

Report No. 49504-AL

The Inspection Panel 

Investigation Report

**ALBANIA: Power Sector Generation
and Restructuring Project
(IDA Credit No. 3872-ALB)**

August 7, 2009

About the Panel

The Inspection Panel was created in September 1993 by the Board of Executive Directors of the World Bank to serve as an independent mechanism to ensure accountability in Bank operations with respect to its policies and procedures. The Inspection Panel is an instrument for groups of two or more private citizens who believe that they or their interests have been or could be harmed by Bank-financed activities to present their concerns through a Request for Inspection. In short, the Panel provides a link between the Bank and the people who are likely to be affected by the projects it finances.

Members of the Panel are selected “*on the basis of their ability to deal thoroughly and fairly with the request brought to them, their integrity and their independence from the Bank’s Management, and their exposure to developmental issues and to living conditions in developing countries.*”¹ The three-member Panel is empowered, subject to Board approval, to investigate problems that are alleged to have arisen as a result of the Bank having non complied its own operating policies and procedures.

Processing Requests

After the Panel receives a Request for Inspection it is processed as follows:

- The Panel decides whether the Request is *prima facie* not barred from Panel consideration.
- The Panel registers the Request—a purely administrative procedure.
- The Panel sends the Request to Bank Management, which has 21 working days to respond to the allegations of the Requesters.
- The Panel then conducts a short 21 working-day assessment to determine the eligibility of the Requesters and the Request.
- If the Panel recommends an investigation, and the Board approves it, the Panel undertakes a full investigation, which is not time-bound.
- If the Panel does not recommend an investigation, the Board of Executive Directors may still instruct the Panel to conduct an investigation if warranted.
- Three days after the Board decides on whether or not an investigation should be carried out, the Panel’s Report (including the Request for Inspection and Management’s Response) is publicly available through the Panel’s website and Secretariat, the Bank’s Info Shop and the respective Bank Country Office.
- When the Panel completes an investigation, it sends its findings and conclusions on the matters alleged in the Request for Inspection to the Board as well as to Bank Management.
- The Bank Management then has six weeks to submit its recommendations to the Board on what actions the Bank would take in response to the Panel’s findings and conclusions.
- The Board then takes the final decision on what should be done based on the Panel's findings and the Bank Management's recommendations.
- Three days after the Board’s decision, the Panel’s Report and Management’s Recommendation are publicly available through the Panel’s website and Secretariat, the Bank’s Project website, the Bank’s Info Shop and the respective Bank Country Office.

¹ IBRD Resolution No. 93-10; IDA Resolution No. 93-6.

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Abbreviations and Acronyms

AMBO	Albanian Macedonian Bulgarian Oil
BP	Bank Procedures
CAPBV	Civil Alliance for the Protection of the Bay of Vlora
CAS	Country Assistance Strategy
CCGT	Combined-Cycle Gas Turbine
CORMIX	Cornell Mixing Zone Expert System
CTARA	Council of Territorial Adjustment of the Republic of Albania
EA	Environmental Assessment
EBRD	European Bank for Reconstruction and Development
ECA	Europe and Central Asia Region
ECSIE ECA	Infrastructure and Energy Sector Unit
EIA	Environmental Impact Assessment
EIB	European Investment Bank
EIRR	Economic Internal Rate of Return
EMP	Environmental Management Plan
EPC	Engineering, Procurement and Construction
ERR	Economic Rate of Return
EU	European Union
GoA	Government of Albania
GPRS	Growth and Poverty Reduction Strategy
GWh	Gigawatt hour
HFO	Heavy Fuel Oil
IDA	International Development Association
IFI	International Financial Institutions
IMF	International Monetary Fund
IPP	Independent Power Project
ISDS	Integrated Safeguards Data Sheet
IUCN	International Union for Conservation of Nature
KESH	Korporata Elektroenergjitike Shqiptare (Albanian Power Corporation)
KfW	Kreditanstalt für Wiederaufbau – German Development Bank
kWh	Kilowatt hour
MVA _r	Mega Volt Ampere reactive
MW	Megawatt
NGO	Non-Governmental Organization
NO _x	Nitrogen oxides
NPV	Net Present Value
NSSED	National Strategy for Socio-Economic Development
OMS	Operational Manual Statement
OP	Operational Policy
OPN	Operational Policy Note
PAD	Project Appraisal Document
PCD	Project Concept Document
PID	Project Information Document
QACU	Quality Assurance and Compliance Unit
SCGT	Simple cycle gas turbine
SEETEC	Southeastern Europe Electrical System Technical Support
TPP	Thermal electric power plant
TT	Task Team

TTL	Task Team Leader
TWh	Terawatt hour
UCTE	Union for the Coordination of Transmission of Electricity
UNEP	United Nations Environment Program
USTDA	United States Trade and Development Agency

Executive Summary

The Inspection Panel (the “Panel”) presents this Investigation Report in response to a Request for Inspection (the “Request”) dated April 30, 2007, related to the Albania Power Sector Generation and Restructuring Project (the Project). The Request was submitted by the Civic Alliance for the Protection of the Bay of Vlora² on behalf of local residents living in Vlora.

The Request raises a number of environmental, social, cultural and economic concerns related to the Project as designed. It contends that a failure of the Bank to follow its own operational policies and procedures in the design and appraisal of the Project will result in serious long-term risks and harm to the people living in the Vlora area and to the environment, in particular the Vlora Bay. Management considers in its Response that the Project was well prepared and that the issues raised in the Requesters’ complaint had been properly addressed, in compliance with the applicable Bank Policies.

The Panel notes the importance of the Project in addressing Albania’s electricity needs. The Panel determined, however, that the Bank did not comply with several provisions of Bank policies on Project Appraisal, Environmental Assessment, Management of Cultural Property, and Economic Assessment. The Panel also found significant shortcomings in compliance with the Bank’s consultation and participation policy requirements and with operational policy provisions requiring risk analysis.

The Project

The Project’s objectives are “*to achieve significant improvement in power system performance*” through two Project components: (a) construction of a combined-cycle thermal power station (Vlora Thermal Power Plant – Vlora TPP) and connection to the power transmission network; and (b) provision of technical assistance and training to the Albanian Power Corporation (KESH) for the implementation of the Project, improvement of operation of KESH and sector reforms and provision of training to KESH in procurement and environmental management.

According to the Project Appraisal Document (PAD), the Vlora Thermal Power Plant is designed to allow conversion from distillate fuel to natural gas if and when imported gas is brought to Albania. The plant size would initially be 85 MW – 135 MW depending on the evaluation of bids.

The total Project cost was estimated to be US\$112.66 million. In addition to the IDA Credit equivalent to US\$25 million (SDR 16.9 million), the Project is being financed through an European Bank for Reconstruction and Development (EBRD) loan in an amount of US\$37.5 million, and an European Investment Bank (EIB) loan of US\$37.5 million. KESH is contributing US\$12.66 million to the Project cost.

² The name Vlora (used in this report) is also frequently spelled Vlore and Vlorë. The three spellings are all interchangeable and do not signify practical difference.

The Content of the Requesters' Complaints

In addition to complaints regarding public participation and access to information, the Request to the Panel raises concerns about the environmental and social assessment, cultural heritage, and economic analysis. The Requesters claim the analysis and criteria used to determine the site were chosen to justify the selection of the Vlora site. They also express concern about the adequacy of Management's assessment of other fuels as alternatives to the use of distillate oil.

The Requesters express concern that air and water emissions from the thermal power plant (TPP) as well as the oil terminal located in the Bay's waters and its potential oil spills, will have negative polluting impacts on the tourism industry in the Vlora area, on the employment of the local population and on the fishing industry. They assert that the Environmental Assessment (EA) misrepresents the physical characteristics of the Project site and note the proximity of the Project site to the Narta Lagoon, which is a protected area and a sanctuary to important animals, and plants that might be significantly harmed by the Project.

The Requesters complain that the Bank failed to take into account the future cumulative environmental impact of additional generating units as well as the other industrial investments already approved by the Government in the vicinity of the Project. The Requesters assert that the Project design allows for and implies the expansion of capacity of the TPP, which will amplify its negative impacts.

The Requesters assert that the selected Project area has important archaeological, cultural and historical significance that was overlooked and not assessed during Project preparation and appraisal. They state that the construction of the Vlora TPP will harm this heritage and destroy the intrinsic interest and economic potential of the area as a tourist destination.

The Requesters also claim that the Project's economic analysis and risk analysis were not adequate and consistent with applicable Bank policies and procedures. The Requesters state that economic growth in the area is driven primarily by tourism and fishing, which are likely to be harmed by the Project. They consider that the risks and potential negative impacts on tourism activities and revenues for the Bay of Vlora and nearby communities were not taken into account and analyzed by the Project.

The Requesters assert that no adequate public consultation was carried out during the preparation of the Project, in violation of Bank policy. They claim that the few meetings on the project were not properly announced, that the information provided was incomplete, and that these meetings were simply formality as they took place **after** the Project site had already been selected and approved by Government authorities.

The Requesters also state that they first approached the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (the Aarhus Convention) Compliance Committee (the "Committee"), to allege that Albania was not complying with its obligations concerning public access to information and participation in the construction of a Bank-financed thermal power plant project and an energy park. The Committee accepted the request and initiated its own investigation, which concluded in June 2007. The Requesters point out that their complaints to the Aarhus Convention were found to be justified.

Management Response

The Management Response states that Albania has suffered from electricity shortages, and that domestic thermal generation capacity is needed to reduce dependence on electricity imports and to diversify domestic generation. Management indicates that the Project was assigned a “Category A” rating for Environmental Assessment (EA), due to potential significant impacts on the environment and the need for avoidance, mitigating and monitoring measures. Particular areas of concern include the impacts on air quality from stack emissions, water quality from cooling water discharge, and any ancillary impacts on the Narta lagoon.

