 enabled the Project to understand the people’s perceptions, grievances, and concerns due to the negative experiences they had had with other pipeline projects in their area.

77. Consultations with affected landowners, land users, and communities were limited due to the political instability in the country. This meant that consultations were focused primarily on land valuation, negotiation, and the compensation process. With the gradual stability of the country, it was then possible to engage in a more extensive consultation process with the stakeholders. This included information sharing with affected landowners and users, alongside the land valuation and compensation process, which began in early 2014. This engagement enabled the Project to understand the general level of satisfaction with the STGP Project and the compensation process, and identify a number of issues and concerns that had not previously been fully understood. This primarily related to a lack of trust in the resettlement process due to prior negative experiences with pipeline projects in the area and a lack of understanding about the compensation process. Existing land disputes over land boundaries, which are common throughout the affected land, was also seen as a key challenge for the land acquisition process as compensation cannot be paid until these are resolved. Communities also have high expectations from the Project and the provision of future employment opportunities.

78. Since the independence, land reforms have meant that all affected lands in the Governorate of Gabès is now either private or has been permanently divided amongst members of collective land councils. In contrast, lands in the southern Governorates of Kebili and Medenine continue to be entirely communally used and managed by collective land councils. The majority of land-affected households continue to have access to large areas of land over multiple plots; however, disputes over boundaries are an ongoing problem throughout the Project area.

79. In November 2017, the IRM mission received a copy of the LARP prepared by OMV from the Bank Management. The LARP earmarked a compensation budget that was estimated at TND 16.2 million to be carried out by OMV. It also described the Project’s grievance procedure developed by ETAP and OMV, and included key steps to deal with and manage complaints at different levels, i.e., staff with different mandates were designated to manage communication with the complainants up to appeal level, including the grievance manager, the STGP Project manager, the community relation advisor, the local grievance manager, the community liaison officer, the complaint office, the appeal committee, the communications department, and the legal department if cases escalated to court.

80. At the time of the IRM mission in November 2017, the total number of affected owners (84) of both collective and private lands had been compensated with a total of TND 28.532 million. Nevertheless, the violent social tensions between Beni Khedache in Medenine and the community of Kebili for compensation for the land acquired for the civil works along 25 km of the pipeline disrupted the Project’s activities. The disputed lands are interface boundaries of these two communities, which they have used collectively for grazing for many generations. As a result, the inter-region council, that is mandated to arbitrate similar disputes in line with Decree 459, ordered compensation for 12 collective groups representing owners using the lands within the overlapping administrative boundaries.

81. This development resulted in the Project having to redress both communities but under different arrangements; that is, the Kebili community was paid compensation for loss of grazing land, and the Medenine community was paid a lump sum of TND 12 million out of the Project’s CSR program, in the form of disturbance allowance to avoid double compensation for the same acquired land.

4.4.2. The Findings

82. The sequence of events related to resettlement indicated the following inconsistencies:

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44 Ibid.
(a) Before the appraisal, the Bank published a PRF implying that the Project may cause resettlement of an economic nature and requiring that the ADB will give the Project's final validation.

(b) The PAR of June 2014 stated that the Project will not result in resettlements, as there is neither habitation nor agricultural activity at the sites, except for small agricultural activities at the GTP location.

(c) Subsequent to the approval of the PAR, on behalf of ETAP, OMV prepared the LARP by December 2014, confirming involuntary resettlement and indicating that compensation had already started.

(d) Finally, the Loan Agreement of February 2015 requested the submission of a LARP as a condition precedent for the first disbursement.

83. From the above sequence, the IRM noted the following:

(a) The Bank’s Involuntary Resettlement Policy (2003) was not used in the preparation of the RAP and was replaced by the IFC PS5: Land Acquisition and Involuntary Resettlement (2012). This is presumably because OMV was asked to use IFC standards and did not inform the ETAP management. The Bank did not provide input to the LARP and made no effort to at least justify why the AfDB policies were not included in the LARP.

