

**Tunisia**

**State Owned Bank's (SOB) Restructuring Program for Results  
operation (PforR).**

**Environmental and Social Systems Assessment (ESSA)**

**DRAFT FOR CONSULTATION**

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**Environmental and Social Systems Assessment**  
**State-Owned Banks Restructuring Program for Results**

**I. Introduction**

1. An Environmental and Social Systems Assessment (ESSA) has been prepared for the World Bank's State Owned Bank's (SOB) Restructuring Program for Results operation (PforR). This ESSA examines environmental and social management systems that are applicable to the program in order to assess their compliance with the World Bank's Operational Policy OP 9.00 that applies to PforR financing. It aims to ensure that the program's environmental and social risks will be managed adequately and that it complies with the basic principles of sustainable development.
2. Paragraph 8 of OP 9.00 describes the core principles of environmental and social management that must be met in the ESSA. These core principles focus on ensuring that environmental and social management procedures and processes are designed to (a) promote environmental and social sustainability in the program design; (b) avoid, minimize, or mitigate against adverse impacts; and (c) promote informed decision-making relating to a program's environmental and social effects. In addition, the ESSA ensures that the program operates within an adequate legal and regulatory framework to guide environmental and social impact assessments at the program level. It includes an explicit assessment of (a) potential induced, cumulative, and trans-boundary impacts; (b) identification of measures to mitigate adverse environmental or social impacts that cannot be otherwise avoided or minimized; (c) clear articulation of institutional responsibilities and resources to support implementation of plans; and (d) responsiveness and accountability through stakeholder consultation, timely dissemination of program information, and responsive grievance redress measures.
3. The ESSA evaluates the compatibility of the program's systems with the core principles on two basic levels: (a) the systems as defined by laws, regulations, and procedures (the 'system as defined') and (b) the institutional capacity of implementation entities under the program to effectively implement the system (the 'system as it is applied in practice'). It identifies and analyzes the differences between the national systems and the core principles that apply to the program on the two levels indicated above.

## ESSA Approach

4. The ESSA approach consisted of:

- (a) **Review:** The ESSA team reviewed the P4R program<sup>1</sup> to identify potential areas of social and environmental risk. The primary focus on potential direct social impact was on assessing the adequacy of existing processes and laws governing employee departure programs, which were part of the overall banking sector reform. The team also identified potential indirect environmental and social risks from the possible acceleration of loan recovery. The team then carried out a legal review of the existing processes and legislation (including relevant ILO regulations), as well as a review of the adequacy of these systems in practice.
- (b) **Technical Consultations:** The ESSA team met at length with the State Owned Banks (department of human resources, DG, recovery), with the Ministry of Finance, with the National Agency of Environmental Protection (ANPE), the National Agency for the protection and coastal development (APAL), the Ministry of Social Affairs, the National Employment Agency – ANETI) and the Caisse Nationale de Retraite et de Prévoyance Sociale (CNRPS).
- (c) **Informal Consultations:** Key informant interviews with various stakeholders were then carried out to better understand stakeholders in the reform process, and to gauge stakeholder perceptions. This included discussions with over 51 people including employees (of various levels, including unionized and non-unionized) of the State Owned Banks, as well as people associated with former public sector retrenchment programs.
- (d) **Formal Consultations:** Insert date, and participants of formal consultations on the draft ESSA. ]

## II. Program Description

5. The P4R operation (the “Program”) is underpinned by the necessity to strengthen the stability of the banking sector and to provide resources to the economy and accelerate its recovery. At present credits are poorly allocated (which result in capital being tied up for years in a high number of Non Performing Loans) and are granted only with exorbitant collateral, therefore tending to favor wealthier businesses. This has a direct impact on financing available to small and medium enterprises and thus the ability to create new jobs; neither public nor private banks provide sufficient capital to this sector which comprises 13% of the overall banking portfolio in Tunisia compared to 25% in Morocco. Thus, despite its key role in the regional development and in financial inclusion, the

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<sup>1</sup> As it was defined at pre-appraisal stage. This also included review of information provided by the GoT and State Owned Banks on the business plans and presentations on audits.

microfinance sector, with about 500,000 active customers, meets only 50% of the needs of the micro-entrepreneurs and households. The capital market, the second largest funding source for the Tunisian economy, provides long term financing in the amount of 1.3% of GDP, while the potential is at least double the current level (for comparison it is 7.6% in Morocco).

6. The inefficiencies in the SOB sector have cost the public budget close to 647 million TND (recapitalization of STB and BH), while still remaining fragile. Approximately 16% of credits from the sector have not been re-paid, a high level compared to other countries within the MENA region. Some estimates have calculated the elimination of this deficit could generate 137,000 new jobs in the private sector.<sup>2</sup>
7. Historically, a number of challenges have contributed to this situation including lack of internal policies to manage performance of SOB staff, regulatory and legal hurdles to efficient loan recovery, the legacy of using SOB lending for patronage, and an absence of orientation to the end-customer. For example, the process of recovering bad loans has historically been hampered by lack of an implementation decree and inefficiencies in the bankruptcy law,<sup>3</sup> which means that the legal process to recover a bad loan can take up to seven or eight years. During these years the company with bad debts cannot be restructured, and often have had no option but to go out of business. Meanwhile, capital could not be re-allocated to more efficient companies. It is expected that the application of the new bankruptcy law to the SOB sector, the implementation of restructuring plans for the SOBs, the strengthening of their governance, and the enactment of key pieces of legislation will improve financial stability, spur banking sector competition and, as a result, increase access to finance in the medium to the long run.
8. The key focus of the SOB Reform Program is improving the efficiency, level of professionalization, regulatory environment and transparency of the Tunisian public banking sector. The government strategy to improve the financial sector includes: (i) overhauling SOBs procurement manual and corporate procurement system, (ii) establishing a new Human Resource management system; (iii) modernizing SOB IT systems; and (iv) implementing a new risk management system (including a Credit Rating System for corporate risk). Additional actions focus on Government oversight of the restructuring program, via the State Ownership Directorate at the Ministry of Finance (the *Direction Générale des Participations - DGP*) including institutional and capacity building to ensure that all required functions are being implemented. In addition, the authorities will improve the credit enabling environment (for SOBs as well as private banks). This includes: i) an improved debt resolution mechanism through the issuance of the executive regulation related to the recently enacted bankruptcy law and the issuance of out-of-court workout guidelines and ii) the progressive removal of the cap limiting interest rates.

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<sup>2</sup> Project Appraisal Document Technical Assessment Annex.

<sup>3</sup> The Bankruptcy law itself was approved in 2016.

9. The PforR operation (the “Program”) will focus on establishing prudent financial ratios for the three SOBs (capital adequacy, cost-to-revenue, non-performing loans), in the risk management (through the establishment of an internal rating system for credit risks) and governance. On this last point, the change will be ensured through the following measures: (i) for Banque de l’Habitat (BH): strengthening the presence of private partners by giving them a majority vote on the Board of Directors and the General Assembly, (ii) for the Société de Banque Tunisienne (STB): new private investors and / or one or more international financial institutions will join the Board for at least 20% of the votes; and (iii) for Banque Nationale Agricole (BNA), strengthening of governance will be achieved through the appointment of a majority of independent directors to the Board. Other measures will accompany the restructuring of state-owned banks, such as: improving the legal and regulatory framework to accelerate compromised debt restructuring procedures or gradually raising legal interest rate ceilings. All of these measures aim to make public banks healthier and better able to compete with private banks while increasing their lending capacity to the Tunisian economy and job creation.
10. The context for SOB HR reform is one in which the public sector has often been used as a source of employment generation, as is evident in the dramatic increase in public sector employment since 2011. Unions such as the UGTT<sup>4</sup>, which is a key actor in post-revolutionary Tunisia, has played a central role in the negotiation of benefits and employment within the SOB sector, and thus will be a key partner in the path towards a more efficient and productive sector. The SOBs are seeking to shift to a culture of performance from the prevalent practice of automatic promotions regardless of performance, which has led to a top-heavy organizational structure. The reform is also seeking to professionalize lending practices, moving away from and cleaning up the past practice of SOBs being influenced to extend lending based on political/personal connections instead of based solely on objective financial criteria.

### **III. Key Implementing Agencies and Partners**

11. The primary implementing agencies of the P4R are the three State Owned Banks – Société Tunisienne de Banque (STB), Banque de l’Habitat (BH) and Banque Nationale Agricole (BNA). In addition, the Central Bank of Tunisia (CBT) and the Ministry of Finance each exert different levels of direct oversight and are involved in some of the regulatory and institutional reforms. Within the Ministry of Finance, the *Direction Générale des Participations* (DGP) is responsible for monitoring and evaluation of the execution of the SOBs restructuring plans, and is therefore serving as the project implementing entity. The CBT conducts regular on-site and off-site monitoring of the SOBs restructuring process.