According to Management, an analysis of alternatives was carried out; four sets of alternatives to the Project were examined, as well as other fuels as alternatives to the use of distillate oil. Management indicates that the option of a natural gas-fired combined-cycle unit at each of the proposed sites was found to be more costly than the distillate fuel option but that, if imported natural gas is brought to Albania, the Vlora plant could be readily converted to gas.

Management states that the EA provided sufficient in-field review and site characterization and that where field data was missing reasonable surrogates were chosen. After consultations with the United Nations Development Programme (UNDP) on the protected area around the Narta lagoon, it was concluded that the impacts on natural habitats would not be significant and hence the Bank’s safeguard policy on Natural Habitats would not be applicable.

Management states that based on a review of available TPP unit sizes from different manufacturers, bids were invited for a capacity between 85 MW and 135 MW, and the contract was awarded for a thermal power plant of 97 MW capacity. Management notes that construction of a TPP in the southern part of the country will reduce technical losses and significantly improve the security and quality of supply in the country overall and in particular in the south, which is poorly served at present. Management states that to its knowledge, the proposal for the energy park never advanced to the pre-feasibility stage that another onshore oil terminal concession is not related to the Project, and that due diligence for unassociated investments in the Project area did not need to be carried out by the Bank.

Management states that a public meeting was held in Vlora to discuss the findings of the final siting study and draft feasibility study, including a detailed preliminary environmental analysis and a draft outline of an EA. Management indicates that following the standard Bank procedures for Category A projects, public consultations were held early in the EA preparation stage. Management considers that the Project and its preparation respected the requirements of the Aarhus Convention.

In its Response, Management recognizes that there was insufficient review in the EA on the potential impacts on cultural property. Management indicates that after this issue was raised by the Requesters, a supervision visit was carried out in July 2006 and after the site had been approved. This visit concluded “*that the site is not of archaeological significance*” and that “*a surface survey of the selected site prior to the start of construction is neither necessary nor justifiable.*” Management states that the issue of tourism is not covered directly by Bank safeguard policies, but only indirectly as potential impacts on cultural property and natural habitats. Management does recognize that tourism adjoining the immediate site could

possibly be reduced, but that benefits of more reliable power for tourism in the area are “undeniable.”

The Investigation and Applicable Policies and Procedures

This Report concludes the Panel’s investigation into the matters alleged in the Request for Inspection. The purpose of the investigation was to establish whether the Bank complied with its own policies and procedures in the preparation, design, appraisal and implementation of the Project, and whether, if instances of non-compliance were found, they caused, or were likely to cause harm to the Requesters and the people they represent.

Then Panel Member Tongroj Onchan served as the Lead Inspector for the Panel’s investigation. Upon completion of Mr. Onchan’s term as Panel Member, Panel Chairperson Werner Kiene served as the Lead Inspector. To assist in the investigation, the Panel retained three expert consultants, who are internationally recognized specialists on the various issues raised in the Request: Prof. Michael Cernea, sociologist, and cultural heritage specialist, Prof. Richard Fuggle, environmental specialist, and Prof. William Ward, economist.

The Panel conducted its investigation first through detailed research into Bank records related to the Project and interviews with Bank staff in Washington, D.C. and in the Bank office in Tirana, followed by the in-country fact-finding visit, when the Panel met with the Requesters and other people, Government authorities, Project officials and Bank Staff in Tirana and visited the Project site in Vlora and alternative site in Fier, as well as the relevant cultural heritage sites in the area.

With respect to this Project, the Panel assessed whether the Bank complied with the following applicable Operational Policies and Procedures:

OMS 2.20	Project Appraisal
OP/BP 4.01	Environmental Assessment
OP/BP 4.04	Natural Habitats
OP/BP 10.04	Economic Evaluation of Investment Operations
OPN 11.03	Management of Cultural Property in Bank- Financed Projects
OP/BP 13.05	Project Supervision

The Panel’s analysis is reported in separate chapters on “*Environmental Compliance*”; “*Compliance with Social and Cultural Policies*”; “*Economic Evaluation of Alternatives*”; “*Consultation, Participation and Disclosure*”; “*Delineation of the Coastal Zone*” and “*Brief Conclusions and Outlook*.”

Environmental Compliance

In response to the Request, the Panel assessed issues related to environmental compliance, including the characterization of the Project site, the adequacy of the Project’s environmental assessment, the applicability of the Bank Policy on Natural Habitats to the Narta Lagoon, the Project’s impact on air and water quality, and assessment of potential cumulative risks and impacts related to the Project.

Characterization of the Project Site

The Requesters suggest a different characterization of the site selected for the Vlora TPP from that described in Project documents. They have taken particular umbrage to the physical characterization of the site as “*a six hectare green field site*” which “*is situated on a relatively barren coastal area with little vegetation or wildlife.*” To the contrary, the Requesters assert that the site is “*characterized by high population density, and is notable for its forest, marshland and salt pans.*”

The TPP site proper is very close to six hectares in extent. Before construction of the plant started, no buildings or other infrastructure were present within it. It is adjacent to the fishing harbor. The site is located on low (<1 meter) sand dunes forming the transition from the beach to a plantation of pine trees. What once had been pristine shoreline has deteriorated over the years due to past neglect. The distance from the site to the closest point of the Narta lagoon is closer to one kilometer, as the Requesters contend, not to two kilometers, as the EA described it; the distance from the site to the main body of the lagoon is over five kilometers. The site of the Vlora TPP lies south of the protected area boundary and in a zone labeled as an industrial park.

Different characterizations of the same location indicate divergent perceptions of the site selected for the Vlora TPP and of its relevance for the Vlora Bay’s overall development potential. Neither is completely wrong or completely right. The actual site under development was formerly a portion of a pine plantation, adjacent to low sand dunes—both degraded. The Vjose-Narta Protected Landscape lies to the north of the TPP site and has the characteristics identified by the Requesters. The actual site/footprint of the TPP is not a pristine natural area with high potential to attract tourism and the resulting development of tourism infrastructure. But the coastal portion of the Vjose-Narta protected area does have high potential to attract tourism, as does Zvërrneci Island and the Treport headland and the larger part of the Vlora Bay shoreline. None of these locations will be immediately impacted by the TPP, however there is a substantial medium-term and long-term risk that the “sense of place” of the Treport headland and Vlora Bay as a desirable tourist site would be changed through the presence and longtime operation of the TPP, oil terminal and possible further development of the industrial park.

Assessment of Project’s Studies

Pursuant to the Strategic Action Plan, a consultant firm was retained by the Albanian Ministry of Energy to evaluate technologies, fuels and sites for a new Albanian base load thermal generation facility. The study was conducted in two parts: first a general evaluation to determine preferred technology and site; second, a preliminary environmental, economic and financial assessment of the preferred option.

1. Siting Study

Potential sites for a thermal power plant were evaluated at Durrës, Korçë, Fier, Shëngjin and Vlora (where two sites were considered, A and B). The Panel notes that only two environmental parameters, one specific physical concern and one general social indicator were used, and that these together carry less than one fifth of the total weight.

Additionally, the arbitrarily determined weighting placed greater emphasis on quantifiable technical measures at a detriment to valuing social and environmental concerns and the tourist development potential of the Vlora Bay area. The consultant's site and technology study determined the Vlora B site to be the best for a distillate oil-fired, base load, combined cycle generation facility and recommended further detailed studies for this site.

2. Feasibility Study

A preliminary environmental analysis of the Vlora B site was subsequently undertaken by the same consultant firm between June and October 2002. This study used existing data to provide an overview of environmental and socio-economic conditions, potential project impacts, and proposed mitigation measures. This short analysis includes a six-page work plan and outline for completing an Environmental Impact Assessment during a subsequent stage of Project development. However, this study was not designed to meet the requirements for an Environmental Impact Assessment of a Category A World Bank funded project and it does not do so.

3. Environmental Impact Assessment

Upon completion of the Feasibility Study, the same consultant firm was commissioned by the Albanian Ministry of Industry and Energy to undertake the Environmental Impact Assessment for the selected Vlora site. This assessment was started in late 2002 and completed in October 2003, with an addendum to the EA added in December 2003. The Addendum was added to address concerns expressed by the Albanian Ministry of Industry and Energy, the World Bank, EBRD, and EIB following release of the Final EIA.

Project documents and correspondence regarding the selection of consultants indicate that Bank staff expressed serious doubts about whether the Project was in compliance with OP 4.01 in two respects. First, that the same consultants were preparing the Project Feasibility Study, and the Environmental Impact Assessment. Second, that the EIA was not providing input to the Feasibility Study. These concerns were not acted on or taken up in the preparation of the Environmental Impact Assessment undertaken in 2003.

Neither Project documents, nor the Management Response explain how the *post hoc* addition of materials through an Addendum overcame the factual objection that the EIA had not provided input to the siting and feasibility studies done before the Addendum was "added." The implication is that the Addendum was written as an ex-post-factum justification of the siting and feasibility done previously, in order to explain away an omission identified by staff earlier, but not properly corrected in time.

Analysis of Compliance with OP 4.01

1. The Selection of the Environmental Assessment Consultants

Despite the Bank's requirement that independent experts conduct the Environmental Assessment, the same consultants who had prepared the Project's siting and feasibility studies also undertook the Environmental Assessment for the Vlora TPP. As discussed above, Project documents and communication before Project appraisal between Bank staff show that they were aware of and concerned about this lack of independence and its consequence.

Bank staff sought to offset the requirement of independent assessment and the possibility of bias and conflict of interests by having a purportedly independent review of the EA undertaken. However, this review was undertaken by a company that had been awarded the lead role in a consortium to undertake the Southeastern Europe Electrical System Technical Support (SEETEC) Project, which aims to improve the use of electricity in the region, and thus the authors of the EA Review were also closely associated with electricity supply in Albania. The propriety of Bank staff recommending and accepting an “independent EA review” from a party also closely involved in electricity supply to Albania must be questioned.