(b) Based on the chronology of events, it seems that the Bank staff had no prior knowledge of the resettlement issues that had started in 2013 and was not associated directly with the resettlement and compensation processes until probably after the appraisal. The evidence is that at the appraisal stage, the PAR stated that there were no resettlement issues.

(c) The Bank’s Involuntary Resettlement Policy (2003) does not recognize the preparation of the PRF.

(d) The Bank’s Involuntary Resettlement Policy (2003) requires that “Compensation at the full replacement cost for loss of lands and other assets should be paid prior to projects implementation.” The Policy also states that “The payment procedure should be simple, and payment should be settled before expropriating the land or at least soon after.” The LARP clearly indicated that “Compensation payments to all types of collective landowners of land have not yet been made. This is either due to an ongoing land dispute, which prohibits the payment of compensation until resolution, or due to a period of notice required prior to payment of the compensation as stipulated in Tunisian Law.”

84. During its field visit in November 2017, the IRM mission found the following:

(a) The compensation process followed the requirements of the national law—and not the Bank’s Involuntary Resettlement Policy (2003)—for preparing a social study, posting the Project’s information in local councils and national newspapers, handling complaints, and signing of ‘note verbale’ attestations upon the receipt of compensation by affected land users.

(b) The total number of affected owners was 84 and the compensation for collective and private lands was estimated at TND 28.5 million.

46 Involuntary Resettlement Policy, para. 8.
47 Ibid., para. 4.1.6.
48 LARP, p. 125.
(c) At present, there are two pending cases. The first case is the issue of the owner of the land where the line valve station no. 4 is installed. This is an estimated 4,000 sq m plot. The owner requested TND 100,000 for the sale of this land, and in return, the ETAP/OMV partnership offered TND 80,000. Negotiations are still ongoing for this plot. The second case is that of a settlement with the owner of agricultural land near the GTP site. The farmer requested a compensation of TND 40,000, whereas a legal expert estimated the land value to be TND 10,000. OMV is concerned that unless the problem is resolved, the owner could block the road to the GTP. The lawyer for OMV, who is not familiar with the LARP, expects that these two issues will be soon resolved because the ETAP/OMV partnership can no longer afford further delays. The ongoing compensation process is inconsistent with the Bank’s Involuntary Resettlement Policy (2003), which requires that “payment should be settled before expropriating the land or at least soon after.” This Project has been under implementation for three years to date and there are still unresolved resettlement issues.

(d) Compensation, not strictly abiding by the Bank’s Involuntary Resettlement Policy (2003), was paid by the ETAP/OMV partnership as “disturbance allowance.” This payment was to settle social tensions due to a dispute on administrative boundaries between the Medenine and Kebili communities over 25 km of civil work on the pipeline crossing Medenine and Kebili lands.

(e) Concerning the land where the GTP is located, two rounds of mediation were held during 2015 and 2017 in Ghannouch in the Gabès industrial zone to facilitate compensation for land acquisition for the GTP. A total of TND 800,000 was paid to affected farmers at the end of 2016-early 2017. This compensation was for those individuals affected by the acquisition of the rights of way for the pipeline in the industrial area and the sub-pipeline to be connected with the STEG distribution line.

(f) ETAP only seconded its environmental experts to the OMV to work together on the STGP Project under OMV’s LARP.