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<sup>4</sup> Union Générale Tunisienne du Travail

12. The DGP and the CBT send a progress report every 6 months to the Parliamentary *Commission des Finances de la Planification et du Développement*, which is responsible for reviewing and validating all restructurings of public enterprises.<sup>5</sup> In addition, a *Comité Mixte*, a committee composed of members of Government and influential members of civil society, reviews these reports before they are sent to Parliament. Ideally, parliamentary support organizations such as Al Bawsala should support Members of Parliament in reviewing the reports and ensuring a meaningful oversight discussion. The report/synopsis and a summary of the parliamentary discussion are then disclosed within an acceptable period on the Parliamentary website. In addition, a second Parliamentary commission – the *Commission des Affaires Sociales* examines cases of retrenchment in public enterprises for economic reasons.
13. At the level of the Prime Minister, the *Commission de l'Assainissement et de Restructuration des Entreprises à Participation Publique* (CAREP) includes all relevant Ministries and is chaired by the Prime Minister.<sup>6</sup> The CAREP is responsible for issuing government decisions on restructuring of public enterprises (including the state owned banks), and any modification of the Government's level of financial participation in the enterprise or any changes to human resources (including retrenchment). Further, law 2015-31 concerning recapitalization of public banks formally requires that any modification of shareholding of SOBs will require passing of a specific law.
14. A number of additional key partners are implicated in human resources reform including the three Unions active in the banking sector [UGTT – *Union Générale Tunisienne du Travail*, CGT – *Compagnie Générale du Travail*, and UTT – *Union des Travailleurs Tunisiens*]. For departures programs, the Ministry of Social Affairs, the Inspectorate of Labor and the Commission Central de Control de Licencement (CCCL) are also involved. As departure programs involve early retirement, the two national pension agencies are implicated: The *Caisse Nationale de Security Sociale* (CNSS) and the *Caisse Nationale de Retrait et de Prevoyance Sociale* (CNRPS).
15. Finally, a number of key agencies that govern environmental management are involved in the project. The National Environmental Protection Agency (*Association Nationale pour la Protection de l'Environnement* - ANPE), is the agency responsible for managing the national Environmental Impact Assessment system (preparation, review and approval and monitoring of environmental assessments and plans in Tunisia) and for ensuring the

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<sup>5</sup> The Parliament is referred to as the Assemblée des Représentants du Peuple (ARP).

<sup>6</sup> Le Premier ministre (président); Le ministre de l'intérieur (membre) ; Le ministre des Finances (membre) ; Le ministre du Développement économique et de la Coopération Internationale (membre) ; Le ministre des Domaines de l'Etat et des Affaires foncières (membre) ; Le ministre des Affaires sociales (membre) ; Le ministre de Formation professionnelle et de l'Emploi (membre) ; Le secrétaire général du gouvernement (membre) ; Le secrétaire d'Etat chargé des participations publiques (membre) ; Le gouverneur de la Banque centrale de Tunisie (membre) ; Le président du conseil du marché financier (membre). La direction générale de la privatisation au Premier ministère assure le secrétariat permanent de la commission.

application of regulations relating to the protection of the environment, including those relating to environmental assessment.

#### **IV. Assessment of Social Impacts**

16. If the GoT and the SOBs implement all interdependent elements of the reform, it should have positive impacts in terms of increased availability of credit to the most efficient borrowers and an overall increase of credit in the economy. In addition, the recent introduction of a bankruptcy law would eventually allow for restructuring enterprises, instead of forcing total closure and the consequent total destruction of the value of the enterprise, and total employment loss. This law would also allow for greater proportion of the value of these loans to be recovered. A more efficient SOB sector able to lend more would also contribute to job creation given low levels of financial intermediation, but exact estimates vary widely depending on assumptions.

*(i) Land Acquisition and Involuntary Resettlement:*

17. With its focus on institutional reforms, the P4R is not expected to have any direct impact on involuntary resettlement or land acquisition. At present, the only specific physical works associated with the overall reform (not the P4R actions) is the STB proposal to construct a training center at Club Soukra on land that already belongs to STB. The ESSA team visited the planned site for the construction of the training center. It is a completely fenced plot of 1.5 hectares belonging to the STB since 1968, containing a kindergarten and a club for the agents of the bank. The ESSA confirmed that there are no squatters/renters on this land. This is a one-time investment – and not a regular part of the reform process.

*(ii) Indigenous Communities:*

18. Given that the scope of the SOB Reform is limited to national level finance and institutional reforms, indigenous communities are not specifically affected. There is no concentration of loans in sectors which focus on resource access (such as the environment, or national parks) and the P4R is thus not expected to impact resource access by specific groups.<sup>7</sup>

*(iii) Social Risk and Vulnerable Communities:*

19. There are two potential social risks associated with the P4R program: (a) direct negative social impact and sensitivity around employee departures programs, currently ongoing or planned for BH and STB, and; (b) the indirect and cumulative potential risk from businesses that may close or lose employees if the rate of loan recovery accelerates.

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<sup>7</sup> The indigenous communities in Tunisia are largely represented by ethnic Berber's; the Berber language-speaking minority is a small community living mainly in isolated pockets in the south of Tunisia. The Government considers that the Berbers have integrated into the Arab-Muslim culture and thus do not constitute a localized autonomous minority of specific character.

(a) Direct Social Impact - Human Resource Employee Restructuring

20. As noted the human resource restructuring plans are expected to include voluntary, and a small number of involuntary departures, early retirement, new recruitment and a movement towards performance evaluation and incentives. The P4R itself does not contain any DLIs on reduction in the SOB workforce, but because this is part of the overall reform process, it is being addressed in this ESSA.
21. The two SOBs which have programs for departures (and new recruitment) to better balance both the distribution of staff among junior, mid-level and senior staff, are BH and STB. BH plans to have approximately 365 voluntary departures, natural attrition via normal retirement of 159 employees, and 300 new recruits. STB plans to have 378 employees leave through a departures program (voluntary negotiated departures), 570 other departures through natural attrition (departure because of reaching the regulatory retirement age) for an estimated total of 948 departures. At the same time, STB plans to recruit 1538 new employees depending on the progress made with its business plan.
22. This social systems assessment examined the degree of risks typical of departures program. It also examined the adequacy of existing systems to address such risks, including how those systems worked in prior public sector retrenchment programs in practice, and whether people tend to use existing institutional mechanisms for complaints or redress should problems arise.
23. Typical risks in employee departures programs, and the situation with the two bank undertaking departures programs (BH and STB) are:

Table 1: Program Risk Assessment

Generic Risk	Situation with SOB Restructuring
Departees do not find adequate alternative employment or are ill prepared to seek such employment.	If employees decide to immediately start receiving their pensions upon leaving (as they are being offered), they will not be able to take a new salaried employment in the public or private sector in accordance with law 87-8 of March 6 <sup>th</sup> , 1987. The vast majority of departures are voluntary, and thus departees can opt not to leave.
Employees suffer psychological distress, particularly for involuntary departure programs.	According to the SOBs, the vast majority of departures are voluntary, and thus this risk is considered low since this is a self-selected group.
Departees and their dependents lose key pension or health care benefits and therefore become more vulnerable.	Tunisian law guarantees insurance coverage for all potential departees. Further, the BH program includes supplemental insurance coverage (details on STB are not yet available). In addition, the SOBs will continue to pay the employee's contribution to social security/insurance until the departee reaches retirement age. Based on packages thus far, departees will be eligible for early retirement, allowing them to receive

Generic Risk	Situation with SOB Restructuring
	their pension immediately upon leaving the bank in addition to receiving a departure indemnity. <sup>8</sup>
If financial packages are insufficient departees or their dependents can be at risk for greater vulnerability	The financial packages being offered are substantial; for BH they represent approximately 34 months of salary (or the equivalent of 200 times the monthly minimum wage) in addition to immediate access to one's pension. <sup>9</sup> The unions negotiated benefits above the minimums outlined in the <i>Convention Collectif</i> - the agreement with the Unions governing worker rights and compensation for the SOB sector. Further, special provisions are afforded for those employees with more children, and for women with three or more children. <sup>10</sup>
That the packages themselves are incorrectly administered and departees do not receive legally mandated or negotiated benefits.	Based on the process outlined below, there is a clear process of oversight by both the Unions and the associated Government committees. This risk is thus considered low. Further, this was not an issue in past parastatal departure programs.
That cronyism, bias or discrimination enters into decisions on who can participate or on the levels of compensation. Or that there is a perception of such issues because of lack of communication or transparency.	This is a risk to the program, though not a social impact risk per se. The levels of compensation are negotiated up front with the Unions and presented to CAREP (see below) based on a clear formula, and thus the risk of the levels of compensation varying are low. However, transparent criteria for who can participate in the departures program, how benefits are calculated, as well as the process for grievances or complaints, and good communication will be important to prevent actual or perceived bias.
Lack of clarity or transparent communication on the terms of the program and redress mechanisms can lead to low staff morale, high stress and uncertainty, and lower productivity as this negatively affects morale.	This is a program risk. Clear and consistent communication to all staff will be essential to avoid diminished staff morale.
If voluntary departure applications are only filled in by well performing employees with an exit strategy, this	This is an important program risk. It will need to be managed by HR departments to identify which employees are eligible to leave.

<sup>8</sup> If they take this option they would not be able to receive their pension while taking on new salaried employment, though there appear to be some exceptions for being a consultant to the private sector or working for some of the new banks (Wifack Islamic Bank, etc..).

<sup>9</sup> Article 45 states that the formula for economic downsizing employees in who are in good standing receive an indemnity based on seniority. The calculation is made based on the average salary over the last 12 months according to a calculation of 2/24 of the salary for each six months of work completed up to a ceiling of 28 months. Article 54 further outlines a lump sum payment (in addition to the pension) for early or regular retirement of 6 months of salary on the basis of the last salary received including any monthly bonuses.

<sup>10</sup> Women with at least three children under the age of 20, or with a child with a handicap can also request early retirement from the age of 50 onwards and immediate access to pension benefits.