The fundamental purpose of the Bank Policy on Environmental Assessment is to help ensure that Bank-financed projects are environmentally sound and sustainable and that environmental assessments improve decision-making. OP 4.01 also clearly places the onus on the Bank to advise borrowers of the Bank’s EA requirements. **The Panel finds that Management failed to ensure compliance with the requirements of OP 4.01, by allowing the Borrower to employ the same consultant that conducted the siting and feasibility studies for also undertaking the project’s Environmental Assessment.**

2. Consideration of Alternatives

Bank Policy on Environmental Assessment requires that various forms of alternatives be considered (OP 4.01, Annex B).

(a) Technological Alternatives

The 2001 Albanian Power Sector Strategic Action Plan and the 2003 Albania Energy Sector Power Transmission and Distribution Project both concluded that to assure a reliable firm supply of electricity throughout the year Albania must become less reliant on imports of electricity and hydropower generation, and instead develop new options for power generation. Technologies that provide non-firm energy cannot be guaranteed to be available at all times due to variable weather and seasonal conditions. **It is thus appropriate that non-firm technological alternatives were not considered further in the Environmental Impact Assessment.**

Technological alternatives capable of delivering firm energy were considered in the Final Siting Study, including both coal fired and combined cycle technologies, as well as alternative fuels and alternative sources of water for plant use and cooling. Although the discussion in the Siting Study is not reproduced in the Final Environmental Assessment, **appropriate technological alternatives for the Project were assessed. This is in accord with OP 4.01.**

(b) Site Alternatives

The sequence of preparatory studies undertaken for the Vlora TPP effectively negated the purpose of the Bank’s Policy on Environmental Assessment. A site for a new TPP was first determined on largely technical grounds, and a study of the feasibility of constructing a TPP on the selected site was done simultaneously. An Environmental Assessment followed, with a final addendum being made to the EA to supply *post hoc* justification for site selection. **The Environmental Assessment thus contributed nothing to improving Project selection, siting, planning, or design. The purpose of the Environmental Assessment was reduced**

to improving Project implementation after decisions to proceed had been taken. This process was not compliant with OP 4.01 paragraphs 1, 2 and 3.

The Final EIA failed to meet the Bank's requirements in respect of *inter alia* an analysis of alternatives. An Addendum to the EIA was consequently produced to redress deficiencies. The studies, neither individually nor collectively, ensure that "*environmental considerations are given adequate weight in project selection, siting, and design decisions.*" **Based on the foregoing, the Panel concludes that Management did not comply with OP 4.01 paragraph 5 by accepting studies that failed to meet the fundamental purpose of the Environmental Assessment policy. The Bank failed to insist on further appropriate studies to remedy shortcomings.**

4. Omission of Social Analysis

OP 4.01 requires that Environmental Assessments should "... *consider natural and social aspects in an integrated way*" and be "... *integrated closely with the economic, financial, institutional, social and technical analyses of a proposed project.*" The Panel's analysis found that the Environmental Assessment for the Vlora TPP, as well as the associated plant-siting and feasibility studies, have not done this. Social issues are also conspicuously absent from the EIA Final Addendum, as the specific social requirements of the EA were not considered. Thus, Project documents simply do not support the statement made in Management's Response that "*Project appraisal commenced in November 2003, with careful attention to the project's economic, technical, institutional, financial, and commercial aspects, as well as its social impact.*"

Based on its analysis of the Project documents, the Panel concludes that a large array of social issues and potential economic risks to the area population, resulting from design, siting, and impacts, were not considered in the Project's preparation and Environmental Assessments; this is not compliant with Bank policy.

There was also no integration between biophysical and social studies and between the Environmental Assessment and economic and technical studies. In all these respects Management has failed to ensure that the substance of OP 4.01 was complied with in the preparation and appraisal of the Vlora TPP. This finding is further corroborated by the Panel's analysis related to the socio-cultural aspects of the Project.

Narta Lagoon and Bank Policy on Natural Habitats

According to the Requesters, the Project will have significant impacts on the protected area and thus should have triggered the application of the Bank's Policy on Natural Habitats. With respect to the Requesters' concern about the Project's potential impacts on ecosystems (i.e. "*fisheries, natural habitat, ecosystem, coral colonies*"), Management indicates that the Project site is outside the protected area around the Narta lagoon and that the Environmental Assessment and measures to be taken during implementation are adequate. Management asserts that the Bank's Policy on Natural Habitats does not apply.

The Narta lagoon is an officially proclaimed protected area that meets the requirements of the IUCN classification of protected areas. The lagoon thus falls within the World Bank definition of a "critical natural habitat." As the Vlora TPP does not affect the Vjose-Narta protected area directly, it must be asked whether the lagoon will be affected indirectly, either

by severe air or water pollution. As neither liquid effluent nor process water will be discharged into the lagoon, and no significant ground water contamination is likely, water pollution will not likely occur. The technical design of the TPP to burn either distillate fuel oil or natural gas mitigates against significant atmospheric emissions from the plant. This, coupled with winds that are seldom from the south (toward the lagoon) makes it most improbable that a body of water as large as the lagoon can be significantly polluted by atmospheric emissions from the plant. Significant conversion of the lagoon is therefore not probable and does not provide a reason for OP 4.04 to be triggered.

As there is no reasonable mechanism through which the Vlora TPP can substantially reduce the Narta lagoon's ability to maintain its native species, such degradation also fails to provide a reason for triggering OP 4.04. **The Panel concludes that Management was correct in its determination that the Vlora TPP did not trigger OP 4.04. It follows that there is no reason to anticipate that the TPP will be harmful to natural habitats.**

Assessment of Impacts on Air Quality

Emissions to the atmosphere from the Vlora TPP have been calculated with due regard to the World Bank Pollution and Prevention Handbook. For this analysis, the well-established United States Environmental Protection Agency *Industrial Source Complex Model - Version 3* (ISCST3) was used.

Construction Phase: Fugitive dust emissions from plant operating during construction were modeled for ambient temperature ground level area source emissions. The maximum impact from construction activities was determined to be well within the air quality standards recommended by either the World Bank or the European Union.

Operational Phase: Model input comprised plant design data for effluent, stack and building configurations. Modeling was performed for two stacks each 46.9m high and 2.67m in diameter. An effluent temperature of close to 125C and a velocity of 25 m/sec were used. Effluent characteristics are commensurate with burning distillate fuel oil. A 500 by 500 meter three-dimensional receptor grid was employed for an area of 100 km², this being a square of 10 km side, with the TPP situated at the center point. **These inputs are appropriate.**

The potential for hill villages to be most severely affected by atmospheric emissions from the Vlora TPP was anticipated by Bank staff, who noted that "*...it is highly recommended that the modeling particularly addresses the situation for population [centrally] located also at the higher altitudes in the surrounding mountains. The result of the modeling should be the basis for deciding the height of the stack needed for the exhaust gases from burning oil and natural gas in the future.*" However, the Panel could not find any evidence that this strong recommendation has been acted on and that any attempt has been made to use atmospheric dispersion modeling to optimize the height of the TPP stacks.

Despite shortcomings in the meteorological input to the initial models used for the EIA, the results of the air quality modeling, confirmed by subsequent independent modeling using better meteorological data, indicate that atmospheric emissions from the Vlora TPP burning distillate fuel oil will be far below pollution levels indicated in World Bank and European Union standards designed to maintain a high quality atmospheric environment. **The Panel finds that atmospheric emissions from the Vlora TPP do not pose a significant risk of**

harm to either the human population of Vlora or the floral and faunal populations of the Narta Lagoon.

Assessment of Impacts on Marine Environment

Construction Phase: During construction, disturbance will occur due to installation of the cooling water intake and discharge outfall pipelines that are estimated to extend 600m into the bay. This work may involve dredging and disposal of excavated material and could potentially cause sediment release to the surrounding marine environment. The EIA is silent on the significance of potential impacts, but provides placatory statements as to likely effects on fisheries and coastal navigation. The onus is placed on the EPC contractor to ensure minimal environmental and social impact. However, the EIA recommends no mechanism for ensuring EPC contractor compliance. It neither provides for requirements for approval of method statements nor standards that must be met. **The EIA is deficient in this regard.**

Operational Phase: During TPP operation the marine environment will be affected by: (1) the water intake carrying along marine life; (2) the elevated temperature of cooling water discharged into the Bay waters; and potentially (3) oil spills during fuel delivery at the oil terminal located in the Bay waters.

Water Intake: The effect of water intake on marine life is treated in a perfunctory manner in the Final EIA and the potential extent or significance of the impact on either nature or plant operation is not discussed. The Final Feasibility Study states that investigations will be required before final design of the intake system to minimize impacts.

Elevated Temperature: The localized rise in water temperature from the TPP cooling water discharge is the parameter that receives most attention in the Final EIA. Thermal impact modeling was performed utilizing the United States Environmental Protection Agency supported Cornell Mixing Zone Expert System (CORMIX). The modeling results produce a less than 1C temperature increase above ambient water 23 m from the discharge point. This is far below the maximum allowable standard of 3C one hundred meters from the point of discharge.

Oil Spills During Fuel Delivery: The Final EIA devotes a mere three paragraphs to examination of the potentially serious environmental impact of potential oil spills during fuel delivery. Two pages are devoted to a proposal for an oil spill response and recovery plan. The Final EIA envisages the use of a disused oil off-loading facility for discharge of distillate fuel for the Vlora TPP. Despite this facility not being operational and having been out of commission for many years, no attempt is recorded of assessing whether the facility was fit for the intended purpose. In an interview with KESH, it was reported that the existing oil off-loading facility has been found to be completely derelict and that it is not feasible for it to be used to off-load fuel for the TPP. No alternative fuel off-loading facilities and their spill-prevention measures are analyzed in the Final EIA.

The Panel finds that failure to give consideration in both the Final EIA and the Addendum to the medium- and long-term risks associated with the construction phase and the alternative ways of delivering fuel to the Vlora TPP in the operational phase is a serious shortcoming and renders the Final EIA non-compliant with the OP 4.01 requirement that: “EA evaluates a project’s potential environmental risks and impacts in its area of influence,” where ‘area of influence’ is defined as the “area likely to be

affected by the project, including all its ancillary aspects, such as power transmission corridors, pipelines...”