85. The IRM mission seriously questions why the Bank had not reviewed and approved the LARP, as this was one of the conditions precedent for the first disbursement of the loan. The BTOR by the Bank’s supervision team, dated 31 July 2016, reported, “The Bank has not yet received the Resettlement Action Plan (RAP) and resultantly, the Bank has not yet been able to provide the project's final validation as planned in the Population’s Resettlement Framework (PRF). Therefore, it was not possible for the mission to check the cost estimation of land and crop losses, the exact status of payment of compensations, the number of vulnerable households and the specific actions further planned.” In its conclusion section, the BTOR (2016) stated: “The Project does not yet fully comply with the requirements of the PRF and attendant Loan conditions of the Bank. The Bank needs to have a clear and transparent data on the Project Affected Person’s number and assets, the status of the paid compensations, the number of recorded complaints versus addressed and the main outstanding issues.” It also recommended that it will “seek an update, in writing, on progress or lack thereof by 31 December 2016 from ETAP on the land dispute between the communities of Medenine and Kebili. In the event that the dispute has not been resolved by December 2016, it will seek the assistance of the Sector Ministry through the ORNA Director for quick resolution to the dispute.”

86. In its BTOR dated 15 November 2017, the Bank supervision team stated “The Bank needs to receive a comprehensive LARP implementation report including data on: the Project Affected Person’s number and assets, the status of the paid/unpaid compensations, the number of recorded complaints versus addressed and the main outstanding issues. The Bank will work closely with ETAP and OMV to

49 Involuntary Resettlement Policy, para. 4.1.6.
provide them with a LARP implementation template.” The BTOR (2017) recommended that ETAP request a progress report on the compensation payments, which should include the number of vulnerable people, specific actions planned versus implemented, a summary of the registered complaints by the Grievance Redress Mechanism (GRM), and their processing status.

87. Based on the above, the IRM mission is of the view that the submission of the LARP to the Bank without formal approval of the Bank is not consistent with the Bank’s Involuntary Resettlement Policy (2003) and is in contradiction with the PRF. The latter stated: “The ETAP and OMV venture will validate the Resettlement Action Plan once the investigations have been completed and the exact number of the affected goods and people has been determined. The ADB will give the project’s final validation. The AfDB reserves the right to make sure that the plans comply with the principles of this PRF.” There was no evidence that the LARP was validated by the ETAP/OMV partnership and that the Bank had validated the LARP. Similarly, in accordance with the progress report submitted to EIB by OMV for the period of November 2015-April 2016, the RAP was submitted for review and approval to EIB in December 2014 with no changes to date. It appears that neither the AfDB nor the EIB approved the LARP. During its field visit, the IRM mission learned that in complying with the requirements of the EIB, the ETAP/OMV partnership integrated IFC standards and national law requirements into the LARP. The document was submitted to the AfDB. However, ETAP has not received any feedback from the AfDB.

4.4.3. Conclusions

88. The IRM finds that the Bank design team and Management stopped short of getting involved in the LARP process. In addition, they did not ensure that there is compliance with the Bank’s Involuntary Resettlement Policy (2003).

4.4.4. Recommendations

89. With the compensation process still ongoing, the IRM recommends the following:

a) The LARP should be updated by the ETAP/OMV partnership to reflect the status of its implementation, conditions, and remaining unpaid compensations. A schedule should be agreed upon between ETAP and OMV and incorporated into the document. A summary of the registered complaints and the status of their handling by the GRM should also be included. The revised LARP should be approved by the Bank and transmitted officially to ETAP.

b) The Bank should conduct an assessment of the Project’s compensation process to ensure that the PAPs are identified and adequately compensated to bring the Project into compliance with the Involuntary Resettlement Policy (2003). The Bank staff should take remedial actions with ETAP in case there are delays or omission.

4.5. Project Supervision

4.5.1. The Facts

90. Since the startup of implementation in February 2015, the STGP Project was supervised three times: once in 2015, once in 2016, and one time in 2017. In the context of a complex project, such as the STGP Project, most especially being categorized as a high-risk project, the IRM would expect at least semi-annual supervision of the Project as a requirement by the AfDB Policy on the Environment (2004).
91. The environmental and social performances of the Project were covered by both Bank supervision missions on 13 July 2016 and 15 November 2017. The IRM observed that the recommendations of the Bank’s supervision mission in 2016 were not implemented, particularly those regarding the following areas:

(a) Inadequate disposal and management of solid and hazardous wastes;

(b) Plans relying on the sewerage treatment plant of the Office National de l’Assainissement (National Office of Sanitation; ONAS); and

(c) Health, security, safety measures and awareness campaigns, and training activities.