Generic Risk	Situation with SOB Restructuring
can provoke a loss of competencies for the SOBs	

24. Many of these more typical risks in employee departures programs are quite low in the case of the Tunisian SOB sector. Background research points to the effectiveness of Union members in providing oversight on payments and packages. Between 60 to 80% of SOB staff belong to one or more Union, with the Unions playing a key role in management decisions of each Bank. A clear process for a priori institutional review and checks (as outlined below) has proven effective in other similar public sector departures programs. Finally, the packages are substantial relative to the norms set forth in the Labor Code, and are combined with options for early access to pensions, that mitigate potential social impact risks for employees.
25. With regard to retirement, the most advanced restructuring program of BH has offered early retirement in addition to indemnification payments.<sup>11</sup>
26. For historic reasons, two different organizations manage pensions on behalf of SOBs; the *Caisse Nationale de Sécurité Sociale* (CNSS) for STB and BNA and the *Caisse Nationale de Retraite et de Prévoyance Sociale* (CNRPS) for BH. The levels of benefits are proportional to the number of years contributing to the program/worked, but the formula is slightly different between the two social security funds.<sup>12</sup>
27. A related macro-level risk that extends well beyond the confines of the SOB reform program is that the state institutions currently providing for pensions (CNSS and CNRPS) in the future become insolvent and are unable to meet their pension obligations. The deficits of CNSS and CNRPS are expected to reach 2 billion TND by 2020. If their liquidity and overall financial health deteriorates to the degree that they can no longer honor payments, this would affect the welfare not only of retired SOB workers, but of all Tunisians as well. This is an issue that requires urgent attention and resolution at a higher level.

(b) Risk of potential indirect employment effects

28. A large proportion of the public banking sector's bad debts are concentrated in Tunisia's tourism sector (35% with a total bad debt of approximately 1.6 billion Tunisian dinars between BH and STB alone, out of a total of 6.22 billion Tunisian dinars of bad debt among the three public banks at the end of 2016<sup>13</sup>). According to the Tunisia Travel and

<sup>11</sup> Public sector employees normally have the right to retire at age 60, after at least 15 years of service. The law further outlines the proportional percentage of salary received after progressive years of service Law 85-12. For public servants law 2002-61 further outlines the benefits including for health insurance during early retirement.

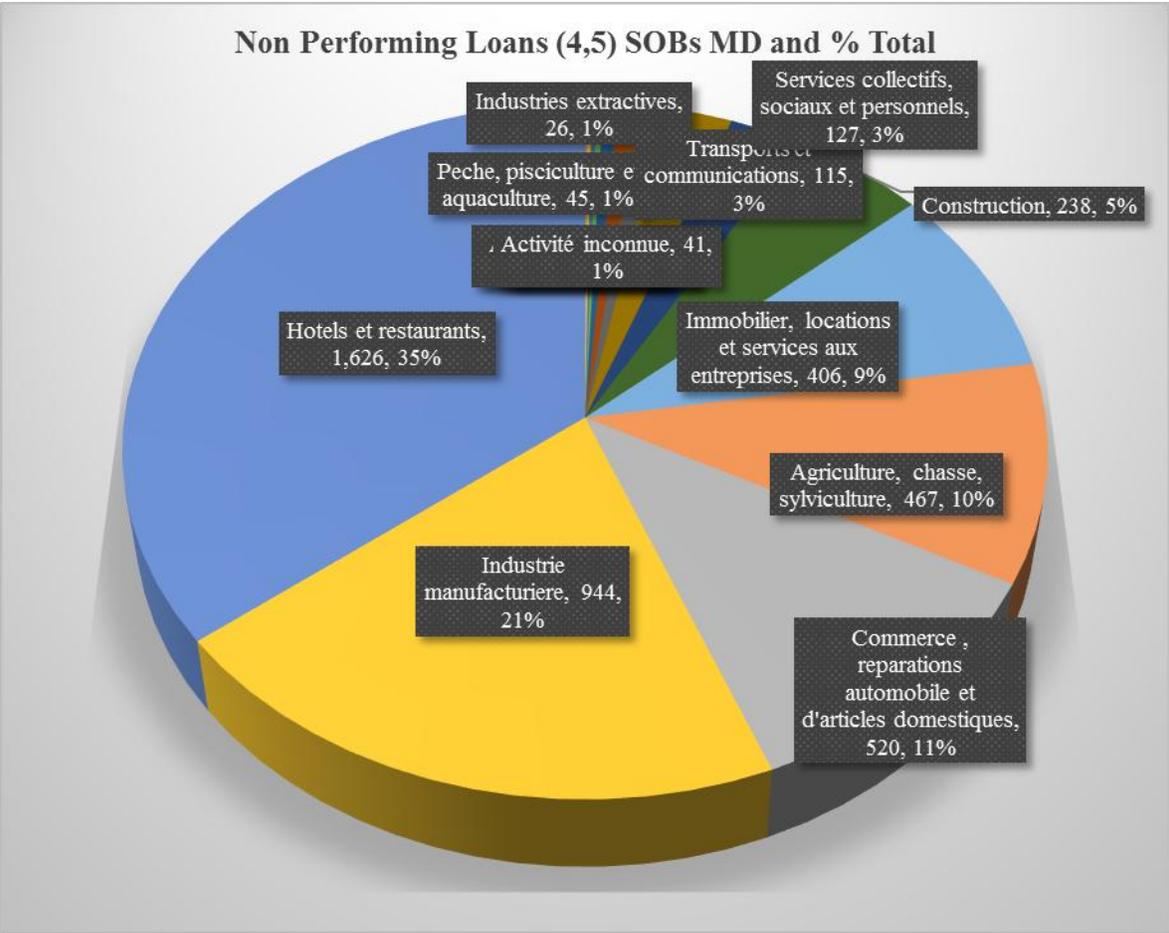
<sup>12</sup> In most cases this is equal to approximately 70% to 80% of the salary with the added caveat that for those employees participating in CNSS, there is a ceiling on pension benefits equal to six times the minimum wage.

<http://www.cnrps.nat.tn/fr/caisse-et-prestations/pensions-et-capital-deces/pensions-civiles>

<sup>13</sup> Source: Ministry of Finance

Tourism Council, the sector supported 230,500 jobs in Tunisia in 2014 (6.8% of total employment) and was down by as much as 70 percent (in terms of hotel stays) from 2010 levels largely because of the impact of terrorist attacks. The impact of this downturn on employment levels has been extensively covered in the press. Tourism is concentrated along Tunisia’s East Coast as follows (expressed in terms of percentage of hotel beds): Sousse-Monastir-Mahdia (36%); Nabeul-Hammamet (24%); Djerba-Zarzis (40%); Tunis-Zaghouan (10%) and Tabarka-Aïn Draham (2%).

Figure 1: Sectoral Distribution of Non Performing Loans of Public Banks [September, 2015]<sup>14</sup>



29. There are challenges to teasing out the impact of loan recovery for a sector that is already in trouble, such as the tourism sector. The underlying problems in the sector can be the primary driver of a loss in clientele which then makes it difficult to repay loans. While the stimulus for a company closing may in some cases be linked to loan recovery, to argue that loans should not be recovered would be to argue that the banking sector be used as a vehicle for government subsidies in a way that is far from transparent. This could also open the sector back up to abuse. The existence of past lending motivated by personal connections rather than business performance further muddies the assessment of causality.

<sup>14</sup> Source: Central Bank of Tunisia

30. Nonetheless, were there to be a sudden jump in loan recovery that is concentrated in a given geographic area, this could have cumulative social impacts on a community. One calculation of the potential impact on employment in the tourist sector from loan recovery in 2012 estimated that it could potentially result in the loss of 3,900 to 6,200 jobs.<sup>15</sup> This does not take into account if some tourists switch from closed hotels to other solvent hotels, which may incrementally mitigate the impacts on employment. Nor does it take into account the jobs that would be created by freeing up capital for new clients to borrow (which some estimates place substantially higher). In addition, as noted above there are issues with attribution as in many cases the driving factor behind the loss of employment (and lack of repayment) is the larger contextual issue of the downturn in the tourist sector. Further, it may take some time before the bankruptcy law is implemented, thus shortening the time required to recall loans; in practice, the current process for recovery of bad debt is an extremely slow legal process requiring from seven to eight years.
31. At the same time, the SOBs typically try to find alternative solutions to those that would imply closure of a company; via their daily work on collections they typically explore a series of options in the case of suspended payments including amicable negotiations, debt restructuring, write-offs, etc. In the extreme cases where no other solution is viable, and recovery leads to job loss, the Tunisian Labor Code as well as the judicial process for liquidation or restructuring of companies provides some indemnities for employees (generally equivalent to three months salary), and provides that debts are paid first to employees owed wages or severance and only later for payment to creditors.
32. Quantifying precisely the level of risk from efforts to increase recovery of bad debts is challenging. First, the SOBs were unable to provide data on which businesses are already closed, would need to close or would need to decrease the number of employees in order to pay back their loans. Further, borrowers register the location of their headquarters with the Banks, and not necessarily the location of any activities that may be affected.<sup>16</sup>
33. In order to assess whether there may be a geographic concentration of bad debt, the ESSA team obtained data on the distribution of non-performing loans relative to the size of the population, and relative to the level of regional poverty.<sup>17</sup> Based on this information, the greatest concentration of bad debt is in Tunis, La Manouba and Monastir which all lie in the regions with the lowest levels of poverty in the country. Yet, the locality with the fourth highest Non Performing Loan debt per capita lies in Beja, which is in the Northwest of the country where a significant proportion (26%) of the population fell below the poverty line in 2010.

