PROJECT : AGRICULTURAL SUBSECTOR DEVELOPMENT AND PROMOTION PROJECT IN THE ZAGHOUAN GOVERNORATE (PDPFA-GZ)

COUNTRY : TUNISIA

FRAMEWORK RESETTLEMENT ACTION PLAN (FRAP) SUMMARY

May 2019
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1. **INTRODUCTION**

At the request of the Tunisian Authorities, the African Development Bank Group will support the implementation of the Agricultural Subsector Development and Promotion Project in the Zaghouan Governorate (PDPFA-GZ) in Tunisia.

From an environmental and social standpoint, the project is classified in Category 2 in view of the negative environmental and social impacts identified, which are of low-to-moderate significance.

It has become apparent that the project’s implementation will result in: (i) loss of property or restricted access to property; (ii) loss of sources of income or means of livelihood because of the project, which may or may not result in affected people leaving their land. Consequently, CRDA is obliged to initiate a process to acquire the necessary land by expropriation for public purposes to comply with Operational Safeguard 2 (OS2,) of the Bank’s Integrated Safeguards System (ISS) on involuntary resettlement land acquisition, (land acquisitions, population displacement and compensation). At this stage, while the right-of-way is inherent in the construction of the different items of infrastructure planned, it is clear that the engineering designs prepared did not take into account aspects relating to the clearing of the rights-of-way to implement the planned works and the possible risk of expropriation. As a result, the Bank has asked for a review of these designs factoring in these aspects and minimising the risks by selecting an appropriate option and by clearly defining the indemnification/compensation measures provided for in such cases. Meanwhile, CRDA has submitted the Framework Resettlement Action Plan (FRAP) which presents the general principles that will serve as guidelines for all expropriation operations under PDPFA-GZ. It outlines the procedures to be followed regarding the prior recognition of expropriation and indemnification/compensation rights. It specifies the indemnification/compensation mechanism, the redress mechanism and identifies the institutional arrangements and capacity building for the implementation of expropriation procedures and complaints handling.

The FRAP is a contractual document by which the Tunisian Government formally undertakes to respect, in collaboration with the local communities and in accordance with the S02 requirements and procedures, the right to indemnification of each individual or entity potentially affected by the project. The FRAP’s implementation cost (preparation of the RAP, indemnification/compensation, operation, capacity building, implementation monitoring) will be completely financed by the Borrower. This FCAR will be developed into a Resettlement Action Plan (RAP) prior to the project’s launch for implementation by CRDA. Delivery of the Full RAP will be subject to a special disbursement condition for the financing of the underlined works.

2. **PROJECT DESCRIPTION**

2.1 **Project Objectives**

PDPFA-GZ’s overall objective is to reduce poverty, unemployment and inequalities (gender, socio-economic and rural-urban) in the Zaghouan Governorate. The project’s specific objective is to increase value added through the promotion of the following priority1 subsectors: olive oil, tomatoes, milk and other regional organic products that

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1 The priority sub-sectors were defined in a concerted manner based on environmental (soil conservation, water use), social (local job creation, improvement of rural women’s status) and economic (level of value added, income stability and adaptability to promising markets) criteria.
constitute niches with strong potential in terms of jobs, incomes and the generation of foreign exchange for the country.

### 2.2 Project Components

To be implemented over a three-year period, the project comprises three components: (A) Rural Infrastructure Support; (B) Sustainable Agricultural Development and Value Chains and (C) Project Management and Coordination. The activities are summarised in the Table below:

**Table: Detailed Project Components**

<table>
<thead>
<tr>
<th>COMPONENTS</th>
<th>COMPONENT DESCRIPTION</th>
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| **A : Rural Infrastructure Support**            | **A1 Irrigation improvements**: (i) rehabilitation and equipping of 1158 ha of old public irrigated areas (PIA) with 4,000 lm of asbestos-cement pipes to be replaced by others made of polyethylene, PEHD; and (ii) development of 350 new irrigated areas (IA).  

**A2 Construction of boreholes and surface wells**: (i) construction of 12 boreholes (150-200 m); (ii) construction of 50 new surface wells powered from clean energy (solar) sources; (iii) an update study on the results of groundwater use; and (iv) strengthening of the piezometric measurement network to monitor and control groundwater levels.  

**A3 Soil and Water Conservation (SWC)**: (i) construction and consolidation of mechanical and manual bench terraces over 9430 ha, dry-stone bunds over 570 ha, 600 ha of gully correction improvements, 25 wadi protection barriers; (ii) development of 8 hillside lakes and 120 recharge structures; and (iii) clearing and re-profiling of wadis over 47 km as well as sanitation of 600 ha of plains.  

**A4 Forest Management and Biodiversity Conservation**: (i) forest and pastoral development over 200 hectares, forest rehabilitation, land consolidation over 13000 ha; (ii) opening/maintenance of 345 km of forest trails and firebreak trenches; (iii) development of the Djebel Zaghouan National Park and its Ecomuseum.  

**A5 Rural Roads**: (i) improvement of 51.5 km of rural roads.  

| **B : Sustainable Agricultural Development and Value Chains** | **B1 Sustainable Agricultural Development**: (i) development of plot irrigation: procurement of water saving equipment (drip irrigation) for 1000 hectares on PIA; (ii) development of tree cultivation: planting of 5900 ha of olive and almond trees, purchase of plants and tank-trailers; (iii) purchase of seeds for fodder crops, Medicago and Sulla seeds for 1000 ha; (iv) procurement of equipment for the CRDA soil laboratory; (v) dissemination of technological packages, resilient and organic techniques, required quality standards, training in for the maintenance of structures by agricultural advisors; (vi) land re-parcelling in order to promote women’s access to property.  

**B2 Gender-Sensitive Agricultural Value Chains**: Olive oil subsector: (i) procurement of equipment for SMSAs, GDAs and women’s groupings (olive picking equipment, olive wood crushing machines and sprayers; (ii) procurement of an organic olive oil extraction unit and (iii) support for the construction of two multi-purpose centres to accommodate organic olive oil agro-industrial units. Tomato subsector: (i) support for the construction of a complete tomato drying unit comprising: 1 washer, 1 grader, one cutter, driers for fruit and vegetables, one vacuum packaging machine. Organic products from the region: (i) support to SMSAs for conversion of products into organic mode and certification; (ii) procurement of composting equipment (compost crushers, diverters and compost spreaders); (iii) procurement of equipment for women (honey and organic wax extractors, distillers, cereal and spice grinders and essential oil extractors and driers). Milk Subsector: (i) construction of 2 milk collection centres; (ii) procurement of a batch of organic fodder production and conservation and manure spreading equipment; (iii) procurement of two batches of milk collection and cooling equipment; (iv) development of good hygiene practices and standards; and (iv) training in rangeland management and fodder production.  

**B3. Market Access**: (i) promotion of self-clustering around SMSAs and GDAs and clustering around private agricultural enterprises; (ii) promotion of agricultural product competitiveness: quality, compliance with standards, traceability, certification, logo; and (iii) study on a market access strategy for local and organic labelled products.
Coordination and Components

Project area in the Mi governorate level was calculated in 1999 at 25.4% compared to 15.8% at the national level. Agriculture remains the main economic sector and source of employment with 31.9%. The unemployment rate at governorate level was calculated in 1999 at 25.4% compared to 15.8% at the national level. With regard to poverty, the Ministry of Regional Development estimates a rate of 19.5% for the entire Zaghouan Governorate. In the project area, the rate was estimated at 13.4% in the Zaghouan delegation, 18.2% in the Zriba delegation, 26.7%

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<td>B4</td>
<td><strong>Agricultural entrepreneurship and women’s and youth employability.</strong> Specific support to women: (i) incubation and installation of 200 female agricultural entrepreneurs, (ii) construction of 200 water tanks; (iii) supply of inputs for market gardening and tree cultivation; (iv) procurement of artisanal equipment and wild rose seedlings; (vii) training in the extraction and distilling of aromatic and medicinal plants; (viii) creation of product sales outlets; and (ix) training in marketing and commercialisation. Support Fund for women’s innovative MSME initiatives: (i) establishment of a partial guarantee fund (50%) in partner institutions targeting women’s enterprises with strong growth potential; (ii) provision of incubation and advisory services. Support to 50 groupings of young agricultural entrepreneurs (50% will be young women); (i) Support for the preparation of business plans; (ii) training in incubation centres (Zaghouan business centre, Mograne School Nursery, etc.); (iii) granting and servicing of titled plots in the new irrigated areas; (iv) intermediation with local financing structures.</td>
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<td>B5</td>
<td><strong>Stakeholder capacity building:</strong> (i) Equipping of technical services involved in the project’s implementation (Zaghouan CRD, Mograne School, etc.); (ii) results-based management training, value chain approach, gender, gender, climate change and resilience, market access mechanisms, product standards and quality, etc.; (iii) consolidation of participatory development plans (PDP); (iv) organisational and management support for GDS, SMSAs and women’s organisations and creation of regional networks and unions; (v) development of partnerships (contracting) with finance institutions, private enterprises, employers’ and trade union organisations (UTAP), inter-professional groups and training, research and advisory support institutions.</td>
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C : Project Coordination and Management

| C1 | **Project Management Unit:** Planning and coordination of project activities, administrative, accounting and financial management, procurement of goods, works and services, development of a communication plan, project implementation monitoring and evaluation, and impact analysis with a gender perspective. |
| C2 | **Steering Committee** |

2.3 Project Cost

The project’s estimated total cost is TND 150.02 million, inclusive of all taxes, i.e. EUR 43.86 million. The costs were estimated based on current prices in April 2019. The cost includes the cost of the land to be occupied by the project for the construction of the planned structures. A provision has been made for physical contingencies at 7% of the base cost as well as a provision for financial contingencies at 7% of the base cost based on local and international inflation. The financing plan comprises EUR 25.21 million from AfDB, EUR 16.23 million from the Tunisian Government and a EUR 2.2 million contribution by the beneficiaries.