The Panel is concerned that, due to this deficiency in the Final EIA and its Addendum, as well as in the PAD, the medium- and long-term risks to the Vlora Bay marine environment and beaches from potential spills when fuel is offloaded are not currently minimized and are not planned to be minimized before operations may start. The project documents examined by the Panel do not require the borrower to incorporate counter-risk measures and to monitor their effectiveness.

Cumulative Impacts

The Requesters assert that the Bank failed to take into account the future cumulative environmental impacts of one or more additional thermal power plants that would raise generation capacity at the selected Vlora site to as much as 300 MW, as well as the other investments known to be already approved by the Government in the vicinity of the Project site.

Additionally, the Requesters fear that the much-discussed Albanian Macedonian Bulgarian Oil (AMBO) pipeline will also terminate in Vlora and provide oil for a new refinery. The confusing series of official statements pertaining to the establishment of an “Energy and Industrial Park” in which the Thermal Power Plant is being situated justifiably compounds the population’s anxiety and concern.

Management states that the Project documentation shows the Vlora site could physically accommodate additional units for a total installed capacity of 300 MW. Management further states that *“the project being financed by the World Bank, EBRD and EIB is limited to one facility of 97 MW capacity and the final EA focused on that only.”* Management adds that *“[i]f the Government decides to proceed with additional generation units (either at the Vlore site or another location), then a new comprehensive EA will be required.”*

1. Other Energy-Related Projects in Vlora

Cumulative effects analysis does form part of a Sectoral Environmental Assessment. The Bank’s OP 4.01 Annex A states that a “[s]ectoral EA pays particular attention to potential cumulative impacts of multiple activities.” A sectoral EA is advised when there is *“a series of projects for a specific sector.”* As the Vlora TPP is a part of the “Albanian Power Sector Generation and Restructuring Project” and there is *prima facie* evidence that more than one energy related project is being undertaken in Vlora, Bank staff **should have insisted on a Sectoral EA and the associated cumulative effects analysis in addition to the project-specific Environmental Assessment.**

The potential cumulative effect of multiple oil loading/offloading facilities in close proximity in the Bay of Vlora depends on other subsequent industrial developments. The multiple operations may increase the risks of oil spills and affect the quality of water, the aesthetics and sense of place of Vlora Bay. A study of the factors hindering development of a single Vlora oil shipment terminal to service all demands for import and export of oil, gas and related products could help identify solutions and could obviate the need for multiple operations and attendant risks to Vlora Bay.

2. Possible Expansion of the Vlora Thermal Power Plant

There are documented indications that generation capacity at the Vlora B site may be increased in the foreseeable future, which will entail an amplification of predictable risks and harm. The Bank's Albania Energy Sector Study, Final Report of January 2003 proposes "...four 100 MW combined cycle units at Vlorë TPP" with two units being commissioned in 2006, one in 2007 and the last in 2014. The Final Feasibility Study for the Vlora TPP also evaluates the impact on Albanian electricity transmission of constructing 300, 200 and 100MW power plants at the Vlora B site. Management also states: "*Project documentation shows the Vlore site could physically accommodate additional units for a total installed capacity of 300 MW.*"

The World Bank's Guidelines for New Thermal Power Plants contained in its Pollution Prevention and Abatement Handbook state: "*When there is a reasonable likelihood that in the medium or long term the power plant will be expanded or other pollution sources will increase significantly, the analysis should take account of the impact of the proposed plant design both immediately and after any probable expansion in capacity...*" Despite this guidance, both the Draft and Final EIA for the Vlora TPP present data concerning atmospheric emissions and cooling water discharge only for the 100MW plant, omitting to assess the potential cumulative impacts of other expected and probable expansions in capacity.

Although the Draft EA gives some attention to atmospheric emissions and cooling water discharge from expanding the Vlora TPP from 100 to 300MW, the Final EIA remains silent on these cumulative effects. **The Panel notes that the omission of cumulative impact assessment of possible expansion of the Vlora TPP from the final EIA is not in accord with the Bank's own Guidelines for new thermal power stations.**

Compliance with Social and Cultural Policies

The Requesters assert that the Bank has underestimated and misrepresented the socio-cultural characteristics of the area, in particular the presence and significance of the archaeological and cultural heritage resources of Vlora Bay.

The Requesters further assert that, because Project documents did not identify and evaluate these cultural resources - the project preparation did not take into account the role of these cultural resources in the local economy and in the population's livelihood. They allege that the tourism industries (hotels, restaurants, transportation, etc.) are very significant to the local economy, but have been left out of the Bank's social examination and economic calculations for the Project. The Requesters contend that Vlora's comparative advantage as a cultural and beach tourist destination will be reduced because of the Project. The Requesters argue further that Vlora Bay has important associations with historic events and should be used for memorializing those events.

The Management Response takes the position that the Project site "*is not of archaeological significance.*" However, Management recognizes that the 'reconnaissance survey' demanded by the Bank's OPN 11.03 was not carried out during Project preparation and states that in 2006, about two years after Project approval, an implementation supervision mission was asked to review cultural property issues and confirmed the site-choice. According to Management's Response, the mission concluded that the site is not of archaeological

significance and that a surface study of the selected site prior to the start of construction was neither necessary nor justifiable.

Regarding the Requesters' concerns about tourism, Management stated that tourism is "*not an issue covered directly by Bank safeguard policies, but only indirectly through related issues such as potential impacts on cultural property and natural habitats.*" Management also noted that "*while tourism adjoining the immediate site could possibly be reduced, the benefit of more reliable power in the Vlore area (and generally in the southern part of Albania) for tourism is undeniable.*"

Bank Policies on Project Impacts on Cultural Resources

The Panel based its considerations of the social and cultural issues on the following Bank Operational Policies on Management of Cultural Property in Bank-Financed Projects (OPN 11.03), Project Appraisal (OMS 2.20), and Environmental Assessment (OP 4.01).

OPN 11.03 indicates that before proceeding with a project that includes large-scale excavations, Bank staff must take the following steps: (i) determine what is known about the cultural property aspects of the proposed project site; (ii) draw the government's attention specifically to impacts on those aspects; and (iii) consult relevant agencies, NGO's or university departments. OP 11.03 also indicates that if there is any question of cultural property in the area, a brief reconnaissance survey should be undertaken in the field by a specialist.

The Omission of Cultural Resources in Project Assessment

The feasibility study for the Project did not identify and consider the Vlora area's material cultural endowments, neither with respect to their location vis-à-vis potential Project sites, nor in terms of their contribution to the economic and tourist development of the area. Rather, it focused on technical and physical-environmental factors.

The borrower's EIA gave little attention to the presence of cultural resources in the area and incorrectly claimed that data on Vlora's cultural assets and archaeology are not available. The Final EIA stated that "[d]etailed information and data concerning cultural resources ... are not available." However, research by the Panel determined that detailed information on these cultural resources does exist, is widely available and is generally known, including data generated by research carried out by Albanian and international scholars.

The Panel found no reference in the Bank's Project files that the Bank, in turn, examined the presence of significant cultural endowments in the Vlora Bay area and their potential and actual role in the area's economy. Project documentation does not show evidence of the due-diligence specifically required by OPN 11.03 to "*determine what is known about the cultural property aspects of the proposed project site*" and to consult "*appropriate agencies, NGOs or university departments,*" neither during the preparation of the project, nor at appraisal.

Albania's *Act on Cultural Heritage* requires that investors in any industrial construction project "*consult with the experts of the Albanian Institute of Archeology and the Institute of Cultural Monuments*" during the preparation and implementation of their projects. The Panel was not able to find in the Project files any indication that either the borrower or the Bank itself has consulted with these Institutes before proceeding with the Project.

The Panel finds that from the early feasibility stages and up to Project appraisal the Bank did not seek to obtain information on the presence and role of cultural endowments in the Vlora area. The Bank did not ensure that the studies consider the likely risks and negative impacts of locating an industrial thermal plant in an area dependent on cultural and beach tourism. Thus the resulting Project concept and design overlooked these risks.

Based on these findings, the Panel concludes that the Project preparation, including both the feasibility and EIA processes, and Project appraisal, did not comply with the requirements of OMS 2.20 on the appraisal of projects, on risk analysis and with the procedural requirements of the Bank's Policy on Management of Cultural Property in Bank-Financed Projects (OPN 11.03). The Panel observes that the initial non-compliance with OPN 11.03 may have affected the analysis of alternatives that led to the selection of the Vlora B site.

The Lack of Social Assessment and the Absence of Social Risks Analysis

The Bank Policy on Project Appraisal (OMS 2.20), as well as OP 4.01, OP/BP10.04, and OPN 11.03, all require Bank staff to *integrate* into the project analysis the key economic, commercial, demographic, social, environmental, cultural and institutional dimensions. Accordingly, Bank staff is required to take into account the project area's population, its productive and economic activities, and sources of livelihood, and how a given project may impact on these. OMS 2.20 explicitly requires the identification and assessment of a project's "*sociological aspects*" during project preparation and appraisal.