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<sup>15</sup> Republic of Tunisia, Tourism Debt Restructuring, World Bank, 2012.

<sup>16</sup> I.B.I.D. In this report one calculation showed that in 2011 about 17% of tourism enterprises with NPLs had deep structural financial problems.

<sup>17</sup> This is based on the headquarters location of the company.

**Table 2: SOB Non Performing Loans (classified category 4 or 5) by Locality, Regional Poverty<sup>18</sup>**

En MD	Debt Category 4 et 5	Créances 4 et 5	Créances 4 et 5			
Gouvernorat	BNA	STB	BH	NPL Debt Per Capita (TND)	Corresponding Region	% Poor 2010 by Region
Non disponible	326	57	3			
10 TUNIS	555	897	318	1686	Tunis	9%
24 MANOUBA	41	45	11	1650	Tunis	9%
50 MONASTIR	32	99	24	1481	Center East	8%
90 BEJA	67	19	6	836	Northwest	26%
40 SOUSSE	115	337	102	820	Center East	8%
22 TOZEUR	5	21	8	735	Southwest	21%
42 KEBILI	7	10	21	598	Southwest	21%
20 ARIANA	65	114	94	473	Tunis	9%
80 NABEUL	38	226	105	467	Northeast	10%
41 MEDENINE	28	101	20	312	Southeast	18%
81 JENDOUBA	10	5	1	308	Northwest	26%
21 GAFSA	9	16	8	300	Southwest	21%
23 BEN AROUS	47	105	29	287	Tunis	9%
71 LE KEF	13	4	2	268	Northwest	26%
11 ZAGHOUAN	14	15	11	226	Northeast	10%
60 GABES	9	10	10	195	Southeast	18%
91 SIDI BOUZID	11	8	4	187	Center West	32%
70 BIZERTE	40	30	24	164	Northeast	10%
51 MAHDIA	24	15	7	113	Center East	8%
30 SFAX	57	27	18	107	Center East	8%
12 KASSERINE	31	9	5	103	Center West	32%
31 KAIROUAN	14	3	1	97	Center West	32%
32 TATAOUINE	2	2	4	80	Southeast	18%
61 SILIANA	12	4	1	78	Northwest	26%
<b>Total</b>	<b>1,569</b>	<b>2,181</b>	<b>838</b>			

Data Sources: NPL Data from Central Bank of Tunisia. Poverty data from World Bank Tunisia Poverty Assessment 2015.

34. In conclusion, while estimates of employment potentially generated from increased SOB lending appear to exceed the level of jobs potentially at risk at the macro level, the risk of time-bound concentration of recovery efforts in specific locales – particularly those with already high rates of poverty - is nonetheless an issue to monitor going forward.

## V. Assessment of Environmental Impacts

<sup>18</sup> Banks classify debt according to its performance, or vulnerability to default. Category 4 and 5 are considered to be poorly performing debt (meaning with problems of repayment).

35. Direct Impacts: The reforms supported in this program are not expected to have significant direct positive or negative effects on the environment, forest and other natural resources. The only direct construction which is part of the overall reform program is the construction of a training center to improve training of staff in STB. The planned site for the construction of the training center is a plot of 1.5 hectares belonging to the STB since 1968, totally fenced and containing a kindergarten and a club for the agents of the bank. STB is expected to follow all relevant environmental regulations in the process of constructing this site, and as noted above, the ESSA team confirmed that there are no squatters, renters, or economic activities that will be displaced via this construction.
36. The modernization of SOB IT systems may be another source of direct environmental impact by inducing the generation of waste classified as hazardous under Tunisian legislation (Law 96-41 of 10 June 1996 on waste and control of their management and decree 2000-2339 of 10 October 2000 establishing the list of hazardous wastes). The management of this type of hazardous waste is governed by an administrative procedure established by the National Agency for Waste Management which implements a follow-up report and a treatment contract between the producer, the carrier and the treatment center of this kind of waste. A dismantling unit was inaugurated recently (November 2016) containing a specific line for the recycling of computers.
37. Indirect impacts: If the recovery of bad debts accelerates as foreseen in the reform, it is possible that some companies could terminate their activities. This closure of businesses could potentially have environmental impacts if the business is in an environmentally sensitive sector, and if it abandons facilities with hazardous materials.
38. As illustrated in Figure 2 above, approximately 21 percent of bad debts are in manufacturing and 26 percent are in extractive industries among the three SOBs. Based on data provided by one of the three SOBs (BNA), of those businesses with non-performing loans (1596 loans or activities), 6.7% of the activities are classified as category A (simple EIA) and 1.7% are classified as category B (Detailed EIA) according to the 2005 decree on EIA (see Annex 2).<sup>19</sup> Thus the potential environmental risk would be a subset of these percentages where the company was forced to close because of the recall of bad debts. The closure of both category A and category B activities requires the implementation of an environmental management plan (EMP), as outlined in the Tunisian legislation in Decree 2005, to manage environmental impacts during this closing phase.

## **VI. Existing Institutional Processes to Mitigate Environmental and Social Impacts**

### *(i) Social*

#### **(a) Mitigation Measures on Direct Employment Effects of Human Resource Employee Restructuring**

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<sup>19</sup> The other two State Owned Banks have not yet provided data in this format.

39. As noted above, in light of the level of compensation, the social impact of departures programs is not expected to result in increases in poverty among participating employees. Further, risks typical of other programs including errors in payments are considered to be low given the current institutional process for a priori review of these packages.
40. For employees in the SOB sector both the Tunisian Labor law and the Sector Code (*Convention Collective Sectorielle* as agreed between SOBs and the labor unions)<sup>20</sup> apply as do any additional Conventions or agreements that have been negotiated and signed within each SOB with the relevant labor unions. The *Convention Collective Sectorielle* regulates worker entitlements above and beyond benefits stipulated in the labor code. The Sector Code specifies a formula for compensation for employees who are let go based on number of years worked, with a maximum of 28 months compensation [based on average salary over the last year including bonuses]. As noted above, in the case of BH and additional six months of salary were added, for a total of 34 months in indemnity payments to departing workers.

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<sup>20</sup> This takes the form of a decree issued by the Ministry of Social Affairs on 17 February 2014. Article 45 dictates that unless the employee has committed grave errors, they are eligible for an indemnity for retrenchment (28 months of salary depending on seniority), and Article 54 dictates that they will also receive payments for early retirement.

41. When departures are voluntary but for economic reasons or involuntary (regardless of reason) then a detailed institutional process applies with the added direct involvement of CAREP, the Inspectorate of Labor and its technical committee the *Commission Centrale de Contrôle de Licencement* (CCL). The CCL includes representatives of the Union and a representative of the employer (or in the case of public enterprises, this can include a representative of the host Ministry). The Inspectorate of Labor and its technical committee the CCL assess the parastatal's proposal for downsizing, including evaluating alternatives to downsizing (retraining workers, the motivation for the proposed downsizing, restructuring the enterprise, options for early retirement). If no alternatives are identified, and there is agreement the CCL and Inspectorate of Labor also take into account a) Qualification and professional value of the affected workers; b) Family situation (singles would be prioritized to be let go before those with dependents) and; c)

**Box 1: Employee Restructuring at BH**

BH is the most advanced of the public banks with its restructuring process. It has followed the process for economic restructuring outlined above, and has agreed on its restructuring package with the Unions, the Inspection of Work, the CCL, the CAREP, the CNRPS and the Prime Minister. The overall envelope for departures is almost 76 MDT, of which almost 29 MDT is for departure indemnities. Indemnities vary between 62,000 and 120,000 TND (average of about 75,000 TND) as a function of the grade and seniority of the employee. The payment of early pensions was agreed via a convention agreed between BH and CNRPS in October, 2016 by which the CNRPS directly manages pensions and pension payments to departees. A very small number (4) of the cases are non-voluntary stemming from ongoing disciplinary or medical problems. These cases will receive the same level of departure benefits as those leaving voluntarily.

Years worked in the company. The commission issues advice on the indemnities and compliance with current laws and regulations. CAREP's role is to assess the overall restructuring program, including the profile of the people and the compensation proposed.<sup>21</sup> The labor inspectorate and the trade unions ensure the payments are made accordingly as they are mandatory. Annex 1 provides a step by step overview.

42. The ESSA review included a legal review of the regulations and laws that apply to the departures process. In addition to the compliance with the *Convention Collectif* that the Unions ensure, there are regulations governing early retirement of parastatal organizations, and CAREP regulations that apply to the restructuring of public enterprises. Pension benefits are generally defined by law 85-12 that stipulates a minimum of 15 years of service and fixes the annual annuities for the pension. The complementary law 2002-61 focuses specifically on retirement for public servants in the context of a downsizing under the advice of CAREP where the eligible age can be lowered to 50 years. This law applies both to voluntary and involuntary departures (based on problems with performance). Annex 5 provides a list of all of the relevant regulations and laws.

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<sup>21</sup> The CAREP technical committee is composed of representatives from: (i) The secretary of state responsible for the state's participation in public enterprises; (ii) the Prime Minister's Office; (iii) the Ministry of Finance; (iv) the Ministry of Social Affairs; (v) the Central Bank of Tunisia; (vi) the banking sector/financial markets.