2.4 Project Impact Area and Beneficiaries

2.4.1 Project Impact Area

The project impact area (PIA) covers the Governorate of Zaghouan, in particular, the vulnerable areas of the six delegations of Zaghouan, Zriba, Saouef, Nadhour, El Fahs and Bir Mchargua, i.e. 44 of the Governorate’s 47 administrative divisions.

*In the four delegations (Zaghouan, Nadhour, Saouef, Zriba) in the southeast part of the Governorate,* the total estimated population in 2012 was 104,352 compared to 173,149 for the entire Zaghouan Governorate (i.e. 60.26%). The average population density in the project area is 75.6 inhabitants/km² (2012) compared to 61.8 inhabitants/km² for the entire governorate and 69 inhabitants/km² at the national level. The total number of households in the four delegations concerned by the study (2004 census) is 20,085, i.e. an average of 4.7 people per household compared to an average of 4.8 at the level of Zaghouan Governorate.

Agriculture remains the main economic sector and source of employment with 31.9%. The unemployment rate at governorate level was calculated in 1999 at 25.4% compared to 15.8% at the national level. With regard to poverty, the Ministry of Regional Development estimates a rate of 19.5% for the entire Zaghouan Governorate. In the project area, the rate was estimated at 13.4% in the Zaghouan delegation, 18.2% in the Zriba delegation, 26.7%
in the Saouef Delegation and 29.1% in the Nadhour Delegation. These figures underscore the importance of poverty, especially in the two delegations of Saouef and Nadhour.

Concerning the land tenure situation, 55% (75350 ha) of the land is privately owned and 45% (62650 ha) state-owned. Discussions with the population highlighted the constraints related, in particular, to the non-existence of title deeds and the extremely fragmented nature of inherited land. This problematic situation limits access to the formal agricultural credit system.

With regard to the Bir Meghera and El Fahs delegations situated in the North-West, the total population of the two delegations comprising the project area was estimated in 2012 at 68,797, i.e. 40% of the Governorate’s population. The estimated population growth rate over the 2009-2012 period was 0.99%, compared to 1.09% for the 1994-2004 decade. In this population, gender equity has almost been achieved. In 2012, the urban population living in the municipalities (or headquarters) of the two delegations concerned was estimated at around 32,850 people corresponding to an urbanisation rate of around 48%. In 2011, the population density was 47 inhabitants/km², compared to 45/km², in 2004. This density was slightly higher in El Fahs than in Bir Meghera (respectively 45 and 49 inhabitants/km²). The number of households was reported to be about 13,477 with 13,773 dwellings, i.e., 1.024 dwellings/household. Each household is said to comprise an average of 4.9 people. There are estimated to be 194 rudimentary dwellings, i.e. respectively 2.75% and 1.4% of the number of rural dwellings and total dwellings.

Despite the increase in secondary and tertiary activities the detriment of agriculture, the latter remains the main economic sector and source of employment with 22.6%, closely followed by the manufacturing industries sector with 21% (2011 data). Hospitals and basic health care centres in the study area have 312 beds, with only 30 beds in El Fahs. The higher number of beds in Bir Meghera was because of the West Djebel hospital complex.

In terms of teaching units: (i) 43 basic primary schools (13 in Bir Meghera and 30 in El Fahs), 34 of which (i.e. 79% of the total) are located in rural areas which provides an opportunity for female children to pursue studies under normal conditions. 6984 pupils are currently enrolled in these establishments, which gives an average density of 33 pupils per class; and (ii) 12 secondary (or junior secondary) schools with 5,375 students i.e. an average density of 23.3 students/junior secondary school.

2.4.2 Project Beneficiaries

The PDPFA-GZ will benefit 12,500 households i.e. over 90,650 inhabitants, 50.2% of whom are women, in the 44 administrative divisions (out of the 47 in the Governorate). They will be provided with support to improve production and productivity following successful land consolidation and conversion to organic agriculture. Special attention will be paid to women (and more to women household heads) and young people who make up the bulk of the vulnerable segments of the population. They will benefit from 40-45% of the newly improved PIA and 75% of the activities linked to the processing and marketing of products, in particular, organic products. The direct beneficiaries will be selected in close cooperation with CRDA, the SMSAs, GDAs and the UTAP in accordance with a participatory, inclusive and partnership approach.

3. POTENTIAL IMPACTS

3.1 Potential positive impacts on the human environment

The expected positive socio-economic impacts are:
### Rehabilitation of Agricultural Roads

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<tr>
<th>Activity/Source</th>
<th>PDPFA-GZ's Positive Impacts on the Human Environment</th>
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</table>
| **Development of various agricultural, agribusiness, ecotourism and service-related activities** | ▪ Facilitation of access to the areas concerned,  
▪ Reduction in transportation costs and travel time,  
▪ Facilitation of the sale and enhancement of local agricultural output,  
▪ Development of local, regional and national trade and promotion of and facilitation of access to new remunerative international markets,  
▪ Facilitation of the procurement of inputs of agricultural equipment and the products and consumables necessary for agricultural production,  
▪ Development and promotion of access to enhancement and processing activities,  
▪ Renewed interest in local investment, facilitation of access for NGOs and operators of development projects including TFPs (Technical and Financial Partners) and MDB (Multilateral Development Banks),  
▪ Operation and development of agricultural, agribusiness, ecotourism and service-related SMEs/SMIs including upkeep and maintenance services and job creation for young people,  
▪ Enhancement of protected areas and other tourist sites, and  
▪ A reduction in vehicle operating and maintenance costs. |

| Improvement of condition of roads | Reduction of soil erosion, gullying of the platform, creation of quagmires, potholes and uneven road surfaces, etc.  
▪ Reduction in damage caused by transport equipment |

| Improvement of living environment | People participate more in agricultural activities from which they earn the maximum income,  
▪ Intensification of economic and commercial activities,  
▪ Easy access to modern cropping methods  
▪ Improved housing as a result of higher incomes  
▪ Opening up of localities |

| Development of other agricultural and rural infrastructure | The new boreholes will separate drinking water networks from irrigation water networks, which are currently supplied from the same water point. This action will provide two separate systems in order to avoid problems relating to the management of a mixed system and the allocation of water resources solely to irrigation.  
▪ The introduction and promotion of drip irrigation techniques will help to save water, enhance agricultural production improve farmland  
▪ Increased agricultural production will have a positive impact on achieving the objectives of food security, which consists in providing a constant and uninterrupted supply of high quality food.  
▪ An increase in the production and productivity of UAs will contribute to food security, which remains one of the country’s strategic objectives. |

| Soil and Water Conservation (SWC) | The SWC works will contribute to a significant reduction of erosion and run-off water management through the preservation of soil potential and fertility and the retention of run-off water in order to increase crop and grazing land yields. The erosion control works will mitigate the impacts of erosion, especially mass subsidence in fragile land and the gradual degradation of the hillsides |

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### 3.2. Potential Negative Impacts on the Human Environment

The expected negative socio-economic impacts are:

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<thead>
<tr>
<th>Activity</th>
<th>Potential Impacts on the Human and Socio-Economic Environments</th>
</tr>
</thead>
</table>
| Site installation | ▪ Social conflicts (occupancy of private land)  
▪ Destruction and/or occupancy of cropland  
▪ Possible destruction of housing  
▪ Proliferation of site waste  
▪ Risk of STD transmission |
| Opening of borrow sites | ▪ Social Conflicts (exploitation of private land)  
▪ Encroachment on private land  
▪ Increased noise level due to the operation of vehicles and machines |
| Mechanised Works (Clearing of rights-of-way re-profiling, compacting and recharging) | ▪ Risks of destruction of tombs and exhumation of mortuary remains  
▪ Risks of encroachment on to valuable/sacred sites (destruction of cultural heritage)  
▪ Spoiling of surrounding plots by abandoning or depositing scouring and purging materials in front of them  
▪ Obstruction of roads used by the local population with tubing  
▪ Inconvenience for agricultural product drying areas |
4. REGULATORY FRAMEWORK FOR INVOLUNTARY RESETTLEMENT

4.1 Tunisian Framework

4.1.1 Basic Principles for Land Expropriation and Acquisition

The right to property ownership is a right that is recognised and protected in Tunisia since it is guaranteed under Article 41 of the new Constitution signed on 24 January 2014 which stipulates that ‘The right to property shall be guaranteed, and it shall not be interfered with except in accordance with circumstances and with protections established by the law.’ Not only is it protected under the Constitution but also under law, in particular by Article 20 of the Real Property Code (2015) which stipulates that ‘No one may be forced to sell his property except in cases provided by law subject to fair compensation’.