Similarly, all three policies listed above, as well as other Bank policies and procedures require a "*formal risks analysis*" of the possible project-entailed risks. This analysis of risks should be also accompanied by their "disclosure", together with inclusion of recommended measures for risk-reduction. OMS 2.20 on Project Appraisal explicitly provides that "*...for projects with marginal returns or large risks, further quantification of the risks through formal risk analysis is also desirable. Where necessary, the appraisal also includes precautionary measures which should be undertaken to reduce the risks.*" In turn, OP/BP 10.04 requires staff appraisal reports to fully document the "*...results of the project's ...risks analysis and fiscal impact assessment.*"

The Panel reviewed the essential Project documents and found that neither a social assessment, nor a formal risk analysis, particularly of the medium- and long-term risks, were carried out for the Project, either during preparation, or at appraisal. Project preparation was narrowly techno-centric and did not give due weight to local, social, economic and cultural concerns. **The Panel finds that a broad range of social issues were not considered at all during preparation and appraisal, and corresponding social and economic analyses were not integrated into the fabric of the Project. Management failed to undertake the necessary sociological analysis and risks analysis of the Project's potential long term impacts and thus did not ensure compliance with OMS 2.20 on Project Appraisal. This deprived the Project's design of potential precautionary actions.**

The lack of a social analysis deprived project design and Management decision-making of crucial information and understanding about the Project's socio-economic context, the population's productive commercial and tourism income sources, and the pre- and post-

Project economy of the Vlora Bay area and its potentials for development. In particular, the risk that the presence of a thermal plant and its ancillary oil terminal may reduce the attractiveness of Vlora Bay to tourists was not explored and thought through. This omission has compounded the non-compliance with the Bank policy requirement of consulting the area population and learning from its concerns.

The Panel further concludes that these policy violations directly affected the decision about the Vlora TPP's location. The absence of a regular consideration of the project's sociological aspects is in contradiction with this Project's rating as Category A, which signals from the outset that the Project is expected to bring serious impacts and risks. The Panel's findings about the lack of an overall social assessment corroborate the finding outlined above about the omission of the social dimensions required for the EA.

The Panel also concludes that Management is not in compliance with the Bank's requirements for carrying out a risk analysis and for incorporating precautionary approaches and measures to prevent and reduce risks. The absence of a "formal risk analysis", as explicitly provided by OMS 2.20, and especially of the Project's medium- and long-term social and economic risks to the local populations, left an important gap in the Project's design and left the local population unprotected against the long-term risks to its businesses and incomes.

Omitted Analysis on Tourism Contributions

The Requesters argue that the Vlora community has a distinct tourism-focused economy that will be negatively affected by the Project, and that the potential impact of the Project on these activities and population groups has not been documented. During the Panel team visit, the Requesters emphasized that a considerable part of Vlora's population is employed in service activities related to tourism, and that investments have been made recently to further develop this sector.

Management provides two reasons why the Project did not address the long term risk of decreases in tourism. First, Management suggests that the losses to the Vlora population caused by tourism reduction in Vlora could be seen as acceptable because the benefits of more reliable power will accrue to the southern part of Albania, to which Vlora belongs. However, this justification would not stand if the economic, financial, and social losses due to decreased tourism outweighed the benefits of more reliable power. Benefits to residents of other parts of southern Albania do not alleviate direct harm to Vlora residents; for the latter no direct mitigation measures have been envisaged in the borrower's proposals and the Project's documents.

Second, Management states that Project's impact on tourism potential is not an issue covered directly by Bank safeguard policies. This reasoning is immaterial and unconvincing because the Bank's projects are subject not only to the safeguard policies but to all operational policies. Social impact risks and economic risks are covered in such policies as OMS 2.20 and OP/BP 10.04, both applicable to the Project. **The Bank's Project rationale did not place the Project in its surrounding social, economic, and demographic context, and left such risks outside its purview.**

Cultural Assessment after Project Approval

The Requesters sent letters to Management raising their concerns about cultural property in the Vlora Bay area. Specifically, beginning in 2006, letters were sent to assert that the studies done for the Project had not assessed the cultural heritage of the Vlora site and that further research should be done to ascertain their significance for the area. However, in April-May 2006, Management sent a “Threat of Project Suspension” to the Government, since the newly elected Government had delayed confirming the site for the power plant. Following the formal “Threat of Suspension,” the Government confirmed the Vlora site in mid-May 2006.

During July, 2006, two years after the Bank Board’s approval of the Project, and two months after the Government’s confirmation of the site following the Bank’s 2006 threat of Project suspension, Management undertook a Supervision Mission in response to the Requesters’ contention on cultural heritage issues. The mission aimed to determine whether supplementary information and investigation were needed to meet the requirements of Bank policy and Albanian laws and regulations regarding impacts on cultural property.

The mission concluded *“that the site is not of archaeological significance due to the known locations of the ancient city sites in the Vlore Bay region and the lack of any evidence of human habitation during digging for the adjacent fishing harbor in the early 1980s and beyond. Consequently a surface survey of the selected site prior to the start of construction is neither necessary nor justifiable.”* The mission stated that the Project complies with Albanian law and Bank Policy and noted that the Contractor should take reasonable precautions to prevent removal or damage of *“chance finds encountered during project implementation,”* as provided in Standard Bidding Documents. Subsequently, in April 2009, Management informed the Panel that during excavation works for constructing the TPP monitoring was carried out and that *“the records of the...excavation works show that subsurface materials encountered were mainly sand or soft sediments and probably of recent origin...No chance findings of archeological or cultural nature were encountered in the site works.”*

From its review of the Project documents, **the Panel observes that Management narrowed its analysis to the Project’s impact on the small patch of land (6 hectares) covered by the TPP itself, rather than assessing the potential implications of TPP siting for the greater Vlora area. While the Panel acknowledges that this mission was sent in recognition of the absence of a reconnaissance survey in an earlier phase, the Panel notes that such a retrospective mission—carried out after the approval of the site by the Government and the Bank—does not allow cultural property considerations to influence the TPP siting decision and its potential longer term impacts. The positive finding that during excavations for the TPP’s foundation no archaeological chance finds were identified removes the concern that the TPP footprint itself may forever cover significant archaeological relics. However, it does not eliminate the long-term risks and impacts that the presence and operation of the TPP brings to the larger Vlora Bay and its potential for cultural tourism development, as well as to the incomes and livelihoods of the local population. These risks and impacts are still to be addressed and mitigated.**

Vlora as a Site of Cultural Heritage to Memorialize Events

The Requesters also contend that the Project site is of historical significance as the site where Sephardic Jews landed in the year 1492 and sought refuge from the Inquisition in Spain and Portugal. The Requesters note that the siting of the Project would impede the plans of an international organization to make the landing site at Treport beach an “*International Memorial Park in Remembrance of Victims of Genocide in Europe.*”

The Panel’s investigation made a substantial effort to examine the facts implicit in this concern, discussed the matter with Albanian authorities during the Panel team’s visit to Albania, and the findings are presented in Annex C of this Report. In summary, based on existing scholarly research and discussions with international and Albanian scholars, the Panel has found that published archaeological and historical research has not identified the exact landing site of the Sephardic Jewish refugees at Vlora Bay and therefore the plant site cannot be regarded as such. However, published historic and demographic research does confirm that Vlora community was one of the destinations of refugees from the religious persecution.

The Panel notes that while memorializing is regarded as a historic and moral duty, memorializing does not necessarily depend on identifying the exact physical “footprint” of a specific event in order to express the ideas and the respect that are embedded in a memorializing activity. Current approaches to preserving historic memory include a broad spectrum of options and activities. It should be noted that, while there is merit in the Requesters’ desire to preserve the historical memory of past events relevant to the Vlora area, it is not in the competence of the Panel to make a judgment regarding the appropriate place and form to be used, nor is the memorializing of specific historic events in various countries an activity undertaken by the World Bank

Economic Evaluation of Alternatives

Economic analysis issues raised by the Requesters relate to (a) methods used in analyzing and choosing from among the Project alternatives (technology, fuel, and site), (b) failure to account for fisheries and tourism revenues lost to environmental damages that the Requesters say will accrue from the Project, and (c) failure of the economic analysis to reflect stakeholder concerns and risks resulting from the environmental and socio-economic impacts of the Project and its alternatives. The Requesters argue that Management’s analysis was designed to yield a site conclusion (Vlora B) that already had been decided.

Countering these charges, Management states that, in addition to a levelized cost analysis, seven candidate locations for a thermal power plant were evaluated in a decision matrix on the basis of ten weighted criteria, including environmental and social factors and that “*there are no internationally standardized approaches to conducting such site rankings, and [that] other evaluators might have chosen different ranking factors or weightings.*” Management states that both the levelized cost analysis and the 10-criteria analysis indicated that Vlora B was the best site for the project.

Bank Policies

To improve project design, increase the expected value, and diminish the risk of failure, OP/BP 10.04, Bank Policy on Economic Evaluation of Investment Operations, provides

that “[f]or every investment project, Bank staff conduct economic analysis to determine whether the project creates more net benefits to the economy than other mutually exclusive options for the use of the resources in question.” In addition, OP/BP 10.04 (paragraph 8), states that “the economic evaluation of Bank-financed projects takes into account any domestic and cross-border externalities.” The Policy notes that consideration of Project alternatives is “one of the most important features of proper project analysis throughout the project cycle. To ensure that the project maximizes expected net present value, subject to financial, institutional, and other constraints, the Bank and the borrower explore alternative, mutually exclusive, designs.”

Economic assessment is also a critical element of Bank Policy on Project Appraisal, OMS 2.20. In its discussion of the “Major Aspects of Project Appraisal,” the Policy outlines key project requirements, including provisions for economic aspects. The Policy requires that Bank-financed projects reflect the objectives of the Borrower and the Bank as an institution, and that “there are no alternative means of obtaining the same benefits at a lower cost to the economy.”

Analysis of Alternatives

The Siting Study presented three technology/fuel choices for each of seven potential project sites, yielding a total of 21 possible, mutually-exclusive project alternatives. The Siting Study found “The Vlora and Fier sites ...to be best from a transmission perspective since they would significantly improve the voltage profile throughout the Albanian power system, greatly reduce the number of substations with low voltage, significantly reduce system losses, and have reasonable interconnection costs.” Compared to the Fier site, the Vlora sites had the advantages of being able to use sea water for cooling and not needing a pipeline to transport fuel inland. Coal and natural gas alternatives were more expensive, mostly due to structural costs associated with obtaining these fuels.

Management used the levelized cost calculation to analyze fuel choice and other economic factors affecting the efficiency of operation at different sites. Those procedures conform to good practice guidelines for economic analysis of alternatives.