92. In addition, the BTORs raised the same concerns about the pending approvals by the Bank of the LARP and the ESIs for the PPL and the GTP. Moreover, the semi-annual progress report prepared by the ETAP/OMV joint venture does not provide sufficient information on the environmental and social performances of the Project, with no separate monitoring reports for all three components of the Project—the CPF, the PPL, and the GTP—nor a combined report on the overall performance of the Project. The supervision mission in 2016 had recommended the following:

(a) A periodic environmental and social progress monitoring report on the performance of each of the Project’s components, together with a combined report on the overall performance of relevant activities of the Project, should be submitted to the Bank on a semi-annual basis; and

(b) The Project should seek final approvals from the ANPE on the CPF Construction Project, the Condensate Pipeline Construction Project and the Gas Pipeline Construction project (PK0-PK52).

93. The BTOR (2017) reiterated the same environmental issues, such as the absence of information on the final disposal of solid and hazardous wastes. However, a monitoring system had been put in place to record the quantity of waste generated, the weight and type of waste, and the treatment and transport of sewerage at the ONAS treatment facility. Records were kept on training and biomedical waste was sent to approved public hospitals for autoclave incineration.

94. The BTOR (2017) also reported on the status of the LARP. The supervision mission noticed that 100% of the pipeline was already in the ground, which indicated that the project team had received the necessary permission to undertake civil works. As per the implementation report of the LARP (November 2017), approximately 95% of PAPs had received their compensations. The remaining 5% of the PAPs were heirs that needed to present a power-of-attorney notice in order to receive their compensation payments. The ETAP/OMV partnership shared updated tables of the compensation paid for both collective and private lands with the Bank. The BTOR (2017) made recommendations similar to those in the BTOR (2016) regarding the preparation of a periodic environmental and social monitoring progress report. The report should be submitted at the same time that the overall project implementation report is submitted to the Bank. Thus, at a minimum, the monitoring report should be sent to the Bank at least semi-annually. The BTOR (2017) called for a progress report on the compensation payments that should include the number of vulnerable people, the specific actions planned versus implemented, a summary of the registered complaints by the GRM, and their processing status.
4.5.2. The Findings

95. During its field visit, the IRM mission was informed that the monitoring of the ESMP for the CPF, the PPL, and the GTP is managed by OMV. The community liaison officer reports on environmental issues on a weekly and monthly basis, and the project engineer is present on-site for 15 days a month. OMV submitted two progress reports to EIB on 2 and 15 April 2016. These reports were very brief and did not provide any information on the status of the implementation of the ESMP.

96. The IRM mission also confirmed that the OMV has environmental experts who, however, do not share their reports with the AfDB environmental experts. Furthermore, they noted that there is no agreement between the AfDB and OMV for project monitoring and reporting. The IRM mission received several reports on the Project’s LARP and environmental activities from the Bank staff and ETAP, including reports prepared by OMV.

97. The IRM mission determined the following:

a) ETAP does not have a system for the disposal of hazardous wastes. The current arrangement of waste collection by a contractor, certified by the ANPE, has inadequate information on the site where waste is treated. This is in non-compliance with international standards, i.e. the Basel Convention, which requires that the generator of the hazardous waste is responsible for providing information on the collection, transport, and the disposal of its hazardous waste. The IRM is aware that the only hazardous waste facility in Tunisia is in Jradou in the Governorate of Zaghouan. Accordingly, OMV should conclude a formal agreement with the Agence Nationale de Gestion des Déchets (National Agency for Waste Management; ANGED) on the treatment of hazardous waste from the Project in this facility.