Then come the laws forming the Tunisian regulatory framework for expropriation. Law No. 2016-53 of 11 July 2016 serves as the legislative basis for expropriation in the public interest, replacing Law No. 76-85 of 11 August 1976 and Law No. 2003-26 of 14 April 2003. The new legal framework emphasised, ‘the need to inform the public about the intention to expropriate and about the registration of oppositions through the Public Projects Acquisitions Commission located in each of the 24 Tunisian Governorates.’

The major principles guiding the process of expropriation for purposes of public interest are:

- Expropriation for purposes of public interest is carried out in exceptional circumstances and subject to fair compensation with the guarantees set out in Law No. 2016-53 of 11 July 2016;

- Expropriation for purposes of public interest is declared through a government decree submitted to the administrative tribunal for consideration. The expropriation order must indicate the nature of the properties and the proposed project.

- The Ministry of State Property and Land Tenure which has oversight over expropriation for purposes of public interest instructs the State Lands expert to carry out an appraisal in order to determine the financial value of the buildings required to implement the project as well as of the plantations, constructions and facilities they contain, and he may entrust the said mission to one or more legal experts commissioned by court order.

- The administration concerned may enter into all parts of the property whose expropriation is contemplated after obtaining court orders.

In order to implement its projects, the Ministry responsible for Equipment and Regional Development in coordination with the Ministry responsible for State Property and Land Tenure outlines the mission to acquire property assets for the purposes of public interest and applies the guiding principles of indemnification and compensation. To that end, and after a preliminary identification of the land constituting the land right-of-way of the site to be expropriated for the purposes of public interest, a State land survey will determine the market value of the said land.

The market value thus determined will be notified to the owners in the form of an administrative acquisition offer in accordance with the land register for registered or presumed owners for other land (with or without title deeds).
In order to ensure fair compensation of the different affected people the MDEAF surveying departments establish scales based on market prices by region, type of constructions, their surface areas, facilities, plantations crops and land use, etc. Compensation for each PAP will be specified in the RAPs.

4.1.2 Objectives of Tunisian Expropriation Policy

Pursuant to the promulgation of Law No. 2016-53 of 11 July 2016 on expropriation for the purposes of public interest and its implementing texts, the objectives of Tunisian expropriation policy are as follows:

- Avoid involuntary resettlement to the extent possible or mitigate the impacts of resettlement in cases where involuntary resettlement is inevitable by exploring all viable project designs;
- Ensure that displaced persons receive substantial assistance for resettlement, preferably under the project so that their living standards, income-generating capacity, production levels and overall means of livelihood are higher than the pre-project levels; and
- Establish redress procedures through a monitoring mechanism that will avoid poorly prepared, badly implemented and unfair resettlements and/or expropriations.

Thus, during the detailed planning of the aforementioned PDFA-GZ sub-project operations, efforts will be made to reduce as much as possible the number of people affected by a physical or economic displacement or by a disruption linked to an adjustment of the allocation of land resources or those arising from the exploitation of natural resources in general. This will offset displacement-related losses so that people who are temporarily or permanently affected may fully and sustainably recover their means of livelihoods at their original level or at an even higher level.

4.1.3 Tunisian Institutional Framework

The State institutions and organisations involved in programming the different RAP implementation stages are the Ministry of Agriculture, Water Resources and Fisheries (MARHP), the Ministry of Justice and Ministry of Finance. The compensation process will be carried out by State experts of the Ministry of State Property and Land Tenure Affairs through the Regional Acquisitions Commission.

Indeed, Article 14 of the new law provides for the establishment of a National Commission, which sets the criteria adopted for determining the financial value of properties needed for the implementation of public projects and their components, and the terms for reviewing and updating these criteria, every five years and as needed.

The acquisition procedures as well as an expropriation file will be presented to a single regional commission. The composition and modus operandi of the said commission are set out in the order of the Head of Government of 13 March 2017. In addition, pursuant to Article 16 of the Law, a permanent administrative commission was established in each Governorate called ‘the Public Projects Acquisitions Commission’, chaired by the Governor or his representative, to carry out all the preliminary procedures for project proposals under the order of expropriation for purposes of public interest at the regional level.

The Regional Acquisitions Commission is responsible for examining the legal and material status of the property to be acquired. Article 1 of Decree No. 1302 of 2 December 2016 determines the responsibilities of the Secretary of State for State Property and Land Tenure Affairs. It comprises the following 7 members: the Governor of the region or his representative, the Regional Director of State Property and Land Tenure Affairs or his representative; the Regional Director of the Regional Director of the Topography and Land Registry Office or his representative; a representative of the Ministry or enterprise that is the beneficiary of the expropriation (in this case MARHP); the State land expert; a representative of the landed property registry; a representative of the municipality or municipalities of the place where the expropriated property is located. The Chairperson of the committee may summon any person whose presence he/she deems useful to give an opinion in an advisory capacity.
The social framework is a Regional Commission within the Governorate. It is chaired by the Governor and includes representatives of the administration responsible for the project as well as State land representatives. It deals with all the project-affected persons (PAPs) met during the survey who do not have formal title deeds as well as vulnerable groups with or without title deeds. These PAPs will be taken care of by the administration, which, through the Regional Commission, will compensate them and provide them with the necessary assistance so that they can find a source of income equivalent to the one they had before the start of the project, including all costs associated with a possible relocation or resumption of activity. Within the social framework, informal occupiers and operators of properties, as well as persons at risk of losing their sources of income in the project area are eligible to receive assistance and are compensated in the same way as formal occupants and operators.

4.1.4 Review and Analysis of the Tunisian Legal Framework related to Landed Property and Resettlement

Below is a review and analysis of the main legal texts governing land management and resettlement processes in Tunisia

4.1.4.1 Type of Land Ownership in Tunisia

Tunisia defines different types of land ownership, which are summarised in the following sections:

State Lands: Public and private State lands are managed by the Ministry of State Property and Land Tenure. State-owned agricultural lands are part of the private State land.

Private lands: Private land belongs to individuals who exercise full ownership rights over it. Such land includes registered land, land with notarial deeds and land with certificate of possession:

The project impact assessments show that all the land in the project’s ecological footprint is classified as agricultural land and no conversion will be triggered by the project. Ninety-five percent (95%) of the project area covers already irrigated areas, for which no service improvements or change in land tenure regime is planned. The remaining 5% is land that is not currently irrigated, which will have access to irrigation service on request. No change in the land tenure system will be triggered by the project – land benefiting from improved irrigation will remain in the hands of the current users.

Collective Land: Traditionally, such land was used collectively and was owned by tribes or ethnic communities. Since the 1960s, privatisation of collective land has considerably reduced its area. Since 1992, collective land is no longer under the oversight of the Ministry of Agriculture pursuant to Law no.92-44 of 4 May 1992. Law No.2016-69 of 10 August, amending and supplementing Law No. 64-28 of 4 June 1964, determines the collective land regime and is supplemented by Government Decree No. 2017-460 of 13 April 2017, determining the composition of management committees and the terms and conditions for applications and procedures relating to the organisation and conduct of voting operations and composition and functioning of the Regional Oversight Committees. Each group owning collective land is represented by a management committee composed of members elected by the group (“la collectivité”) and members appointed by the Governor. The local and regional committees coordinate and control the management committees.

Habous Land: This is land that has been permanently transferred to the habous (Muslim religious institutions), making it exempt from seizure, inalienable and imprescriptible. These types of property were abolished by decree in 1956 and 1957. Habous land is being sold off in favour of public State land.

4.1.4.2 Description of Buildings to be expropriated in accordance with the regulations

The following section provides information on the national expropriation process. Pursuant to the combined provisions of Article 4 of Law No. 2016-53 of 11 July 2016 on expropriation for the purposes of public interest amending and supplementing Law No. 76-85 of 11 August on the reshaping of legislations relating to expropriation for the purposes of public interest, expropriation may concern:
Buildings required for the public project to be implemented as well as buildings necessary to ensure the value of the project and its smooth implementation, and the establishment of buildings reserved for upkeep and maintenance services to ensure its durability,

Land surrounding the project that could be used for enhancing its environment and protecting it from urban sprawl,

Buildings required for the implementation of development, equipment, rehabilitation and housing programmes as well as those required to create the land reserves planned by the State or local governments or allocated to public establishments or enterprises within or outside urban areas in compliance with existing laws and regulations,

Buildings required to implement approved development programmes and plans,

Ruinous structures that the occupiers or owners have not demolished and which are hazardous for health or public safety,

Buildings threatened by natural disasters whose ownership must be transferred to the State or local governments or those allocated for the construction of protection agencies, and

Buildings of an archaeological, heritage or historical nature.