However, in the overall site decision matrix, of the ten factors used in the ranking of alternatives, eight are also included in the levelized cost calculation, which is itself included as a factor. However, two factors in the decision matrix were not included in the levelized cost: (1) “air quality concerns” (Weight of 8%), and (2) “socio-economic concerns” (Weight of 8%).

Eighty-four percent (84%) of the total subjective weighting is thus given to factors whose impact has already been included in the calculation of the levelized costs of each alternative (with a few exceptions such as cooling water at Fier). In other words, these factors were included in both the levelized cost calculations and again in the “decision matrix.” This makes levelized cost the dominant factor in site selection, greatly reducing the influence of social and environmental concerns. However, even if social and environmental concerns had been given greater weight than the double-counted levelized cost factors, the social assessment was not carried out, and thus, no actual data could be included for this criterion.

Furthermore, there were no changes to initial suggestions for weights and scores in the decision matrix, which were in a sense arbitrary as suggested by Management. The

weights/scores were presented in the Siting Study, before the EA was conducted, and never revised prior to the final selection of alternatives. The fact that the weights and scores did not change from the siting study to the Project Appraisal Document (PAD) presentation suggests these values were not negotiated with stakeholders, which is consistent with the charge by the Requesters that there were not sufficient and meaningful consultations with the affected parties. The absence of such consultations is specifically documented in a distinct chapter of this report.

The Panel finds Management's efforts to account for social and environmental impacts inadequate. First, key stakeholders were not given an opportunity to suggest modifications to the criteria and weights assigned in the site selection decision matrix. Second, by including the same factors from the levelized cost measure, as well as the measure itself, in the site selection matrix, Management effectively "crowded out" the influence of social and environmental factors. Finally, even if social factors were given increased weight in the model, without a proper social assessment they could not properly account for the risks and impacts caused to the surrounding community.

The Panel finds that as a result of errors in the incorporation of levelized cost measures and improper accounting for social and environmental impacts in the decision matrix, Management failed to comply with the requirements of OP 10.04 and OMS 2.20 in terms of preparing an economic appraisal that identifies and quantifies all costs, including opportunity costs, associated with the Project.

The Alternative of a New Distillate-Fired Plant at Fier

The Siting Study concludes that a new distillate-fired, combined cycle plant at Fier would be the second-best alternative to the Vlora B site, based on the analysis of differential costs.

Based on calculations detailed in Chapter 4 of this Report on Economic Evaluation of Alternatives, the advantage in annualized cost enjoyed by the Vlora B site is \$1.773 million. However, this figure reflects "internalized costs" and does not include "externalities" that might be imposed upon fisheries and tourism interests, which are the subject of the concerns raised by the Requesters.

Taking into account the cost differences between a TPP at Vlora B versus a TPP at Fier, the relevant question with respect to fisheries and tourism externalities is: "Will any reasonably-expected negative impact upon fisheries and tourism at the Vlora B site amount to more than \$1.773 million per year, the order of magnitude of differences in the net costs of supplying energy to the Albania grid from the Vlora B site rather than from the Fier site?"

Economic Assessment of Externalities

Adding together the estimated value of the Vlora area marine fishery and the Narta Lagoon fishery, the result is possible damage from a TPP sited at Vlora B amounting to \$843,000 per year. Doubling this estimate of the reported catch to account for possible under-reporting and assuming a 100% loss of the Vlora marine and Narta Lagoon fisheries, the economic value of lost fisheries still will not exceed the estimated cost differential of \$1.773 million between the Vlora B site and the Fier sites.

While coastal and marine fisheries are relatively minor parts of the Albanian economy, tourism plays a much larger role and therefore presents greater potential for material impacts from TPP siting externalities. In spite of insufficient information about past international tourism, domestic tourism is an important source of livelihood for the local population and there are ongoing plans to further promote national as well as international tourism at Vlora.

Site visits and interviews would have revealed the locally perceived importance of tourism and suggested design (siting) changes intended to remove or ameliorate potential damages, or worry concerning damage, to fisheries and tourism. Bank Policy on Project Appraisal recognizes that country and sector analyses often provide inadequate background work for project development and goes on to say that: *“Such cases require both a more thorough analysis of the key sectoral policies during appraisal and the development of a well defined program of studies needed to improve sectoral understanding for future operations; if necessary, such studies could be included in the project.”* With or without such supplementary studies, good practice for project preparation and appraisal missions involves visiting the project site, interviewing local stakeholders and incorporating the findings from those discussions into back-to-office documentation. There is no evidence in the documentation that this was done.

Based on the Panel’s investigation, it is apparent that there was reasonable evidence for Management to be concerned about the long term risks and adverse effects that a TPP at Vlora B site would impose on Vlora’s fisheries and tourism industries. **The Panel finds that the Management’s economic analysis did not account for important externalities which may have a material impact on the levelized cost analysis.**

Consequently, the Panel concludes that the economic assessment by Management does not comply with OP 10.04 that states: *“the economic evaluation of Bank-financed projects takes into account any domestic and cross-border externalities.”*

Consultation, Participation, and Disclosure

The Requesters assert that no adequate public consultation was carried out during the preparation of the Project. They claim that most of the meetings were not properly advertised and that the Project information provided to the public was incomplete. They contend that such meetings as did occur were perfunctory, because they took place **after** the selection of Project location.

The Requesters note that on April 27, 2005, they submitted a complaint to the Aarhus Convention Compliance Committee (“the Aarhus Committee”) documenting Albania’s non-compliance with its obligations under the Aarhus Convention. The Requesters note that the Aarhus Committee accepted their complaint as justified and found the consultation procedures concerning the power plant to be in violation of Art.6 of the Aarhus Convention. The Requesters assert that World Bank procedures during the lead up to the Project were also in violation of Albanian laws on the environment, public participation and cultural heritage, as well as EU directives and Bank Policies.

Management states that they have complied with all applicable policies on consultation and disclosure of information. Management states that the draft siting study (June 6, 2002), the draft feasibility study (August 6, 2002) which includes a detailed preliminary Environmental

Analysis section as well as a draft outline of an EA, and the final siting study (October 21, 2002), were discussed in a public meeting in Vlora on October 31, 2002.

Management claims that the Project followed standard Bank consultation and participation procedures for a Category A project. Management contends that “*no major objections were raised with the Bank regarding the selection of the Vlore site during the EA process from April 2003 through Board approval.*”

Review by the Aarhus Convention Compliance Committee

The *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (the Aarhus Convention) is concerned with the actions of the states that have accepted it (Parties). Regarding the decision to select the site for the thermal power plant, the Aarhus Committee concluded that the only element of public participation in this phase of the process appears to have been the public meeting that took place on October 28 or 31, 2002. With respect to that meeting, the Aarhus Committee concluded the following: “*The unclear circumstances surrounding the meeting in October 2002, and the failure of the Party concerned to provide anything to substantiate the claim that the meeting was duly announced and open for public participation, as well as concerns about the quality of the meeting records, lead the Committee to conclude that the Party concerned failed to comply with the requirements for public participation set out in paragraphs 3, 4 and 8 of article 6 of the Convention.*”

The Aarhus Committee also reviewed and commented on the meetings that took place on April 2 and September 3, 2003. The Aarhus Committee concluded that, because those meetings took place after the decision to approve construction site in Vlora, those events “*therefore cannot be considered as events contributing to the involvement of the public in that decision.*”

The Aarhus Committee further noted that Albania did not provide any information “*to demonstrate that the meetings in April and September 2003 were publicly announced, so as to allow members of the public opposing the project to actively take part in the decision-making.*” In addition, the Aarhus Committee stated that Albania did not “*give any reasonable explanation as to why the rather strong local opposition to the project, indicated by the 14,000 people calling for a referendum, was not heard or represented properly at any of these meetings.*” With respect to the meetings held on April 2 and September 3, 2003, the Aarhus Committee concluded that “[t]his gives rise to concerns that the invitation process also at this stage was selective and insufficient.”

The Aarhus Committee found that: “[a]lthough some efforts were made to provide for public participation, these largely took place **after** the crucial decision on siting and were subject to some qualitative deficiencies, leading the Committee to find that the Party concerned failed to comply fully with the requirements in question.” (Emphasis added)

International Environmental Obligations under OP 4.01

In accordance with OP 4.01, project’s EA must take into account, *inter alia*, the country’s obligations pertaining to project activities under relevant international environmental treaties and agreements. OP 4.01 states that the Bank does not finance project activities that would contravene a country’s obligations under any such international treaty or agreement.

As noted above, with respect to the proposed thermal power plant, the Aarhus Committee concluded that Albania failed to comply with the requirements for public participation set out in paragraphs 3, 4 and 8 of Article 6 of the Aarhus Convention.

Based on the foregoing, the Panel finds that Management did not ensure that Project preparation activities complied with the consultation and public participation requirements of the Aarhus Convention. This does not comply with OP 4.01.

Main Issues in the Bank Project's Public Consultation Process

1. Public Consultation and Disclosure during Project Preparation

(a) Meaningful Public Consultation

Bank Policy on Environmental Assessment OP 4.01 deals with public consultation and requires that for all Category A projects, the borrower should consult with project-affected groups and local NGOs about the project's environmental aspects, taking their views into consideration. OP 4.01 is explicit that the borrower must consult affected groups and local NGOs "*as early as possible*" and "*at least twice*": (a) first, after the first environmental screening (desirably, immediately after) but before the terms of reference for carrying out the EA are finalized; and (b) second, once the draft EA report is prepared. Further, OP 4.01 specifically requires that "[f]or meaningful consultations between the borrower and project-affected groups and local NGOs on all Category A and B projects proposed for IBRD or IDA financing, the borrower provides relevant material in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted." By requiring the borrower to timely disclose such project-related information, the Bank aims to enable project-affected populations and local NGOs to express their perceptions and locally informed knowledge about risks and concerns that the project may cause to them.