43. For early retirement, the cost of paying the pension benefit between the date of departure<sup>22</sup> and the actual age at which a person can access pension benefits is generally covered by the employer. For example, in the case of Tunis Air's voluntary departure/early retirement program, beneficiaries received an early "pension" through the CNSS which also charged an overhead to Tunis Air to cover the costs of managing the payments.
44. **Grievance Redress:** The majority of oversight to the departure program is built into the a priori review by the Unions, the CCL and the CAREP. Nonetheless, should problems arise with the implementation of the program, there are several avenues of recourse, which have been used in past downsizing programs. These include recourse of current employees to mediation by the "Conseil des Prud'hommes," which mediates disputes between employers and employees. The Prud'hommes has 16 offices around the country, and employees and employers frequently use this service.<sup>23</sup> Should there still be employee concerns following a departure, the employee would have recourse to the Administrative Tribunal.<sup>24</sup>
45. **International Labor Organization (ILO) Conventions:** The ESSA also examined Tunisia's ratification of select ILO conventions, and the consistency of the Tunisian process with key ILO principles. Tunisia has ratified 62 ILO conventions and one protocol.<sup>25</sup> In terms of international standards on labor downsizing, ILO convention 158 on retrenchment and its associated recommendation (R166) are relevant. R166 recommends that a tri-partite commission look into at downsizing programs; this is similar to the role of the CCL.
46. Further, the ILO has also adopted a convention (number 102 which Tunisia has not ratified) that outlines the minimum norms for social security of workers including nine areas of benefits for workers: medical care, indemnities for sickness, assistance for unemployed, assistance in old age, assistance in case of work accident or disability, family support, maternity benefits, benefits for being invalid and benefits for survivors. Countries are allowed to ratify the convention if they have established at least three of these norms, as long as they are working towards progressively fulfilling other categories.

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<sup>22</sup> 60 years old for most civil servants or 55 years old in cases where the employee is engaged in certain categories of physical labor or active cadres.

<sup>23</sup> Exceptions to eligibility for mediation by the Prud'hommes are disputes over occupational sickness, work accidents and disputes over the terms of the existing social security regime.

<sup>24</sup> Public sector employees who feel they have been unjustly retired or dismissed have come before the Administrative Tribunal in the case of the Minister of the Interior and the Minister of Justice

<sup>25</sup> These include all seven key conventions of the ILO : Convention number 87 on Union freedom and protection of Union rights (1948) ; convention number 98 on the right to organize and collectively bargain (1949); convention 29 on forced work (1930); convention number 105 on abolition of forced work (1957); convention number 138 on minimum age for work (1973); convention number 100 on equal pay (1951); and convention numb 111 concerning discrimination in terms of employment and profession (1958). In addition, convention number 182 was added on the worst types of child labor (1999).

47. Thus, Tunisia is not in derogation of ILO recommendations in terms of the process for collective downsizing, nor for the social protection it offers to workers leaving (pension, indemnities, health care, supplement for children etc.).

(b) Mitigation Measures for Potential indirect employment effects

48. As noted above a potential indirect effect of increased asset seizure or Non-Performing Loan recovery is a potential impact on employment, particularly if such seizure accelerates simultaneously in poorer geographic areas where alternative employment opportunities may be scarce. If the existing legal framework for asset recovery continues, the level of risk is low because of the time required for such seizure (seven to eight years). Nonetheless, it is possible that there is a geographic concentration – particularly in poorer areas – that needs to be monitored.

49. The Tunisian Labor Code provides modest measures to protect laid-off workers. These include payment of an indemnity equivalent to 3 months of salary, and according the employee priority over other creditors in access to the proceeds of asset seizure for the repayment of any such indemnities, debts or back salary payments. If the business is also governed by a specific union, any governing Sector Code would provide additional benefits/protections to employees. If there were to be a significant acceleration in the pace and geographic concentration of loan recovery in poorer regions without alternatives for employment, it is unlikely that these existing measures would be sufficient to mitigate impacts on affected employees.

50. At the same time, the causation of the financial distress is likely to have been either contextual conditions (health of the tourism market for example where in 2011 17% of tourist enterprises with bad debt were already in severe financial distress) or poor enterprise management. SOBs were unable to provide up-to-date information on whether some of these distressed enterprises are already closed, further obscuring the issue of whether the action that prompts social impact is the company failure or the recovery of non-performing loans. To go down the road of Government mitigation of the impact of private companies failures (whether social or environmental) creates perverse incentives to proper management and loan repayment by those companies that are accountable for the loans they have taken out.

51. Tunisia does have some existing systems to provide training, counseling and internships to the unemployed. The Tunisian National Agency for Employment and Independent Work (ANETI) under the *Ministère de la Formation Professionnelle et de l'Emploi* maintains a network of 113 employment and job training centers throughout the country. These centers largely target young people, and provide programs to place Tunisian workers in employment overseas. These programs do not always correspond to employer needs and do not provide a guarantee of re-employment, but could constitute a potential resource for

regions where unemployment is increasing (whether because of the contextual issues or because of increased recovery of non-performing loans).

(ii) *Environmental*

(a) Follow up of closing or dismantling activities

52. Annex 2 describes the national systems to protect environmental risk. Tunisia's national systems require Environmental Impact Assessments (EIAs) be prepared for any activity with environmental impacts. Part of a proper EIA that a company or contractor must submit, includes planning for mitigation activities that would need to be undertaken at the end of the project, during the dismantling phase. Thus the contractor or company must present in its environmental management plan (EMP) the mitigation measures to be implemented in order to manage the impacts due to the dismantling of its activity. This plan should also include the designation of the implementation responsibilities and the estimate of the budget allocated.
53. Normally, it is ANPE's prerogative to monitor that the company in question properly implements its planned EIA mitigation measures in the dismantling phase. The closing company must submit to ANPE a follow-up report of dismantling. Regional representatives of the ANPE proceed accordingly to field monitoring visits to ensure the proper implementation of the agreed environmental management plan. The ANPE supervisor will prepare Minutes in case of non-conformities.
54. But, in practice, ANPE is generally not aware of the closure and this is mainly due to the lack of communication between the various stakeholders (Ministries of Finance, Industry, Agriculture, Interior) except in cases of serious accident or complaints issued by the neighborhood or in case of potential risks on public health or environment. In emergency cases, the government through the ANPE takes charge of the depollution of the site and launches legal proceedings against the owner based on the principle of polluter pays.
55. There is a gap in the current regulatory environment/legislation in terms of what to do when the company in question is in failure, or has already closed without carrying out the required mitigation measures. The Tunisian Government does not tend to intervene directly, except in cases where the environmental hazard poses a major risk to public health or to the environment because of the site. The State will, if necessary, pursue legal action against the owner of the site based on the principle that the polluter pays, according to the law 92-115 from January 30th, 2001.

(b) Construction of the training center

56. Since the Decree No. 2013-4953 on the 5th December 2013, which implements the provisions of the article 22 ter of the law No. 89-9 of February the 1st, 1989, the STB is no longer compelled to follow the specifications of the Cahier des Clauses Administratives Générales (CCAG) applicable to public procurement call for tenders. However, the bank has indicated going on with applying those rules by default. These clauses focus among others on safety and health at work for workers, neighboring populations and the environment. They offer a set of special rules which contractors of public procurement must follow in order to minimize all forms of nuisance and inconvenience to users and residents: the relevant parts being:

- In Chapter 1, Article 9 : Protection of labor and working conditions
- In Chapter IV, Article 28: Preparation of workplace with a plan for security and hygiene
- In Chapter IV, Article 31 : Installation, organization of security and hygiene of the construction site
- In Chapter IV, Article 33: Material, objects and vestiges found on the construction site
- In Chapter IV, Article 37: Removal of defunct equipment and materials

57. Adequacy of Implementation Entities' Capacities : With regard to supervising construction and its associated environmental management, the respective SOB ensures supervision of rehabilitation of any regional banking branches. In the case of new construction, which rarely occurs within the State Owned Banking sector, the State Owned Bank typically subcontracts this to an agency that deals with property development (L'Immobilière de l'Avenue). Other than the training center mentioned above, no new construction is foreseen as part of the P4R program.

58. If the SOBs were to begin to apply a new environmental monitoring filter (as proposed below), they would require some training on the application of the filter, and guidance as is being proposed in the environmental and social implementation manual. The Ministry of Finance and SOBs have no further specific experience concerning implementation of environmental safeguards and follow up of mitigation measures including EIA or EMP.

## **VII. Mitigation Mechanisms and the Program Action Plan**

59. *The very nature of the PforR excludes on principle any investment implying major environmental risks* (i.e. Category A projects). Therefore, in compliance with Bank policy and guidance, the program will exclude:

- all activities that are judged to be likely to have significant adverse impacts that are sensitive, diverse, or unprecedented on the environment and/or affected people;
- any proposed intervention as part of a larger program involving major negative environmental and social impacts, irreversible and unprecedented;
- any intervention: (i) in a Site of Biological and Ecological Value across the Tunisian territory; (ii) that would transform significantly protected areas and natural habitats or

- significantly alter biodiversity areas; and / or (iii) that would irreversibly damage the cultural resources of archaeological and historical nature;
- any intervention that would require significant displacement of populations or land acquisition, or would induce significant restrictions of access to economic assets or resources.