4.1.4.3 Regulatory Framework Governing Temporary Occupation, Exchange, Amicable Acquisition and Expropriation for Public Interest

A. Temporary Occupation

Temporary occupation is governed by the decree of 20 August 1888, which specifies that temporary occupation of land is authorised by an order indicating the territory where the land is located, the number and nature of its constituent plots, their content, and the name and domicile of the owner or presumed owner. Local authorities are required to notify the owner of the land or his/her representative of the temporary occupation decree.

In the event of an amicable agreement between the owner and the developer, the latter must submit the written consent of the owner or the contract signed with said owner. In the absence of an amicable agreement, the administrative agent shall inform the local authorities of the territory concerned in writing of the day on which the developer intends to visit the premises. The local authorities must inform the owner and ask him/her to appoint an expert to assist the expert chosen by the developer in preparing an inventory.

The inventory is prepared by the two experts so that when it is subsequently checked against the inventory to be prepared after the works implementation, the necessary elements will be available for assessing the depreciation of the land and estimating damages. A report will be drawn up and a copy given to the owner.

Once the findings have been made, the developer can occupy the land and begin the works authorised by the order. If there are crops, fruit trees or tall trees on the land that need to be cut down or felled, the developer must allow them to stay until the estimate has been made. The developer will have to justify, whenever required, that he had paid the compensation due to the owners of the occupied land.

When the works are carried out directly by the Administration, the process is as described above.

B. Amicable Mechanisms: Acquisition, Donation and Exchange of Plots

Amicable mechanisms based on the consent of the parties will be the preferred mechanism for ONAS projects. In general, voluntary assignment/donation and amicable acquisition are widely practised. However, Tunisian law also provides for the possibility of exchanging plots.
Amicable acquisition: Insofar as the owner of the required property consents to the requests of CRDA, the transaction shall lose its mandatory character and CRDA would not therefore need to resort to expropriation. The parties would then agree on the price and terms of transfer of ownership and enter into a sales contract. Amicable acquisition results in a sales contract governed by civil law (Obligations and Contracts Code and Real Property Rights Code). The contract will set out the amount of the sale and the transfer of ownership.

Free Assignment or Donation of Plots: This legal tool allows property ownership to be transferred from the transferor to CRDA free of charge. The owner of the property will transfer all or part of it voluntarily. This act will result in a contract of assignment in the form of a notarial deed. The acquisition will be governed by Tunisian civil law.

Exchange of plots or exchanges in kind: Law No. 95-21 of 13 February 1995 on State agricultural land provides for the transfer of State land to the administration for purposes of regularisation and exchange. The Law stipulates that, where necessary, State agricultural land may be assigned in exchange for land belonging to private individuals or local communities. The exchange is made after the value of the two properties that are the subject of the exchange contract has been determined by two experts from the Ministry of Agriculture and the Ministry of State Property. This procedure may take place either before or during the expropriation procedure, when the expropriated party undertakes not to initiate court proceedings and agrees with the administration to give up his/her property in exchange of another State land.

B. Expropriation in the Public Interest

Law No. 2016-53 of 11 July 2016 serves as the legislative basis for expropriation, replacing Law No. 76-85 of 11 August 1976 and Law No. 2003-26 of 14 April 2003. This law is accompanied by its implementing texts, including the Order of the Head of Government of 13 March 2017 setting out the composition of the Public Projects Acquisitions Commission and its operational procedures as well as the order of the Head of Government of 13 March 2017 listing the documents for expropriation for purposes of public interest. Corrective action was taken to ensure that the Law was aligned with international standards and policies. In that regard, the Law contained the principles, rules and administrative and legal procedures for the expropriation of property for projects or programmes of public interest. This new legal framework emphasised the need to inform the public about the intention to expropriate and about the registration of oppositions through the Public Projects acquisitions commission located in each of the 24 Tunisian Governorates.

According to the regulations, Section 4 of Law No. 2016-53 of 11 July 2016 described all properties that may be expropriated, including: (i) buildings and areas included within the area surrounding the planned project; (ii) all those necessary to ensure the value of these works or to allow for a rational implementation of the approved development plan; (iii) bare, planted, insufficiently built land with obsolete structures that are hazardous, ruinous or recognised as unsanitary.

Government Decree No. 2017-332 of 28 February 2017 establishes the composition and modus operandi of the national commission responsible for setting the criteria for determining the financial value of properties required for the implementation of public projects. This national commission, chaired by the Ministry of State Property, sets the criteria adopted for determining the financial value of properties needed for the implementation of public projects and their components, and the terms for reviewing and updating these criteria, every five years and as needed.

Expropriation is carried out only in exceptional circumstances and after all the conciliation measures provided for in the Law have been fulfilled. In case of agreement between the parties, the expropriation procedure ends and is replaced by an amicable transaction. A sales contract will then be drawn up. Failing this, and in case of persistent disagreement, the Expropriation Decree is enacted.

The major principles guiding the process of expropriation for purposes of public interest:
Expropriation for purposes of public interest is carried out in exceptional circumstances and subject to fair compensation with the guarantees set out in Law No. 2016-53 of 11 July 2016;

Expropriation for purposes of public interest is declared through a government decree submitted to the administrative tribunal for consideration.

The Expropriation Decree must indicate the nature of the properties and the proposed project.

The main land acquisition processes are:

- Preparation of the land file (at the expense of CRDA which commits OTC);
- Drafting of the survey report (at the expense of CRDA which hires the State lands expert or other experts);
- Forwarding of the land file and CRDA survey report.
- Submission of the land file and survey report to the Governor, who forwards them to the Regional Acquisition and Limitation Commission. The Commission then takes over the file;
- The Regional Acquisition Commission publishes the intention to expropriate for 60 days;
- The Acquisition and Limitation Commission then directs CRDA to instruct the OTC or land surveyors to draw up the plans for the final division of the properties for which partial expropriation is contemplated and the final plans for the unregistered properties;
- Survey (at the expense of the administration);
- The Acquisition Commission records in the survey register the identity of any person who has accepted the administration’s offer and prepares the files necessary for the conclusion of contracts;
- Publication of the expropriation order; and
- Entry into all parts of the property whose expropriation is contemplated after obtaining court orders.

The following synoptic diagram presents the expropriation in accordance with the expropriation procedure stipulated by Law No. 2016-53 of 11 July 2016:
Expropriation procedure stipulated by Law No. 2016-53 of 11 July 2016

Establishment of the plot-related file - CRDA

Preparation of the survey report - MDEFA

Forwarding of the plot-related file to the Ministry of State Property with the survey report

Forwarding of the expropriation file to the Governor of Zaghouan by the MDEFA after verification of all the necessary documents

Forwarding of the expropriation file by the Governor of Zaghouan Public Project Acquisition Commission (CAPP)

CAPP directs CRDA to instruct OTC to draw up plans for the final fragmentation of property to be partially expropriated and final plans for non-registered property

CAPP publicises the intention to expropriate for a period of 60 days

CAPP proceeds to the consideration and inscriptions of objections in a recognition register opened for that purpose

CRDA shall forward a copy of the expropriation decree with a copy of the final fragmentation plan to the territorially competent governor in order to post the text of the decree for a month.
4.2. African Development Bank Framework

4.2.1. Involuntary Settlement Requirements of the African Development Bank

The project’s implementation must meet the requirements of the Integrated Safeguards System (ISS) and in particular Operational Safeguard 2 (OS2) on Involuntary Resettlement, Land Acquisition, Population Displacement and Compensation. It aims to clarify all issues related to physical and economic displacement, but that are not specifically related to land acquisition. The specific objectives of OS2, are to: (i) avoid involuntary relocation to the extent possible, or minimise its impact when such involuntary

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The expropriated property is taken possession of by ordinance of the President of the court of first instance with jurisdiction following a request by the expropriated party

Case of registered property

- Payment of compensation for expropriation after registration in the land register and transfer of ownership to CRDA

Case of unregistered property

- Disclosure of the expropriation intention after publication of the expropriation decree

- Posting of the list of property to be expropriated for a period of sixty days

In the event of judicial determination of the compensation for expropriation, interests shall accrue at the end of the two months following notification of the judgement having the force of res judicata

In case the value of the property, settled amicably, has not been recorded within four months, civil interests shall run automatically from the date of signature of the contract having acquired the force of res judicata

Payment of expropriation compensation after registration in the land register and transfer of ownership to CRDA.

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relocation is inevitable, after all alternative designs of the project would have been explored; (ii) ensure that displaced persons are effectively consulted and given the opportunity to participate in the planning and implementation of resettlement programmes; (iii) ensure that displaced persons receive substantial assistance for their resettlement under the project, such that their standards of living, income-generating capacity, productive capacity and overall means of subsistence are improved beyond what they were prior to the project; (iv) provide clear guidance to borrowers on the requirements to be fulfilled in relation to issues linked to involuntary resettlement within the context of banking operations in order to mitigate the negative impacts of displacement and resettlement, actively facilitate social development, and construct a viable economy and society; (v) guard against poorly prepared or poorly implemented resettlement plans by putting in place a performance monitoring mechanism for involuntary resettlement programmes as relates to banking operations, with a view to resolving problems as they arise.