b) The municipal waste at the GTP is transported by truck to the ONAS wastewater facility. It is not clear whether the municipal and industrial wastewater are mixed or are processed separately in this facility. The IRM considers that the responsibility of the OMV contractors and sub-contractors should not only be limited to the transport of the waste to the ONAS facility, which was yet unspecified. In fact, there should be proof of which wastewater is being disposed of in a specific ONAS facility and that the waste is being processed properly.

c) The sulfur dioxide (SO$_2$) emissions from an adjacent fertilizer plant operated by the Groupe Chimique Tunisiens (GCT) were affecting workers at the GTP. The SO$_2$ impact led OMV to contract ABB to install SO$_2$ socket detectors. As a result, when the SO$_2$ emission levels become high and pose a risk to the health of the workers, work at the GTP is suspended using an alarm system to protect the health of the workers on site. After discussion with the ANPE, the IRM mission concluded that the ANPE was not aware of these detectors and it lacked resources to strengthen its control measures over the GCT. The ANPE should be in a position to suspend production at the GCT factory if it does not abide by specified measures. In reviewing the scope of the work prepared by the OMV, the IRM mission observed that the preliminary environmental management and monitoring report of OMV did not mention the cumulative impact related to the SO$_2$ emissions from the GCT. The IRM was informed that ETAP brought this issue to the attention of the Ministry of Industry, Energy and Mining. However, no action has been taken.

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50 OMV, Consolidation of an Environmental, Social and Health Impact Assessment (ESIA) for South Tunisian Gas Project (SGTP) Scope of Work, 2012.
4.5.3. Conclusions

98. The Bank Management has exercised due diligence in its supervision mission. However, remedial actions about the issues raised in the BTORs were not implemented by ETAP and OMV. Furthermore, there are no remedial measures in the Loan Agreement in case ETAP does not comply with the safeguards-related policies of the Bank.

99. If the Loan Agreement had called for remedies to be provided in case of non-compliance with the agreed-upon standards, and the loan had not been fully disbursed upon approval of the Project, the Bank Management’s supervision of environmental issues would have been substantive.

4.5.4. Recommendations

100. The Bank supervision missions should follow up on the environmental issues raised in this section and request that ETAP takes the necessary steps to implement the proposed remedial actions.

5. General Conclusions

101. The IRM mission concluded that the environmental and social performances of the STGP Project have been delegated by ETAP to the project operator, OMV. OMV has prepared comprehensive documents on the ESMS, environmental and social monitoring, health and safety guidelines, and more. Unfortunately, the ETAP/OMV partnership has not led to the transfer of knowledge on environmental and social systems from OMV to ETAP. The fact that ETAP is depending on OMV to ensure environmental and social compliance is not sustainable nor is it advisable in the medium and long term. ETAP, as the national agency for oil and gas exploration, should have an environmental and social system in place to commensurate with international standards. In the STGP Project, the Bank’s commitment to strengthening the ESMS and environmental and social compliance of ETAP is not being fulfilled.

102. In reviewing the state of the STGP Project’s compliance with the applicable Bank policies and procedures, the IRM determined that:

a) To ensure environmental and social compliance, there should have been a provision in the Loan Agreement that links the implementation of mitigation measures with disbursement. The reimbursement of the corporate loan was not related to the implementation and deliverables of the Project. As such, the corporate loan was not an appropriate financial instrument to ensure environmental and social compliance. In addition, there are no remedies in the Loan Agreement to ensure such compliance, especially since the loan was fully disbursed at signature and that 56% of the loan was already reimbursed to the Bank by November 2017.

b) In its PAR (June 2014), the Bank team argued that strengthening the ESMS is a project outcome which in reality was absent. The Bank’s involvement in this process could have helped the integration of AfDB policies at the early stages of ETAP and OMV’s preparation of the environmental and social action plans for the Project.

c) All the above shortcomings can still be resolved if the Bank Management works closely with ETAP to provide the right tools and instruments for strengthening the ESMS and the environmental and social compliance for all 23 concessions of ETAP, and the STGP Project in particular.