(i) *Social Mitigation Mechanisms*

(a) Human Resource Employee Restructuring

60. Given the presence of Union representation, the Sector Code which provides benefits well beyond the Labor Code, the detailed process and checks and balances governing departures processes, and what are likely to be comparatively generous potential compensation packages, the risk of exacerbating poverty from a voluntary departures program is not a priori considered to be high.
61. SOBs are encouraged to undertake good practice by implementing a simple baseline/exit survey of departing staff to ensure that they are in good mental state (and have received counseling if needed), and to establish post-departure contact information in the event there is a need for future follow up.
62. *Monitoring Existing Grievance Redress and Feedback Mechanism (GRM) for SOB Staff participating in the departures program;* Review of past departures program confirms the key role Unions play in resolving grievances, as well as the use of other mechanisms such as the Prud'hommes, Tribunal Administratif, or the CCL à priori where it applies. Rather than creating new GRM mechanisms, the ESSA recommends that the DGP collect and summarize information on existing grievances and their rate of resolution on the departures program from these existing sources. These summaries can be disclosed in semi-annual reports to state and non-state oversight bodies (Comité Mixte, Parliamentary Committee) and to the World Bank.
63. *Communications to SOB Employees:* Communications on the overall reform program, and on the details of the departures programs, needs to reach all workers and be systematically distributed. Such communication should contain clear information on the criteria (including the process of determining eligibility – including preserving critical skills mixes), the calculation of benefits once eligibility has been confirmed, the process, and grievance procedures, including, the significance of signing a voluntary departure agreement which, by definition, is final in its nature, foreclosing additional recourse, other than the Administrative Tribunal. This is particularly important given the institutional history of lack of transparency in the sector. Evidence of such communication should be provided in monitoring reports as outlined below.
64. *Feedback from SOB Employees:* Among SOB employees, lack of confidence, consultation, or clarity of objectives and timing of the overall reform can inadvertently

undermine the related objective of reforming human resources. One mechanism that the SOBs are encouraged to use, therefore, is the institution of a simple employee feedback survey on an annual basis to track employee attitudes. This would also provide more immediate feedback on any unforeseen issues that may be arising from the voluntary departures program.

65. *Communications to the Public on the Reform Process:* Lessons from similar reform processes point to the importance of clear and transparent communication from the Ministry of Finance and the SOBs on the objectives, timing, and nature of the overall reform program to the public and to key stakeholders. One key metric of feedback from SOB clients is being integrated into the program in the form of periodic client surveys on changes in the quality and satisfaction with service.

(b) Potential Indirect Employment Effects

66. Taking into account the need to avoid creating perverse incentives, or to shift responsibility from private companies for their actions to the Government, this ESSA recommends a program to better flag when such cumulative impacts are occurring – particularly if measures to accelerate non-performing asset recovery move forward, and with a particular focus on inadvertent geographic concentration in poorer areas. The ESSA also recommends that there is good linkage/coordination with the Government agency responsible for employment placement and training services (ANETI) on this risk monitoring function. Particular attention should be paid to poorer regions where there is a high NPL ratio relative to the population.
67. Second, this ESSA recommends evaluating the data on employment impact by the Ministry of Finance, CBT, the World Bank and other partners after the first six months of implementation to determine whether additional measures are required. Additional measures would include, for example, the creation of localized committees to monitor social impact and to better pair affected employees with jobs, social safety net programs or with ANETI retraining programs.

(ii) *Environmental Mitigation Mechanisms*

68. Three specific areas are included in the proposed ESSA environmental mitigation plan:
- First, the system to monitor and provide alerts on environmental risks from companies that closed because of the loan recovery – with a prioritization on those in sensitive areas – needs to be put in place in collaboration with ANPE and the Ministry of Finance. If companies should be prompted to close because of loan recovery, and if closure without mitigation is deemed by ANPE as posing a significant environmental hazard, the Tunisian Government will need to commit to identifying solutions, including but not limited to seizing assets to help fund cleanup programs (in line with its current approach).

- Second, STB needs to commit to following Tunisian guidelines on its system to mitigate, monitor and report the localized environmental impacts (in time and space) for the construction of the training center of STB.
- Third, while outside the scope of this P4R, should the initial monitoring data show a substantial number of abandoned properties posing significant environmental risk, the GoT may consider strengthening the national environmental framework governing the environmental legacy from failed companies. This could be done through separate projects or TA focused on the preparation of regulations defining the mechanisms of action in the case of depollution of sites (environmental responsibilities of the various stakeholders, creation of a depollution fund and mechanisms for its financing, Criminal and financial consequences).

69. The concrete steps to address these gaps will include:

- A. As part of the Program Implementation Manual, a section will be completed on the **Environmental and Social Monitoring System (ESMS)** to be prepared by a consultant, and co-signed by the relevant implementing Ministries (ANPE, ANETI, DGP, SOBs) prior to Negotiations. The ESMS will outline:
- (i) the reporting forms the SOBs will be asked to fill out on companies undergoing asset recovery – including the nature of their activities (including environmental categories), whether they are open or closed, whether they know if employees are likely to be affected, or likely to close among other issues;
  - (ii) the reports that will be compiled by ANETI (on employment where it would be an accumulation of data on newly unemployed relative to the size of the local labor market) and by ANPE (on environmental risk) based on the information provided – the latter which may be required to carry out site visits should higher risk categories emerge;
  - (iii) the administrative forms (follow-up slips and processing contracts) between SOBs, approved collectors and the authorized electronic waste recycling center in case of generation of electronic hazardous wastes.
  - (iv) the role of DGP, which as the project management entity is responsible for proper implementation of the ESMS. Its role is also to ensure the timely recording of reports in the ESMS and ensure that all records are properly archived and made available to the WB as well as the Independent Verification Agency.
  - (v) In the event that the closure because of recovery of bad loans relates to a company classified as category A or B under Order in Council 2005-1996, the Program Operations Manual (MOP) shall specify the role of the DGP in determining whether Acceptable risk mitigation measures have been identified and verified that the appropriate entity (ie the polluting company, ie the ANPE if

the company is bankrupt and the risk is high) has agreed to implement Recommended measures

(vi) the ToR for the social and environmental supervision from the third party Independent Verification Agent. The IVA will be asked to conduct as part of its annual verification, a review of whether social and environmental risks are being identified by the appropriate entity, all the mandated reports and assess whether actors are fulfilling their respective roles in mitigating indirect environmental and social risk, and;

(e) Types of possible mitigation actions taken if impacts are deemed to be substantial (as determined by ANETI and ANPE). For example, mitigation mechanisms in the case of ANPE could include (i) Launching appropriate measures for dismantling activities with high environmental risk; (ii) providing feedback to the Ministry of Finance and the World Bank on the measures and decisions taken. In the case of ANETI mitigation mechanisms would apply if there is found to be a high concentration of social impact (concentration of company closures in a short time period) in a vulnerable (i.e. poor) area. ANETI mechanisms could include reaching out to failed companies with information on their existing centers and services.

(f) Concerning the construction phase of the training center (STB), this ESMS will outline the required contents of a specific Environmental and Social Management Plan of works (ESMP) for the construction of the training center. According to the national guidelines, STB would hire a consultant to prepare the ESMP for the works, and would include a paragraph for contractors to comply with this plan. These actions would be verified under the annual IVA referenced below in the Action Plan.

B. The ESSA recommends that the Ministry of Finance explore sources of parallel financing to support studies and technical assistance to improve the legislative and regulatory framework surrounding environmental impacts (category A and B) from closed/failed companies. Such a TA could be with ANPE or relevant Environmental agency. This action will require the recruitment of technical expertise for a thorough diagnosis of the problem and legal expertise for the preparation of the corresponding draft legislation.