The implementation of the project is also consistent with Operational Safeguard 5 (OS5) on Labour Conditions, Health and Safety.

The other relevant policies and guidelines of the Bank shall remain applicable once they are triggered within the framework of the ISS. These are mainly: (i) The Bank Group’s Gender Strategy (2001) - The 2014-2018 Bank Group’s Gender Strategy (2014); (ii) the Framework for Enhanced Engagement with Civil Society Organizations (2012); (iii) the Policy on Disclosure and Access to Information (2012); (iv) the Handbook on Stakeholder Consultation and Participation (2001); (v) the Bank's Policy on Population and Strategies for Implementation (2002); and (vi) the Environmental and Social Assessment Procedures for Bank Operations (2015).

4.2.2. **Comparative Analysis between Tunisian Expropriation Law and AfDB’s OS2, Requirements**

The following Table presents an analysis of the convergences and differences between National Law (Law No. 2016-53 of 11 July 2016) on expropriation in the public interest and the Bank’s Resettlement Policy and Procedures.
<table>
<thead>
<tr>
<th>Theme</th>
<th>National Legal Framework</th>
<th>Bank’s Policy</th>
<th>Differences</th>
<th>Measures Adopted</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Framework</td>
<td>Law No. 2016-53 of 11 July 2016</td>
<td>OS2 of AfDB’s ISS</td>
<td>National policy and AfDB’s policy converge regarding eligibility criteria.</td>
<td>None</td>
</tr>
<tr>
<td>Loss of buildings/permanent loss of land,</td>
<td>Owners of registered buildings; Owners of unregistered buildings but who have a title deed; Presumed owners of an unregistered building if there is no objection after two months of advertisement of the property (Section 38 of Law No. 2016). Occupants or operators who have a lease agreement, business assets, rental agreement, etc.) Informal occupants of a building on State land (compensation based on surface area after approval from the Ministry of State Property and Land Tenure (MDEAF).</td>
<td>Eligible for compensation: Holders of formal land rights (including customary and traditional rights recognised by national legislation). Persons who do not have formal land rights at the time of the survey but who have a land or other title. Persons who do not have either formal rights or titles that may be recognised over land that they are occupying, provided they had been occupying the premises before the fixed date of eligibility</td>
<td>None</td>
<td></td>
</tr>
<tr>
<td>Permanent loss of trees and crops</td>
<td>Formal farmers are compensated for all crop and plant losses. Land owners; Persons who have a rental agreement; Operators of State land Presumed owner of unregistered land (if there is no objection after two months of advertisement of the property)</td>
<td>Formal farmers are compensated for all crop and plant losses.</td>
<td>The policies are similar</td>
<td>None</td>
</tr>
<tr>
<td>Degradation of property</td>
<td>Any damage or demolition of registered buildings, unregistered buildings that are justified by their actual owners and all buildings built by informal occupants of State land are compensated. Owners of private registered lands are compensated for any damage or demolition of buildings built on the land by informal occupants. Tenants of buildings to be expropriated are not compensated for loss of the property; rather, the owner who has the contract of sale</td>
<td>Any damage or demolition of buildings caused by the land acquisition process, regardless of their legal and land aspects, are compensated.</td>
<td>The policies are similar</td>
<td>None</td>
</tr>
</tbody>
</table>

16
Disadvantaged and vulnerable groups

<table>
<thead>
<tr>
<th>Disadvantaged and vulnerable groups</th>
<th>No specific legal attention is reserved for this category following expropriation.</th>
<th>Requires special attention with appropriate assistance, which should be provided based on the needs of the disadvantaged groups</th>
<th>Divergence between the two frameworks even if that is done in practice</th>
<th>Set aside specific measures for assistance to vulnerable persons</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Taken into account within the social framework (social assistance)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Resettlement assistance

<table>
<thead>
<tr>
<th>Resettlement assistance</th>
<th>Not mentioned in the legislation In practice, social assistance is provided</th>
<th>Occupants who have neither formal rights nor title deeds that may be recognised over land that they are occupying are eligible for resettlement assistance.</th>
<th>Significant divergence but that is offset in practice by social assistance</th>
<th>The programme does not call for any physical resettlement</th>
</tr>
</thead>
</table>

Eligibility deadline

<table>
<thead>
<tr>
<th>Eligibility deadline</th>
<th>At the conclusion of the work of the Public Projects Acquisitions Commission</th>
<th>At the end of the period for surveying affected persons in the project area</th>
<th>The policies are similar</th>
<th></th>
</tr>
</thead>
</table>

Information and consultation of rightful claimants

<table>
<thead>
<tr>
<th>Information and consultation of rightful claimants</th>
<th>The PAPs are informed during the study phase (through public consultation) The intention to expropriate is advertised through posting and submission of a descriptive list (comprising the names of the owners or presumed owners, the plot division plan of the project, the value of the provisional compensation for the property as set out by the designated expert) at the headquarters of the governorate, delegation, municipality, Regional Directorate of State Land and Land Tenure of the place where the property is located, and at the headquarters of the regional services of the party concerned by the project for a period of two months.</th>
<th>The RAPs must be provided on time and in an appropriate form that can be understood by the people affected, Information from the host community and national civil society organisations to help in validating and implementing the RAPs. Consultation is carried out through joint and separate meetings.</th>
<th>The policies are similar in practice</th>
<th></th>
</tr>
</thead>
</table>

Compensation measures

<table>
<thead>
<tr>
<th>Compensation measures</th>
<th>Several cases arise: • Amicable acquisition and voluntary assignment may be made for free or with compensation. In fact, compensation for the free transfer of small plots comes in the form of the benefit</th>
<th>Compensation must be based on the actual replacement value of the properties, resources or incomes lost, excluding depreciation. Land compensation is the often the preferred form. Compensation in kind may also be envisaged</th>
<th>The policies are similar in practice</th>
<th>None</th>
</tr>
</thead>
</table>
- Expropriation must be accompanied by fair and prior compensation.
- If the project is carried out on State agricultural land under a lease, the lease is terminated on the portion of the property needed for the project. The operator may be compensated for the residual value of investments on the portion that is being expropriated.
- Buildings of which part has been expropriated for purposes of public interest will be acquired in full if the owners demand it through a handwritten request within one month following the date on which the plot division plans are posted.
- The same applies to landed property that is reduced to one quarter of its original surface area following expropriation, provided the area of the non-expropriated plot is less than 10 acres and the expropriated land has no land contiguous to it that forms with it an area of at least 10 acres.
- Exchange of agricultural plots of the same value is possible.
- Temporary occupation (accessibility to the project): the PAPs are compensated by
  - the developer to cover the damages caused (felling of trees, demolition of the fence) and the plot should be restored in good condition upon completion of the project.

| Evaluation of losses caused       | Voluntary assignment of small plots free: no evaluation of losses. | Amicable acquisition: compensation is calculated by the expert on the basis of the agricultural and fiscal value of the property | Expropriation: the plot is evaluated based on expert reports and according to the content and actual use of the property compared to the prices charged for comparable properties in
<table>
<thead>
<tr>
<th></th>
<th>Compensation for property losses must be made at full replacement cost.</th>
<th>The real price of the property is taken into consideration in calculating the compensation.</th>
<th>None</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loss of means of livelihood</td>
<td>Tunisian legislation provides for compensation for loss of livelihood within the social framework</td>
<td>The loss of means of livelihood is also taken into account.</td>
<td>Comparable</td>
</tr>
<tr>
<td>----------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------</td>
<td>----------------------------------------------------------</td>
<td>------------</td>
</tr>
</tbody>
</table>
| Taking possession of expropriated properties | Possession of the expropriated property is taken following a request from the expropriated party by order of the President of the Court of First Instance with territorial jurisdiction and following the issuance of:  
- A copy of the order of expropriation for purposes of public interest  
- Proof of deposit of the compensation proposed by the expropriating party at the General Treasury of the Republic of Tunisia  
- Notification of the administration’s offer to the expropriated party  
- A copy of the survey report drawn up by the expropriator  
- A copy of the Commission’s report | Properties to be expropriated can only be acquired after the payment of compensation and, where applicable, the provision of resettlement land and travel allowances to the displaced persons. | The policies are similar in practice. Compensation amounts that have not yet been paid are deposited by the expropriator at the General Treasury of the Republic of Tunisia. |
| Redress | As a first step, the compensation agreement certificate is submitted for signature to the project affected person;  
- if there is an agreement, the compensation agreement | The resettlement plan must include dispute resolution procedures that are flexible enough to allow for a quick resolution of disputes over assessment. To that end, appropriate and accessible | The policies are similar in practice. Different procedures for negotiation and conciliation are |

The same area.