In 2002, after the Bank indicated a willingness to finance and assist the Government of Albania (GoA) in raising finances for a new thermal power plant, the GoA hired environmental consultants. The draft Siting Study completed by the consultants made two recommendations: the Vlora B site as the best location; and distillate oil-fired, base load, combined cycle plant (allowing for conversion to natural gas) as the best generation technology. On June 21, 2002—two weeks after the draft Siting Study was released—the GoA, through the Ministry of Energy and KESH, approved the consultants' recommendation. On October 21, 2002, the consultants completed the Final Siting Study and Final Feasibility Study.

On October 31, 2002, a public meeting was held in Vlora to introduce the Project and begin the public consultation process. On February 19, 2003, the National Council of Territorial Adjustment of Albania approved the siting of the thermal power plant in Vlora. The Council of Territorial Adjustment on the same date, on February 19, 2003, issued two additional decisions: the first, to approve the use of the territory for the development of an industrial and energy park; the second, to approve the construction site for a coastal and oil terminal for the storage of oil and oil-by products and also to approve the construction of additional port infrastructure in Vlora Bay to service the oil terminal.

On April 2, 2003, a public meeting was held in Vlora to discuss the terms of reference for the EIA study, and on September 3, 2003, a public meeting was held to discuss the draft EIA study. Management indicates that the meetings held on April 2 and September 3, 2003 correspond to the two EA consultations required by OP 4.01 for a Category A project.

For Category A projects, OP 4.01 requires public consultation to take place in parallel with the preparation of the EA, because the EA is the main tool for decision making on environmental issues, including the siting of a project and the analysis of alternatives. In this case, the EA provided *post hoc* justification to the site, because the site had already been selected before any consultation. It is critical to note that the April 2 and September 3, 2003 meetings referred to by Management as the two EA consultations required by the Bank for a Category A project were held *after* the GoA had approved the siting for the Project without public discussion or input.

The EA consultation for this Project created only the appearance of consultation, while contributing nothing to improving Project selection, siting, planning or design of the Project. **The Panel concludes that through a deficient EA process, Management failed to ensure meaningful public consultations for the Project, which is not in compliance with OP 4.01.**

(b) Extent of Public Consultations

From the details of consultation and disclosure, it is clear that Management satisfied itself with only the minimum requirements of OP 4.01. Thus only two, possibly three, public meetings were held to engage affected parties. There is no record of any attempt to proactively engage local NGOs, professional bodies or business organizations through focus group discussions, open houses, workshops, or other means before key decisions about the Project were taken. Management could not point to any specific concern of Project affected groups that had been taken into account in the Environmental Assessment.

Based on review of the Project timeline and analysis of Project documents, **the Panel does not agree with Management's view that under Bank Policy such minimal involvement of affected parties after critical decisions regarding the Project have been made constitutes "consultation and disclosure of information ... during project preparation in a manner satisfactory to the Bank..."**

(c) Notification and Public Participation

The issues of who was notified of the consultation meetings, the content of the notifications, and who actually participated were independently analyzed by the Aarhus Convention Compliance Committee during its review. Because the requirements of OP 4.01 on public notification, disclosure of information and participation by the borrower are substantially similar to those of the Aarhus Convention--and because the Panel verified in its own investigation the facts examined by the Aarhus Committee--the Panel reaches the same conclusions as the Committee regarding the inadequacy of the notifications, disclosure of information, and public participation during Project preparation. **The Panel concludes that Management failed to ensure adequate notification to the Project affected people and local NGOs and to secure their participation in consultation meetings as required under OP 4.01.**

(d) Disclosure of Documents

In Category A projects, for the initial consultation (i.e., before the ToR for the EA are finalized), the borrower has the responsibility to provide a description of the project's objectives and potential impacts. For consultations after the EA report is drafted, the borrower should submit to the public a summary of the EA conclusions, so that those consulted can meaningfully react and comment on such conclusions.

The Meeting Notes for the April 2, 2003 meeting indicate that the agenda and "*a copy of the environmental section of the terms of reference in Albanian were distributed to the attendees,*" instead of making these documents available prior to the meeting, as the Policy requires. With respect to the October 31, 2002, meeting, there is no indication in Project files of the documentation that was disclosed, if any, prior to the meeting.

The Meeting Notes of the September 3, 2003, meeting state that the draft EIA was disseminated on July 20, 2003 in three different places in Vlora (Prefecture, Municipality and District) and that over 20 copies of the Albanian EIA summary were distributed in different local government institutions and NGOs and were available for public comments until September 20, 2003. This is the only reported instance of timely information, contrasting with the meetings of October 31, 2002 and April 2, 2003. However, **this single instance of public notification does not sufficiently meet the requirements of OP 4.01. Overall, the Panel concludes that Management failed to ensure satisfactory public disclosure of Project information to interested local area stakeholders.**

2. Consultation Throughout Project Implementation

(a) Local Community Efforts to Voice Concerns

The Panel notes that efforts by local community members to voice Project-related issues to Management were made throughout Project preparation and implementation, and they began long before the formal complaint and request for inspection were submitted to the Panel and before the TPP's construction started. .

Apparently the first such complaint was sent to Management as early as June 30, 2005, two years before the Panel was contacted. That first complaint was a collective letter co-prepared by a number of local NGOs and local scientists. The umbrella local organization submitting it was the aforementioned Civic Alliance for the Protection of the Bay of Vlora, which had been established by frustrated local citizens in March 2005 in response to the lack of consultation in the decision-making processes related to energy projects in Vlora Bay.

This initial letter was followed by numerous others. In response to these letters, the Bank staff essentially rejected all environmental, cultural, legal, and economic criticisms brought against the Project. During 2005-2006, the justification and rationale of the Project, and particularly the siting of the TPP in Vlora Bay, also became subject to increasing public debate prior to the national elections.

During this time, in addition to the aforementioned communications with Management, numerous public demonstrations were held by the Civic Alliance for the Protection of the Bay of Vlora and the Vlora Student Movement. In 2005, the Requesters initiated a petition

requesting a local referendum on the Industrial and Energy Park and the TPP, and collected 14,000 signatures.

(b) Change of Government and Threat of Suspension

Elections took place in Albania on July 3, 2005. The immediate impact of the change of government on the Project's implementation was a long period of stagnation and uncertainty, despite the Project having had Board approval and the credit becoming effective in January 2005. The Project could not proceed without the Albanian Government's site clearance, and the new Government did not confirm acceptance of the Vlora site to the Bank and to KESH.

To respond to the concerns of the local population, the newly-elected Government established an ad-hoc commission to review the siting of a number of large infrastructure projects that were being contemplated for the area, including the Vlora Thermal Power Plant. However, despite the fervor of activities that were taking place in Vlora related to the Project, Management did not re-examine the design and siting of the Project or further assess its possible risks and negative impacts. Instead, Management requested the new Government to confirm and clear the construction of the TPP at the Vlora site.

On April 6, 2006, the Bank sent a formal letter to the Government of Albania in which it requested the Government *"to convey by April 30, 2006 its final decision as to whether or not it intends to proceed with the construction of the plant at the Vlora site."* Management stated in the letter that if the Government could not reach a decision by this date, Management would start the process to apply remedies under the legal agreements.

The deadline of April 30, 2006, passed without Government approval for the Project site. Consequently a "Threat of Suspension" letter was sent to Albania's Ministry of Finance on May 5, 2006, formally indicating that *"Credit 3872 will be suspended if the final decision of the Government on the siting of the Power station is not conveyed to us by May 31, 2006."*

On May 17, 2006, Management received a letter confirming the Government's agreement on the original planned site of the thermal power plant. The letter noted that *"regardless the local environmentalist organizations' concerns, we organized once again a broad consultation process with various players, and we ultimately support the realization of the project."* As a result, the Bank withdrew its threat of suspension, and Project implementation at the Vlora site continued.

(c) Communication with the Government and Requesters

Beginning in 2006 and during the time of the aforementioned correspondence between the Bank and the Government, public response to the Project intensified and Management received numerous letters from the Requesters, particularly regarding the siting of the Project and its possible impact on the cultural heritage of the Vlora Bay area. The Bank responded, on the one hand, by answering some of the complaints with requests for additional information, stating to the Requesters its willingness to carefully consider the issues raised by the local population. Yet at the same time, the formal procedure for the suspension of Project funding had been initiated. Management conducted an assessment of cultural property at the intended TPP site only *after* the threat of suspension and the letter of confirmation from the Government. The Panel notes that had Management paid serious attention to concerns about the area's cultural assets and their potential for the area's development, the objections could

have been studied and the siting of the plant could have been re-examined taking into account the Requesters' arguments.

The Panel notes that there was plenty of time to re-examine the EIA and other issues brought to the Bank's attention by Vlora residents and members of local civil society beginning in 2005 and before August 2007 when the actual construction work of the TPP started.

The Panel finds that, despite the increasing public concern and political contention around the Project, Management failed to ensure that the Project-area population and local NGOs were meaningfully consulted throughout the preparation and implementation of the Project on environmental, social, cultural, tourism and health related issues that affect them. This is not in compliance with OP 4.01 and OP/BP 10.04.

Delineation of the Coastal Zones

On August 13, 2007, those who had complained about the TPP Project also sent a complaint about the Albania: Integrated Coastal Zone Management and Clean-Up Project (ICZMCP). They argued that by excluding the northern part of the Vlora Bay from ICZMCP's scope, *"the Project creates a dangerous vacuum, which is significantly harmful to tourism development in the Vlora Bay and its vicinity."* This Request, submitted on behalf of the Association of Tourist Operators (CTO) of Vlora, claimed that, because of this exclusion, the signatories of the Request and those they represent had suffered or were likely to suffer harm as a result of Bank failures or omissions violating *"policies concerning environment, public participation, cultural heritage and non-discrimination."*

At the eligibility stage of this Request, the Panel decided with the Board's approval to address the Requesters' concerns in the context of the Vlora TPP Project and the present Report. Management's response to this Request emphasized that the ICZMCP was a pilot program with potential to be expanded to the areas identified by the Requesters, depending on the project's success and the Government's interest.

a) Eligibility of the 2007 Request and the Panel's Recommendation

In its Eligibility Report for this additional Request for inspecting the ICZMCP and its link to the TPP Project, the Panel determined that the Request's contention of a link between decisions made in these geographically separate projects did *"not warrant by itself a recommendation to investigate at this time."* The Panel recommended that the investigation in relation to the Albania Power Sector Generation and Restructuring Project (submitted, *inter alia*, by the same Requesters), which was already approved by the Board of Executive Directors, would cover the Requesters' main concerns and allegations of non-compliance.