70. In summary, the Program Action Plan integrates the following mitigation mechanisms:

**Table 3: Proposed Program Action Plan**

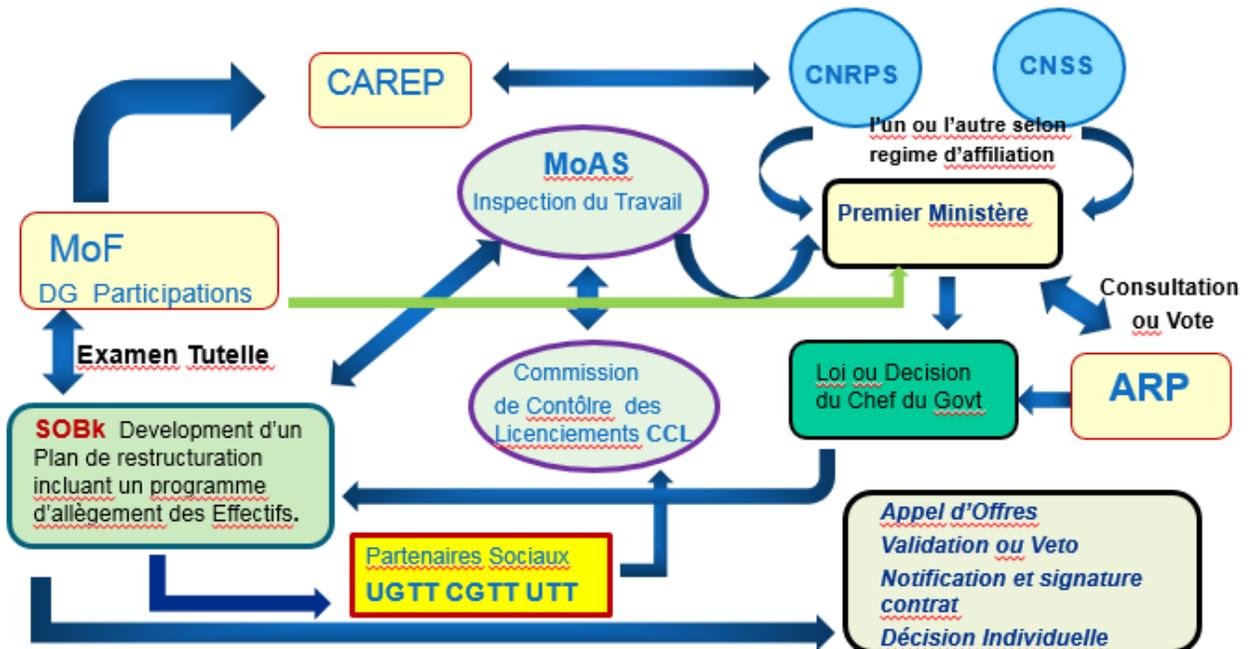
	<b>Action</b>	<b>Verified By</b>	<b>Implemented By</b>	<b>When</b>	<b>Implication for Monitoring</b>
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					<b>Reports</b>
1	Adequate Grievance Redress Mechanism Available to SOB Employees	Information on the number, type and rate of resolution of grievances to be collected from existing Grievance Redress Mechanisms (Unions, CCCL, Prud'hommes) and provided in a summary report.	Responsibility for Collect : DGP/Ministry of Finance	Each Semester	Summary data on number of complaints, type, response, and rate of resolution to be included in semestrial reports.
2	Transparent Communication on Reform and on Departures Program	Each Bank to communicate publicly to all staff detailed information on the reform process, including information on the rules and criteria for participating in departures programs, calculation of benefits, and existing avenues for grievance redress as well as on the overall reform process and timing. Documentation of this communication to be provided as part of project reporting. Resp : State	Each SOB	At least once prior to World Bank program negotiation and at least once per year thereafter in terms of updates on the reform.	Copy of communications to be provided to the World Bank during preparation and implementation support missions

		Owned Banks Verification: WB			
3	Designation of a focal point on social and environmental impacts of reform within the DGP/Ministry of Finance	World Bank	DGP	One month after the beginning of program implementation	None
4	Prepare Section of Program Operations Manual on Environmental and Social Monitoring system (ESMS) on loan recovery [data sheet to be filled in by Banks and procedures for flagging NPL with high risk] and have it signed by Ministries/agencies (ANETI, ANPE, Finance) establishing clear roles and responsibilities	Guide completed by a consultant and distributed to (a) the World Bank; (b) the Ministry of Finance; and (c) the State Owned Banks  Signed POM	DGP	POM to be sent to the World Bank (and approved) prior to Negotiations	None
5	As part of the IVA include supervision of the implementation of measures to monitor and mitigate environmental and social risks	WB	DGP	Once a year	

## ANNEXES

### Annex 1: Existing Processes for Government Oversight in Parastatal Downsizing



In the case of downsizing for economic reasons, the State Owned Banking sector engages in the following process:

- (1) The State Owned Banks develops a program for restructuring, including reducing the number of employees. They seek the advice of the Ministry of Finance.
- (2) Trade Unions are notified of the plan. The plan is discussed/negotiated with the Social Partners, or Unions. Minutes (Procès-Verbal) of the agreements reached are issued at the conclusion of these negotiations.
- (3) The State Owned Banks notify the Inspectorate of Labor (within the Ministry of Social Affairs) of its intention to downsize. The Inspectorate of Labor (art. 21-3 LC) is to first identify any alternatives to downsizing (redeployment, restructuring etc.).<sup>26</sup> If it cannot do so, it then refers the file to the *Commission de Contrôle des Licenciements*, which is also under its direction (CCL, Art. 21-5) for advice. The CCL is composed of (a) a representative of the employer's association (or Ministry if it is a public agency); and (b) a central representative of the Union to which the majority of employees belong. The CCL can invite anyone they feel is relevant to join the commission review.

<sup>26</sup> When the Commission is not consulted on the dismissals, except in cases of agreement between the parties or force majeure, these dismissals are unlawful (art. 21-12 LC).

- (4) The CCL must assess the case within 15 days and provide their opinion on the restructuring. In assessing the request for restructuring, the commission takes into account: (i) the professional qualifications of the concerned workers; (ii) the family situation of the workers; (iii) the age of the enterprise. This commission has the right to propose changes in the management of the enterprise that would allow them to restructure to avoid downsizing.
- (5) If the CCL provides a positive opinion on the request, they must indicate the value of the indemnity to be paid at the end of service according to the law and relevant regulations/agreements with the Unions.
- (6) Once negotiated with the Unions, the restructuring package is also presented to the CAREP which is presided over by the Prime Minister. Via the CAREP, the Government takes a decision on the restructuring. For early retirements, CAREP associates the relevant pension agency (CNRPS or CNSS). Finally, the Prime Minister consults with the *Assemblée Nationale du Parlement* (ARP), and in some other cases of public sector restructuring a specific decree or law is approved (as with Tunisia Telecom).
- (7) According to the current regulations, in the event that the procedures of laying off employees were not properly followed, penalties can be imposed that can increase the end of service indemnity to one or two months of salary for each year of service up to a maximum of three years. In addition, if false information was provided to the CCL, sanctions can be imposed on the employer (Art. 234, 236 and 237 of the Labor Code).

## **Annex 2: Legal and Regulatory Framework for Environmental Management in Tunisia**

### **a. National EIA (Environmental Impact Assessment) system**

Tunisia has a number of laws and regulations dealing with the management of environmental and social impacts and with the majority of environmental protection aspects, including pollution abatement and improvements to the quality of life. These extend to preventive instruments (EIA) and incentives (grants and tax incentives) as well as to coercive measures against people and legal entities guilty of pollution offenses or environmental degradation. Some texts are more global in nature and others are specific to sectorial activities.

In the past, these texts have been revised several times to adapt them to new contexts and national policy guidelines for economic and social development. Currently, given the new realities following the 2011 revolution, other revisions are in the works in order to more appropriately incorporate the principles and objectives of sustainable development and good governance.

The national environmental impact assessment (EIA) system was established in 1991. It introduced mandatory EIA for any industrial, commercial or agricultural project likely to generate significant impacts on the environment. The decree on EIAs was revised in 2005 and substantial improvements have been made, particularly the obligation to:

- respect existing land uses;
- use consultant firms and experts for EIA preparation;
- submit a detailed EMP.

The review of project categories that require an EIA has helped streamline procedures for the preparation and approval of EIAs, but in return, it has prevented certain cases to be submitted to an environmental assessment on a case by case basis. It has also limited the scope of the environmental impact analysis for certain components by removing requirements relating to the evaluation of socio-economic impacts. The main legal provisions of the current system are summarized below.

#### ***Project Categories***

Projects subjected to an EIA and to a prior notice from the ANPE are classified into three categories:

<b>Annexes of EIA Decree</b>	<b>Required instrument for environmental assessment</b>
➤ Annex 1 - Category A - Category B	Simple EIA Detailed EIA
➤ Annex 2	Sectorial Environmental Standards

Project screening is based on inclusive criteria and provides an alternative selection on a case by case basis for projects not listed in the two annexes.

### ***EIA Content***

The EIA shall include: i) a detailed description of the project; ii) a baseline analysis of the environment; iii) the evaluation of foreseeable impacts; iv) avoidance, mitigation and compensation measures and their costs; and v) a detailed EMP. The impact analysis focuses on direct and indirect impacts on natural resources, species, wildlife, areas under legal protection, forests, natural areas, historic landscapes, sensitive areas, protected species, national and urban parks. Social impacts are not addressed specifically in the laws and regulations relating to EIA.

#### **b. Main Institutions Involved in Environmental Management**

The Tunisian institutional framework for environmental protection that has been in place in recent decades now has several agencies which may be involved in municipal management. Most are grouped under the supervision of the Ministries of the Environment and of the Interior.

**The Ministry of the Environment**, established in 1991, provides the general policy environment, ensures the coordination and monitoring of the actions of state and local authorities for the protection of nature and the environment, fighting pollution and pests and improving the quality of life. To implement the national policy, the Ministry of the Environment has several public bodies under its supervision including:

- **The National Environmental Protection Agency (ANPE)**, established in 1988, is the agency responsible for managing the national EIA system (preparation, review and approval and monitoring of environmental assessments and plans in Tunisia) and for ensuring the application of regulations relating to the protection of the environment, including those relating to environmental assessment. The Agency is also responsible for preparing required terms of reference for the preparation of EIAs (for projects classified in Annex I) and Sectoral Environmental Standards (for projects classified in Annex 2) as well as for examining and approving the EIA report and the EMP produced according to Sectoral Environmental Standards. The EIA Directorate of ANPE is responsible for implementation, review and monitoring of EIAs in Tunisia.
- In addition to its central structures, ANPE has eight regional offices in charge of verifying Sectoral Environmental Standards (Cahiers des charges spécifiques) and their compliance with environmental requirements and of participating in the EIA evaluation commission at the central level. The ANPE is also responsible for controlling pollution at the source and for monitoring the quality of air, water and land pollution. Under the Program, it will also be in charge of reviewing EIAs or Sectoral Environmental Standards for sub-projects submitted for approval by municipalities, for notifying proponents of its decisions and for monitoring and controlling sub-project implementation.
- **The National Sanitation Agency (ONAS)**, a public industrial and commercial agency created in 1974, is primarily responsible for the management of the sanitation sector and the **protection** of the water environment in urban areas

covered by the Program. It currently operates in 165 municipalities (with a connection rate of 90%)<sup>27</sup> and it ensures the operation, maintenance and renewal of any sanitation works such as wastewater treatment plants, sanitation networks, pumping stations, etc. in the cities.