- Temporary occupation: Damage to crops and trees is assessed by the competent services if there is an amicable agreement. Otherwise, the two parties each appoint an expert to assess depreciation of the land and estimate the damage.
The certificate is signed and transmitted for signature by the other relevant parties and preparation of payment documents;

- if there is disagreement, negotiations are initiated with the Regional Public Projects Acquisitions Commission until an outcome acceptable to both parties is achieved, with possible recourse to a third party expert;

The expropriated parties cannot, under any circumstances, reverse their consent or ask a court to reassess the said compensation in the case where the compensation is fixed amicably. Court proceedings: Actions relating to expropriation for purposes of public interest, except for proceedings brought for abuse of power, fall within the jurisdiction of the courts, to the various extents provided for in the Code of Civil and Commercial Procedures. These actions fall primarily within the jurisdiction of the Court of First Instance of the place where the expropriated property is located.

| Monitoring/evaluation | Tunisian legislation does not provide for monitoring and evaluation. | The borrower is responsible for monitoring and evaluating the resettlement activities | Significant divergence | Measures agreed with donors: A final monitoring report will be issued and shared with EBRD and AfDB upon completion of the expropriation process. | envisaged. | inform residents about their rights based on the model included in the Environmental, Social, Health and Safety Procedures (ESSS). Establish a claims mechanism accessible to all persons affected by the sub-project. |
5. Estimated Displaced Population and Eligibility Categories

5.1. Estimated Number of Project-affected persons (PAP)

Based on the review of available documentation, field visits, discussions and public consultations held in the field with the main stakeholders, the beneficiaries and potential project-affected persons, a preliminary assessment of resettlement needs was carried out in accordance with the types of losses/inconveniences incurred by PAPs for sub-components likely to generate expropriations and resettlement. The Table below presents the main losses/inconveniences based on the facilities and infrastructure whose rehabilitation and/or construction is planned under the PDPFA-GZ.

<table>
<thead>
<tr>
<th>Type of loss/inconvenience</th>
<th>Irrigated Areas</th>
<th>Agricultural Roads</th>
<th>Hillside Lakes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permanent loss of lands and crops</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Permanent loss of land</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Permanent loss of trees</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Permanent loss of income and means of livelihood</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Work/Employment</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Temporary use of land during project works implementation</strong></td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Temporary use of land during project works</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>implementation</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Damage caused by the temporary use of land</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Vulnerable Groups</strong></td>
<td>No</td>
<td>Yes²</td>
<td>No</td>
</tr>
<tr>
<td>Vulnerable Groups</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

At this stage, while not exhaustive, the number of potentially project-affected persons (PAP) stands at 190 distributed as follows:

- Rural roads whose rehabilitation is planned: 104 PAP
- Rural roads, subject to studies: 70 PAP
- Hillside lakes: 16 PAP

It should be noted that no physical displacement has been observed.

5.2. Eligibility Criteria for defining the different categories of project-affected persons

Tunisian law recognises official ownership [with title deed] as well as informal ownership. Any project affected person or owner [legal or informal] identified in the RAP survey is considered eligible for the planned entitlements. In accordance with the rules of Law No. 2016-53 of 11 July 2016, the eligibility conditions for compensation and general provisions are:

- Expropriation in the public interest will be declared subject to the payment agreed upon on an amicable basis, or determined through legal processes. Expropriated property can be effectively taken possession of after the payment of a deposit or provisional compensation, as the case may be.

² Inconvenience for traffic and displacement of people in particular, the disabled, rural women and school attenders
---

- Exceptionally, an agreement may be entered into with the owner of the property in the form of compensation in kind if the expropriation concerns agricultural land, subject to protection regulations and within the limits of available reserves.

- Nonetheless, while the rights of the expropriated person to seek legal redress in accordance with the general principles of law must be preserved, the expropriation compensation referred to above may not, under any circumstances, include or involve amounts requested as compensation for indirect damages attributable to the implementation of the public project.

- No compensation shall be awarded for rights resulting from unlawful acts perpetrated for the purpose of obtaining the said compensation.

- Holders of rights to immovable or movable property who may claim compensation separately from that which is due to the owners will be notified of the proposals relating to them in accordance with the same compensation procedures.

- Expropriation in the public interest will be granted by government decree presented to the Administrative Court for an advisory opinion. The decree in question must indicate the nature of the property and the project to be carried out.

- Property of which a part has been expropriated in the public interest will be fully expropriated if the owners so desire by submitting a handwritten application, latest one month from the date of the notification stipulated in Section 24 of the present law.

- Notwithstanding all situations and all cases under petitionary action, ownership will be transferred to the expropriating party by virtue of the expropriation decree, while taking into account the provisions of Section 305 (new) 10 of the Real Property Code for registered property subject to the effect resulting from the registration.

- The transfer of possession of immovable property to the expropriating party may only become effective after payment of a deposit or provisional compensation set by the property expert of the State, or the judicial expert appointed by the project affected party.

For its part, the Bank’s Involuntary Resettlement Policy describes the eligibility criteria for the definition of categories of projected affected people:

1. People who have formal legal rights to land or other assets recognised under the laws of the country.

2. Those who may not have formal legal rights to land or other assets at the time of the census but can prove that they have a claim such as land or assets that would be recognised under the customary laws of the country. Under the project, customary owners comprise two types of property: property acquired based on ancestral rights over the land; and property acquired through acts of sale recognised by the community.

3. Those who have no recognisable legal right or claim to the land they are occupying in the project area and who do not fall in any of the two categories described above.

These people will be entitled to resettlement assistance in lieu of compensation for land to improve their former living standards (compensation for loss of livelihood activities, common property resources, structures and crops, etc.), provided they occupied the project area prior to a cut-off date established by the project.

The cut-off date must clearly be communicated to the local representatives, those present during the consultations as well as those met during the survey. In addition, a public announcement must be made by the Governorates. Persons who settle or invest in buildings in the area to be acquired after the cut-off date are not entitled to any compensation for such investments made after the cut-off date.
Persons who consider that they are entitled to compensation or assistance and were present before the cut-off date may submit a claim to the administration through the complaint management system.

The Bank’s policy therefore applies to all affected people regardless of their status, of whether they have formal title deeds or not, legal rights or customary rights provided they occupied the land prior to the cut-off date for eligibility.

5.3 Eligibility Cut-off Date

Determining the cut-off date is critical, for only those present in the project area of intervention on the cut-off date are eligible. This date corresponds to the date of identification of affected people that will be carried out when the detailed engineering designs are validated. The deadline must be clearly communicated to local representatives, persons present at consultations and to those met during the survey. In addition, an announcement to the public will be made by the governorates. People who settle or invest in buildings in the area to be acquired after the cut-off date are not eligible for compensation for investments that took place after the cut-off date.

6. METHODS OF ASSESSING THE VALUE OF AFFECTED PROPERTY

6.1. Damage Assessment

In accordance with the provisions of Sections 11, 12, 13, 14 and 15(d) of Law No. 2016-53 of 11 July 2016, the party concerned by the project will commission the expert of State administered property to determine the financial value of the property required for carrying out the project, as well as existing farms, buildings and structures. He/she may also assign one or several legal experts appointed through a court order. To that effect, the administrative entity concerned may obtain the necessary legal orders granting access to all parts of the property to be expropriated. The expert appraisal mainly takes into account: (i) the nature of the property; (ii) the actual purpose for which the property was used on the date of the publication of the expropriation decree; and (iii) a comparison with the current prices of similar property located in the same expropriation area on the aforementioned date; and (iv) the financial value of the property required for implementing the public project, regardless of its current use, as well as the values of existing farms, buildings and other structures, will be determined on the basis of their nature, use, and urbanisation level of their location for the purpose of the ongoing revision of the urban planning instruments where applicable.

A National Commission, chaired by the Minister in charge of State lands, will define the criteria for determining the financial value of the property necessary for the implementation of public projects, their components, and their revision modalities, as well as their update on a five-yearly basis, or as and when necessary. The list of criteria will be approved by government decree upon the proposal of the Minister in charge of State lands, and after the National Commission has expressed its opinion.

1.1 Planned Compensation Methods

1.1.1 Regulatory Requirements

The law makes provision for several methods for the acquisition of land for the purposes of public interest:

- **Amicable acquisition**: In the case of amicable acquisitions, two scenarios arise: (i) Acquisition free of charge (for a symbolic one dinar); and (ii) acquisition in return for compensation.

- **Voluntary assignment or donation**: Voluntary assignment of small plots is done free of charge for public interest projects. For these small areas, the owner can accept this gratuitousness as long as the project brings him/her something in return, a non-financial benefit.

- **Expropriation**: Compensation for expropriation is fixed according to the value of the building based on its content and the actual use to which it was put on the date of publication of the
expropriation decree and by comparison with the prices prevailing on that date for comparable buildings in the same area.

For each type of acquisition, a method is proposed for the valuation of property as described below. In the case of an amicable agreement with the owner or farmer, the assessment of damage to crops and other damage to trees during the temporary occupation of a plot is carried out by the competent services of the Regional Agricultural Development Commission (CRDA) and the Agricultural Land Agency (AFA) failing which both parties shall designate an expert responsible for assessing the depreciation of the land and estimating damages. The Temporary Occupation Authorisation (AOT) also requires the restoration of the plot on completion of the works and at site closure.

Valuation of affected property is carried out in accordance with the following acquisition modalities:

- **Amicable Acquisition:** In the case of amicable acquisitions, two scenarios arise: (a) acquisition free of charge (for a symbolic one dinar); and (b) acquisition in return for compensation. However, Tunisian law also provides for the possibility, in the case of a project in the national interest, of exchanging a plot for one of a similar value located on private State land. This option may be proposed to the transferor subject to the availability of land. There is no property valuation in the case of a free of charge transfer. If the acquisition is made amicably in return for compensation, the Land Valuation Commission (CET) – located in each region, presided over by a judge and composed of representatives of the Ministries of Agricultural, State Property and the Agricultural Land Agency determines the price of the plot based on its agronomic and fiscal value.3 A written administrative contract signed by both parties sets out the size of the plot acquired, the nature of the project carried out, the amount of the acquisition and the resulting transfer of ownership. The expropriation amount is registered in an accounting document and generally paid prior to works commencement (the farmer, regardless of whether he is the owner or not is the compensated person). The expropriation amount is calculated based on the value of the assessed building, depending on its size and its effective use on the date of publication of the expropriation decree and in comparison with prices for comparable buildings in the same area.

- **Temporary Occupation:** in the case of some works, the law provides for an amount of compensation to cover damage to crops, trees, and to compensate for the felling of trees and soil and water conservation structures. The Temporary Occupation Authorisation (AOT) also requires the restoration of the plot on completion of the works and at site closure. The expropriation amount is registered in an accounting document and generally paid prior to works commencement (the farmer, regardless of whether he is the owner or not is the compensated person). Otherwise, if there is no amicable agreement, an inventory is carried out prior to the works and is then reconciled with the post-works inventory. On that basis, the damage will be estimated and the compensation determined. Authorisations for temporary occupancy of property transferred in accordance with amicable agreements are generally verbal agreements between the owner or farmer and the administration or the works contractor. In the event of disagreement on the amount of compensation or if the temporary occupation is extended, the owner may initiate legal proceedings against the administration through the common law courts. The court normally requires that the land be restored to the owner and determines the amount of compensation.

- **Voluntary assignment or donation:** The procedure for the voluntary transfer of agricultural plots for projects in the public interest entails two stages and requires the preparation of two deeds: (i) a written notarial deed in which the owner states that he/she undertakes to transfer free of charge the plot the area of which is indicated to the administration concerned in order

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3 However, Tunisian law also provides for the possibility, in the case of a project in the national interest, of exchanging a plot for one of a similar value located on private State land. This option may be proposed to the transferor subject to the availability of land.
to implement the project; and (ii) a second administrative deed which mentions the agreement between parties, specifies the withdrawal of the owner of the plot and the resulting transfer of ownership. In the case of projects in the public interest, the voluntary transfer of small plots is carried out free of charge. For these small areas, the owner can accept this gratuitousness as long as the project brings him/her something in return, a non-financial benefit

- **Expropriation:** If the expropriation procedure is initiated because there was no agreement on the price fixed, the value of the plot is evaluated in the light of two reports, one prepared by the State expert, and the other by an expert listed among the judicial experts that the rightful claimants may choose. In the case where there is still no agreement between the expropriating party and the expropriated party, the expropriation compensation will be fixed according to the value of the building assessed based on its contents and the actual use to which it was put on the date of publication of the expropriation order and by comparison with the prices prevailing at that date for comparable buildings located in the same area.

- **Amicable acquisition and expropriation:** If the owner does not accept the acquisition terms, expropriation proceedings will be triggered. Owners who contest the amount proposed by the expropriator may refer the case to the courts to set new prices. The Court of Appeal is required to rule on appeals submitted within 3 months of referral to the court. The Court of Cassation also rules within 3 months of the date of the referral of the case to it. Ultimately, the last date for closing a case is 10 months and 10 days. If they are affected by a project in the public interest, the tenants on the land may also seek redress from the common law courts.

In short, the payment of the expropriation compensation determined amicably is subject to the prior registration of the transfer of ownership of the expropriated buildings or the fulfilment of the advertising formalities whichever may be applicable. The payment of compensation determined by the courts is subject to the delivery of a court decision with the force of res judicata. In the event of failure to reach an amicable agreement on the value of the compensation, and pending a final judicial decision, the expropriated party may apply to the court of first instance referred to for the withdrawal of the amount deposited in his/her name within the limits of the proposal by the expropriating party, provided that he/she has already fulfilled the registration or disclosure formalities stipulated in Sections 36 and 38 of Law No. 2016-53 of 11 July 2016.

### 6.2.2 Payment of Compensation

The payment of the expropriation compensation determined amicably is subject to the prior registration of the transfer of ownership of the expropriated buildings or the fulfilment of the advertising formalities whichever may be applicable. The payment of compensation determined by the courts is subject to the delivery of a court decision with the force of res judicata. In the event of failure to reach an amicable agreement on the value of the compensation, and pending a final judicial decision, the expropriated party may apply to the court of first instance seized for the withdrawal of the amount deposited in his/her name within the limits of the proposal by the expropriating party, provided that he/she has already fulfilled the registration or disclosure formalities stipulated in Sections 36 and 38 of Law No. 2016-53 of 11 July 2016.

In accordance with Tunisian Law, compensation payments are made by CRDA and the Ministry of Finance and must be made prior to works commencement. When the amount has been determined, the PAP opens an account (postal or bank) for the payment of the compensation.

Notwithstanding their land tenure situation or their content, possession may be taken of expropriated buildings following a request by the expropriated person by order of the President of the Court of First Instance with territorial jurisdiction and upon issuance of: a copy of the decree of expropriation in the public interest; evidence of the depositing of the amount proposed by the expropriator at the General Treasury of the Republic of Tunisia; notification of the administration’s offer to the expropriated person; a copy of the expert appraisal prepared by the expropriator with the report as stipulated under Article 20 of Law No. 2016-53 of 11 July 2016; and the copy of the report by the Public Projects Acquisition Commission.

The amount of compensation is determined amicably if the owners or expropriated parties accept the
expropriator’s offer and under no circumstances may they renege on their consent or refer to the court to reappraise the said amount. If the expropriated party did not accept the expropriator’s offer or was not informed of it, or if there is a dispute on the substance of the law or the quality of the applicants, the amount of compensation will be fixed by the courts at the request of the most diligent party.

7 PUBLIC PARTICIPATION AND CONSULTATIONS

7.1 Notification Procedure

In terms of public participation and consultations as part of the compensation and resettlement of project-affected persons, in accordance with the procedures provided for under OS2, of the Bank’s ISS, the following stages are involved: (i) dissemination of the FRP to stakeholders; (ii) information on the preparation of the RAP by sub-project; (iii) validation of the basic data at the start of RAP preparation; (iv) dissemination to the general public of the eligibility cut-off date; (v) dissemination of the compensation principles and scales as stipulated; (vi) participatory socio-economic survey among PAP, in order to become better acquainted with them, pursue a customised information approach, gather the population’s opinions, grievances and desires concerning the project; (vii) discussions with the local authorities and other local actors; (viii) validation and gathering of opinions, concerns of local residents and pap on the rap prepared following instructions in the FRP; (ix) public dissemination of the RAP adopted.

All public and other consultation meetings will be correctly documented.

7.2 Public Consultations

The operational approach retained – jointly by CRDA and the Bank for the project’s implementation is a results-based approach that aims to achieve environmental and social inclusion and sustainability. In order, therefore to achieve the expected results and ensure the sustainability of investments, the project will be implemented in accordance with a ‘participatory, partnership and inclusive’ approach in order to involve all stakeholders in particular central government institutions, non-State agricultural actors, professional organisations, specialised institutions, civil society including women’s organisations and the private sector. Implementation of the PDPFA-GZ will require the mobilisation and participation of all stakeholders including the beneficiaries and project-affected persons under the aegis of the authorities concerned.

As part of the preparation of the EISN, ESMP and FRAP from March to May 2019, public consultations were organised with CDR support and discussions were held with stakeholders. These informed the stakeholders on the project content, allowing them to negotiate such content and have their opinions, concerns and expectations taken into account. These consultations were the subject of reports attached in annex to the original EISN and FRAP reports.

The consultations provided an opportunity for the population to express its approval of, and support for the project’s implementation. However, when the project starts, it would be useful to organise formal public information and consultation sessions in order to listen to their grievances and update them on the details of the project’s implementation. In order to reach the direct beneficiaries, these sessions will be organised on work sites in the presence of the local, administrative and traditional authorities and will be open to all those people who wish to be informed, as well as to NGOs operating in the area. The objective is to inform and sensitize beneficiaries to the activities to be carried out, works duration, potential impacts, environmental and social measures and involvement of the population in the management and maintenance of the infrastructure created.

In the context of the validation of the ESIN and ESMP by ANPE, it is also planned to carry out a public survey consisting of informing the stakeholders, including the local communities and project-affected persons on the project’s environmental and social impacts and the handling of possible claims and complaints.
7.3. Dissemination of ESMP and FRAP/RAP

The project ESMP and FRAP summaries will be published on the Bank’s intranet site 30 days before the presentation of the documents to the Bank’s Board.