- ONAS is sometimes tasked with other missions such as promoting the distribution of treated wastewater and sludge from treatment facilities, the implementation of integrated wastewater treatment, storm water and solid waste collection projects, as well as carrying out individual and rural sanitation projects on behalf of the State and local communities. In the context of the Program, ONAS will assist municipalities in the preparation and approval of sanitation studies, the acceptance of works and in operating public infrastructures in municipalities covered by the Program.
- **The Agency for the Protection and Development of Coastal Areas (APAL)**, established in 1995, is **particularly** responsible for implementing state policy related to coastal protection, specifically with regard to<sup>28</sup> :
  - management of coastal areas and monitoring of management operations;
  - compliance with laws and regulations relating to the development, use and occupation of land ;
  - review of records relating to Temporary Occupation Permits (AOT) of the Public Maritime Domain and concession contracts for the construction of structures or fixtures in the sea or in its vicinity.
- **The International Centre for Environmental Technologies of Tunis (ICETT)**, created in 1996, aims to acquire, adapt and develop new techniques to promote environmental technologies, strengthen national capacities in the field protection and environmental management and provide training services and technical assistance to private and public companies. It has hosted the regional environmental assessment capacity development project in countries south of the Mediterranean (World Bank / METAP).
- **The National Waste Management Agency (ANGeD)**, established in 2005, is responsible for participating in the development of national waste management programs including, in particular:
  - management of public systems related to waste management;
  - management of transfer and disposal infrastructures;
  - support and assistance to communities in the field of sustainable waste management ;
  - promoting partnerships between all stakeholders, particularly between local authorities, industrial facilities and the private sector;

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<sup>27</sup> <http://www.onas.nat.tn/Fr/page.php?code=19>

<sup>4</sup> <http://www.apal.nat.tn/infoglueDeliverWorking/ViewPagea7ad.html?siteNodeId=11&languageId=4&contentId=-1>

- strengthening national capacities in the field of waste management.

### **c. Adequacy of the Environmental Management System**

The national EIA system has been in place since 1991 and has been the subject of several strengthening actions over the past twenty years. It is now well established, integrated into the decision-making process and ensures proper handling of environmental impacts of new projects subject to EIA. In this respect, the system allows detailed analysis of environmental impacts and identification of measures to be implemented in order to eliminate, mitigate or compensate adverse impacts to acceptable levels. An EMP is routinely required to ensure control and monitor compliance of approved projects during project construction and operation phases.

The main shortcomings of the national EIA system are the lack of regulations and specific procedures to: i) assess social impacts; ii) disseminate environmental assessments and provide public access to information; iii) public consultation and consultation with affected individuals and their participation in decision-making; iv) establish grievance mechanisms to handle complaints; and v) environmental and social monitoring of projects beyond the construction phase.

The screening method used for projects contains some risks that can affect system performance. It is based exclusively on inclusive criteria (list system) and does not allow for a case by case screening for some projects, some of them off-list projects, which can generate significant environmental impacts.

Such gaps have been examined previously during the preparation of projects funded by other donors and special measures were required to fill them and make the national system compliant with environmental and social safeguard policies, particularly those of the World Bank. Indeed, although the national EIA legislation does not require public consultations, dissemination of information, or an analysis of social impacts, etc., loan agreements and project documents prepared for previous World Bank projects in Tunisia have mentioned the need for these aspects to be addressed, in addition to the national EIA system and as contractual terms and obligations of the Borrower.

At present, the ANPE is revising the EIA decree with World Bank support in order to fill these gaps and to frame the national EIA system within the provisions of the new Constitution and the draft Environmental Code.

#### **1. Adequacy of Institutional Capacity and Coordination Mechanisms**

At an institutional level, ANPE, the public agency responsible for management of EIAs, has solid experience and skills, particularly in the field of EIA review, monitoring of EMP implementation and environmental monitoring (air, water, soil). In terms of expertise, there are a number of consultancy firms and consultants who have acquired the required experience and capacities in the field of environmental management.

In addition, other stakeholders directly or indirectly involved in the system (authorities, petitioners, civil society, etc.) are familiar with procedures used in the different stages of the EIA process and have also benefited from several training sessions over the last 20 years. The EIA

system has gradually acquired a form of legitimacy which is almost never challenged anymore, but which still shows some deficiencies and shortcomings in terms of OP 9.00, which must be corrected.

**Annex 3: Summary of Feedback from Formal Consultations on the ESSA**

**[TO BE FILLED IN ONCE ESSA CONSULTATIONS HAVE TAKEN PLACE]**

#### **Annex 4: Members of CAREP**

- Le Premier ministre : président,**
- Le ministre de l'intérieur : membre**
- Le ministre des Finances : membre**
- Le ministre du Développement économique et de la Coopération Internationale : membre**
- Le ministre des Domaines de l'Etat et des Affaires foncières : membre**
- Le ministre des Affaires sociales : membre**
- Le ministre de Formation professionnelle et de l'Emploi : membre**
- Le secrétaire général du gouvernement : membre**
- Le secrétaire d'Etat chargé des participations publiques : membre.**
- Le gouverneur de la Banque centrale de Tunisie : membre.**
- Le président du conseil du marché financier : membre.**

## Annex 5 : Legal References

Code du travail promulgué par la loi n° 66-27 du 30 avril 1966, ensemble les textes qui l'ont modifié ou complété et notamment le décret-loi n° 2011-115 du 2 novembre 2011.

- Loi n° 85-12 du 5 mars 1985, portant régime des pensions civiles et militaires de retraite et des survivants dans le secteur public, ensemble les textes qui l'ont modifiée ou complétée et notamment le décret-loi n° 2011-48 du 4 juin 2011, modifiant les lois régissant les pensions civiles et militaires de retraite et des survivants dans le secteur public, le régime de retraite des membres du gouvernement et le régime de retraite des gouverneurs.

- Loi n° 85-78 du 5 août 1985, portant statut général des agents des offices, des établissements publics à caractère industriel et commercial et des sociétés dont le capital appartient directement et entièrement à l'Etat ou aux collectivités publiques locales, ensemble les textes qui l'ont modifiée ou complétée et notamment la loi n° 2007-69 du 27 décembre 2007.

- Loi n° 89-9 du 1er février 1989, relative aux participations, entreprises et établissements publics, ensemble les textes qui l'ont modifiée ou complétée et notamment la loi n° 2006-36 du 12 juin 2006.

Loi n° 2006-18 du 2 mai 2006, complétant certaines dispositions du CT.

Loi n° 2007-19 du 2 avril 2007 modifiant certaines dispositions du CT.

Loi n° 2011-4 du 3 janvier 2011 complétant les dispositions de l'article 234 CT.

Décret-loi n° 2011-51 du 6 juin 2011, portant modification du CT.

Décret n° 2002-2131 du 30 septembre 2002, portant création de structures au Premier ministère.

Décret n° 2002-2197 du 7 octobre 2002, relatif aux modalités d'exercice de la tutelle sur les entreprises publiques, à l'approbation de leurs actes de gestion.

Décret n° 2005-910 du 24 mars 2005, portant désignation de l'autorité de tutelle sur les entreprises et les établissements publics à caractère non administratif, ensemble les textes qui l'ont modifié ou complété et notamment le décret n° 2010-3170 du 13 décembre 2010.

Décret n° 2006-1555 du 12 juin 2006, portant application des dispositions de l'article 22 (ter) de la loi n° 89-9 du 1er février 1989, relative aux participations, entreprises et établissements publics.

### Régimes de pensions :

Loi n°85-12 du 5 mars 1985 portant régime des pensions civiles et militaires de retraite et des survivants dans le secteur public.

Loi n°88-71 du 27 juin 1988 modifiant et complétant la loi n°85-12 du 5 mars 1985 portant régime des pensions civiles et militaires de retraite et des survivants dans le secteur public.

Loi n°90-6 du 12 février 1990 modifiant la loi n°85-12 du 5 mars 1985 portant régime des pensions civiles et militaires de retraite et des survivants dans le secteur public.

**Loi n°96-67 du 22 juillet 1996 relative à la modification de la loi n°85-12 du 5 mars 1985 portant régime des pensions civiles et militaires de retraite et des survivants dans le secteur public**

**Loi n° 97-59 du 28 juillet 1997 amendant la loi n° 85-12 du 5 mars 1985, portant régime des pensions civiles et militaires de retraite et des survivants dans le secteur public.**

**Loi n° 97-74 du 18 novembre 1997 amendant la loi n°85-12 du 5 mars 1985 portant régime des pensions civiles et militaires de retraite et des survivants dans le secteur public.**

**Loi n°2002-61 du 9 juillet 2002 portant dispositions relatives à la protection sociale au profit de certains agents des entreprises et des établissements publics à caractère non administratif, affiliés à la caisse nationale de retraite et de prévoyance sociale.**

**Loi n° 2007-43 du 25 juin 2007, modifiant et complétant les lois régissant les pensions servies au titre des régimes de retraite, d'invalidité et de survivants dans les secteurs public et privé et des régimes spéciaux.**

**Loi no 2003-15 du 15 février 2003 portant création de l'institution du juge de la sécurité sociale.**