CRDA is required to disseminate the ESMP, FRAP and then the RAP to all stakeholders prior to project implementation.

7.4. Stakeholder Engagement Plan (SEP)

The consulting firm/NGO, recruited to produce and assist with the RAP’s implementation will also be responsible for preparing and implementing the Stakeholder Engagement Plan (SEP) aimed at mobilising all individuals, groups of individuals and institutions concerned by aspects relating to involuntary resettlement of the population. The SEP dedicated to resettlement is a clarification tool to more effectively manage the interests, fears, motivation and expectations of the different PDPFA-GZ stakeholders. It will lead to the preparation of a structured communication system and proposals for collaboration based on local motivations and competences. The SEP also contributes to increased and better-structured interactions between the different stakeholders and establishes the project’s social legitimacy. It is a key governance instrument that will prevent tensions and conflicts and foster collaboration around project-related activities.

7.5 Complaints and Dispute Resolution Mechanisms

The establishment and publication of a redress and complaint (grievance) resolution mechanism for PAP and other stakeholders is a fundamental requirement of OS2 of the Bank’s ISS. It is, therefore, planned that CRDA will establish a Complaints and Dispute Resolution Mechanism (CDRM) that will help to receive and facilitate the resolution of stakeholders’ concerns and grievances on project performance. This redress mechanism is an efficient, transparent, timely, fair and non-discriminatory system to provide injured parties with information and allow them to complain and prevent litigation and amicably settle complaints and avoid, to the extent possible, initiating legal proceedings and minimise bad publicity, avoid/minimise delays in infrastructure works and, finally ensure the achievement of PDPFA-GZ outcomes and the sustainability of the planned operations.

The consulting firm/NGO, recruited to produce and assist with the RAP’s implementation, specifies the procedures, rules and responsibilities of the actors especially concerning communication methods and channels, includes verbal and written options so that groups, individuals and/or socio-professional organisations or structures and others, can present (i) their grievances, dissatisfaction or concerns concerning the nature and scope of project impacts and programme activities and/or the resulting situations (unpredicted/unanticipated), (ii) the procedures organising and regulating the manner in which programme and project staff register, document and ensure the timely communication of grievances. These will guarantee that women and other vulnerable groups are consulted and motivated and encourage to clearly state their grievances, (iii) criteria, rules and procedures which would guide CRDA in considering and forming an opinion on the validity of complaints and grievances received and sending a formal response to external parties (including the source of the grievances), (iv) the bodies to be established for mediation and the amicable resolution of grievances, and (v) the monitoring and evaluation methods and responsibilities of the grievance resolution mechanism.

This same consulting firm/NGO will also be responsible for facilitating and coordinating this mechanism.

8 ESTIMATED INDICATIVE BUDGET FOR FRAP/RAP

8.1 Estimated Cost of Compensation

The planned rehabilitation of 31.5 km of roads will require the acquisition of about 112,000 m². The current price of land in the area of intervention is estimated at TND 30, which gives an acquisition cost of TND 3,360,000. To this amount must be added 10% to cover overheads and registration costs. Therefore, total land acquisition costs are estimated at about TND 3,700,000. Furthermore, if the possibility of removing the stumps
of 1,000 olive trees or fruit trees at a unit cost of TND 500, the total cost for compensation of uprooted trees will be TND 500 thousand. The total resettlement amount for the planned rural roads is **TND 4,200,000**.

As regards those roads that will be the subject of later studies, the total area required for their rehabilitation is 48,000 m² at a unit price of TND 30/m² of land. The cost of land acquisition for the roads that will be the subject of studies is TND 1,440,000 i.e. including overheads and registration, about TND 1,550,000. For removing stumps of an estimated 400 olive trees and other fruit trees at a unit price of TND 500, the required compensation amount is estimated at TND 200,000. The total resettlement amount for rural roads that will be the subject of subsequent studies is **TND 1,750,000**.

In the case of the hillside lakes, 16 of the 42 beneficiaries of the construction of hillside lakes will permanently lose land. Compensation resulting from this loss of land is estimated to be about TND 960,000. It should also be mentioned that the decision to develop these hillside lakes was taken at the beneficiaries’ request. The cost of compensation for the land required to construct hillside lakes, including 10% for overheads and registration, is **TND 960,000**. For removing stumps of an estimated 100 olive trees and other fruit trees at a unit price of TND 500, the required compensation amount is estimated at TND 50,000. The total amount of compensation for the planned hillside lakes is **TND 1,010,000**.

Factoring in 7% of the compensation amount i.e. TND 487,200, the total cost of compensation at this stage is estimated at TND 7,447,200

### 8.2. Other components of the FRAP and RAP implementation budget

The FRAP/RAP budgets will also include:

- The cost of recruiting a consulting firm/NGO to produce and implement the RAP;
- Operating costs relating to RAP implementation;
- The cost of capacity building for the bodies responsible for the RAP’s implementation;
- Cost of the communication plan;
- Cost of PAP social support actions;
- Relative cost of RAP monitoring and supervision;
- Cost of RAP implementation impact assessment.

These costs are estimated at 10% of the cost of compensation, i.e. **TND 744,720**.

The estimated implementation budget for this PDPFA-GZ Framework Resettlement Action Plan is **TND 8,191,920 i.e. about EUR 2,395,298 (EUR 1 = TND 3.42)**.

### 9 FRAP / RAP IMPLEMENTATION SCHEDULE

The FRAP and RAP will be implemented in accordance with the following indicative schedule:
10. MONITORING AND EVALUATION ARRANGEMENTS

10.1 Monitoring Component

The Resettlement Implementation Plan will be monitored at the level of each component and sub-component involving involuntary resettlement and/or expropriation/compensation under the supervision of CRDA by a specialised consulting firm/NGO mandated for that purpose. This monitoring will entail the physical and financial monitoring of the different actions and their comparison with the projections made in the resettlement plan preparation phases.

Monitoring will be the subject of a periodic report submitted to CRDA, the donors as well as institutions participating in the PDPFA-GZ and to the project stakeholders.

10.2 Evaluation Component

Evaluation of the direct effects and impact of the resettlement compared to objectives will be the responsibility of CRDA (Statistics Department) which will host, manage and exploit communicated and consolidated database at PDPFA-GZ. The resettlement–related indicators retained under the said project are performance-related with regard to the implementation of the operation in accordance with the requirements of national regulations and the Bank’s policy and procedures and OS2 of its ISS. Project objective-related indicators on poverty reduction and improvement of the living conditions of the beneficiaries and communities will also be retained.

A midterm evaluation study will be conducted and its objective will be to analyse and assess the achievement of the overall and specific objectives of the resettlement plan and adjust and refocus them based on performances and shortcomings observed throughout the resettlement activities and at the level of each full RAP or abbreviated RAP.
On completion of the resettlement activities, a completion report will finally be prepared to evaluate the related physical, technical, institutional, regulatory and financial performances of PDPFA-GZ. Also, in order to successfully complete this task, and in view of the consistency of the full or abbreviated RAPs and the complexity of their implementation, it will be necessary to strengthen the existing monitoring/evaluation mechanism through its computerisation and consolidation with a list of indicators, appropriate data collection, processing and use methodology.

In a bid to ensure greater efficacy, it is planned to build CRDA’s capacity through technical assistance to be carried out by the consulting firm/NGO recruited for the RAP’s production and implementation.

10.3 Monitoring-Evaluation Indicators

The following indicators are used to evaluate resettlement performances:

- **Output indicators** are established by resettlement action and are translated into output measurement parameters:
  - Number of households and people affected by the project’s activities,
  - Number of households and people physically displaced by the project’s activities,
  - Number of households compensated by the project,
  - Number of households and people resettled by the Project, and
  - Total amount of compensation paid.

- **Impact indicators** related to specific objectives of resettlement actions:
  - Compliance of implementation with objectives and methods recommended under the resettlement policy and the full or abbreviated RAPs.
  - Compliance of implementation with national laws and regulations as well as with the Bank’s policy,
  - Rapidity of monitoring process for compensation displacement and resettlement,
  - RAP satisfaction with compensation and resettlement measures received compared to losses suffered,
  - Viability of economic and socio-economic rehabilitation
  - Site development
  - Compensation of vulnerable groups;

- The impact indicators related to the programme’s overall objectives are impact assessment indicators linked to the programme’s global and sector objectives whose assessment reflects the outputs of several resettlement actions:
  - Indicators to improve the population’s living conditions such as income trends and access to basic socio-economic services;
  - Natural resource and environmental preservation indicators because of resettlement: servicing of new sites in environmental terms.
This list of performance indicators is indicative and non-exhaustive.

11. REFERENCES AND CONTACTS

11.1 References

The Summary was prepared based on the following documents:

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<td>Environmental and Social Management Plan, March-Avril 2019</td>
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<td>Framework Resettlement Action Plan (PCAR), May 2019</td>
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