The Panel added that if the *"Requesters are able to allege 'new evidence or circumstances not known at the time of their request' in relation to their concerns of harm, they may submit a new request for inspection as provided in the Resolution and 1999 Clarifications."* The Board of Directors approved the Panel's recommendations.

b) Subsequent Letters of 2009 from the Requesters

On March 30, May 14 and May 18, 2009, the Panel received subsequent letters from the Requesters containing what they regarded as *"new evidence or circumstances not known*

previously to us.” In these documents, the Requesters reasserted the concerns they had stated in their Request of August 13, 2007, bringing to the Panel’s attention several decisions relating to the administrative division of the Albanian coastline, refer to a study conducted by the University of Split in Croatia entitled Orikum Area Inventory and Assessment. They also list a number of industrial activities being developed or planned in the Northern Part of the Bay of Vlora, which in their view would have not taken place if the ICZMP had included the Vlora Bay area.

c) Background to the Delineation of the Coastal Zones

Documentary evidence dating from the mid 1990’s shows that between 1992 and 1995 the United Nations Environment Program’s Mediterranean Action Plan (UNEP-MAP) proposed a threefold division of the Albanian coast. This division was ratified by Decision of the Council of Ministers No. 364 (18 July 2002) “On approval of the coastal zone administration plan.” UNEP-MAP documents that provide background information on the Albanian coastal zones recognized that the elaboration of a threefold division of the coastline lacked public participation, but they nevertheless consider it logical and based on landscape attributes (natural features), as well as land use (human and cultural features).

UNEP-MAP proposed the Integrated Coastal Area Management Programme (ICAM) for the Central Albanian Coastal Region, the first main activity envisaged by the Coastal Area Management Programme (CAMP). ICAM was the joint responsibility of the Committee on Environmental Protection (CEP, now the Ministry of Environment), on behalf of the Albanian Government, and the Priority Actions Programme Regional Activity Centre (PAP/RAC), on behalf of UNEP-MAP.

According to documents from the Mediterranean ICAM Clearinghouse, the work on preparation of the Coastal Zone Management Plan (CZMP) for the Central region began in 1992. Meanwhile, considering the value of coastal zone management for the entire Albanian coast, the CEP asked to fully coordinate the Integrated Coastal Area Management Plan for the Central region, sponsored by UNEP-MAP, and the CZMP for the North and South Coastal Region, sponsored by the World Bank. In order to achieve this goal while ensuring continuity and the same methodology for projects related to the whole Albanian coastal area, PAP/RAC and an environmental planning firm carried out work on both projects. The major objectives of the overall CZMP were to contribute to institutional capacity building, biodiversity protection, and tourism development.

The CZMP and CAMP also defined three regions of the Albanian coast: North, Central, and South. Albania’s CZMP sets the boundaries of the North Coastal Region to match the boundaries of the coastal districts of Shkodra, Lezha, and Laci. The coastline of the North Coastal Region extends from the Buna River at the Albania-Montenegro border in the north to the Rodoni Peninsula in the south. The CAMP defines the Durres-Vlore (Central) region as extending from the Vlora Bay in the south up to the downstream Ishmi River in the north. According to the CZMP, the South Coastal Region stretches along the Ionian Coast from the Karaburuni Peninsula in the north to Stillo Island on the Greek border.

d) Alleged Linkage between TPP and ICZMP

The Panel notes that neither the threefold division of the Albanian coastline nor the determination of the boundaries between them was made by the World Bank. In using

these divisions for its Integrated Coastal Zone Management Project, the Bank was following an established practice that had been accepted for almost a decade by United Nations Agencies and since 2002 by the Albanian Council of Ministers. Based on the foregoing analysis, the Panel finds no policy violation in the Bank's decision to finance the Integrated Coastal Zone Management Project as a distinct project in the south coastal region, as requested by the borrower.

Brief Conclusions and Outlook

In briefly summing up the results of its investigation and analyses, the Panel found that certain specific concerns expressed by the Requesters regarding environmental and natural/cultural heritage impacts are not born out by the facts examined, as is indicated above in this Executive Summary and is detailed further in the body of the full report.

Among these, for instance, are the Requesters' concerns regarding adverse impacts on the Narta Lagoon and Natural Habitat, on the air quality, or the pollution by TPP's anticipated atmospheric emissions. Thus, the Panel concluded that Management was correct in its determination that the Bank Policy 4.04 on Natural Habitats was not triggered by the Vlora Project. Also, and fortunately so, one of the main cultural risks feared by the Requesters regarding the presence of archaeological remains under the specific site of the plant was not born out either, as the excavations demonstrated.

At the same time, while fully recognizing the need for additional power generation, the Panel found that the Project preparation and appraisal activities carried out by the borrower and respectively by the Bank are in non-compliance with some of the basic provisions of the following Bank Policies: Project Appraisal (OMS 2.20); Environmental Assessment (OP/BP 4.01); Economic Evaluation of Investment Operations (OP/BP 10.04); Management of Cultural Property in Bank- Financed Projects (OP/BP 11/04); and Project Supervision (OP/BP 13.05). The spectrum of these departures from regular Bank policies is broad, extending from failure in genuinely consulting the local population, to failures in producing a comprehensive environmental assessment, to the total absence of a social impacts analysis, to overlooking the high touristic potentials for Vlora's further development, to leaving out of the requisite economic evaluation the Project's economic opportunity costs and externalities. Each of these instances are outlined in the present Executive Summary and documented factually in detail in the ensuing Report.

However, particular highlighting is deserved by two pervasive omissions of a broader nature, identified by the panel, which may have medium- and long-term consequences, but which, fortunately, are still correctable:

- a) First, the Panel notes that the omission of a cumulative impact analysis of the thermal plant together with its ancillary equipments (such as the oil terminal in the midst of the Bay's waters) and with the follow-up investments already contemplated by the borrowing Government or other investors in the area around the TPP. This omission prevented the consideration of the necessary safeguards for the Vlora TPP Project itself in case such further investments should materialize. The lack of a cumulative assessment cannot therefore be read as an implicit validation of such future investments, since each one of these will require, regardless of the financing source, the full set of both project-specific and cumulative impact-assessments. Local

stakeholders need to be consulted and involved in such cumulative impact assessments.

- b) Second, as underscored above and throughout the investigation report, the Project failed to examine, inform about, and effectively address the medium- and long-term risks inherent in TPP's operations beyond its construction phase. For instance, OP/BP 4.01 explicitly requires Bank staff and the borrower to "evaluate a project's potential environmental risks and impacts in its area of influence... including all its ancillary aspects" as is in this case the oil off-loading terminal.*

Given the identified instances of non-compliance with the Bank's environmental, economic, and social policies, the Panel is concerned that such medium- and long-term risks to the Vlora Bay marine environment and to segments of the area's population are not currently minimized, and so far are not planned to be minimized before operations begin. Albania's own national program for tourism development identified Vlora as an important area for the development of cultural and beach tourism. In spite of this, none of the Project's documents seen by the Panel has suggested that the borrower institute the counter-risk measures needed to deal with the occurrence of long-term risks for tourism, which could result from the operation of the existing power plant, the expansion of power generation in the Project area, and the potential Project-induced attraction of further industrial development to the Vlora Bay area.

The environmental, economic, and social risks defined by the Panel as medium- and long-term risks will not cease to exist when the construction phase of the Project ends; rather, they will begin to make themselves felt in the post-construction operation phase of the TPP. The Panel considers, however, that opportunities exist for prompt and well tailored actions to deal with issues of risk management and the concerns expressed by the Requesters.

Chapter One: Description of the Power Sector Generation and Restructuring Project

A. Events Triggering the Investigation

1. On April 30, 2007, the Inspection Panel (the “Panel”) received a Request for Inspection (the “Request”)³ related to the Albania Power Sector Generation and Restructuring Project (IDA Credit No. 3872) (the Project).⁴ The Request was submitted by the “Civic Alliance for the Protection of the Bay of Vlora on behalf of local residents living in Vlora.” The Panel registered the Request and notified it to the World Bank Board of Executive Directors and to Management on May 2, 2007.
2. On June 1, 2007, Management submitted its Response⁵ (the “Management Response”) to the Request for Inspection. An Inspection Panel team visited Albania from June 24-30, 2007, to evaluate the eligibility of the Request for Inspection. The Panel determined that the Request fulfilled the eligibility requirements for an investigation and in its July 2, 2007, Report recommended to the Board of Executive Directors that an investigation be carried out.
3. On July 18, 2007, the Bank’s Board approved the Panel’s Report and recommendation to conduct an investigation into the matters alleged in the Request for Inspection.
4. The Request raises a number of environmental, social, cultural and economic concerns related to the Project as designed. It contends that a failure of the Bank to follow its own operational policies and procedures in the design and appraisal of the Project will result in serious long-term risk and harm to the people living in the Vlora area and to the environment, in particular the Vlora Bay. Management considers in its Response that the Project was well prepared and that the issues raised in Requesters’ complaint had been properly addressed, in compliance with the applicable Bank Policies.

B. Project Objectives, Components and Schedule

5. Preparation work for the Project was initiated in 2002. After about two years of preparation work, the Project was appraised by the World Bank in February 2004. A credit was approved by the IDA Board on March 24, 2004, and the Development Credit Agreement became effective on January 25, 2005.
6. The development objectives of the Project are “*to achieve significant improvement in power system performance through: (a) priority investments to increase domestic*”

³ Request for Inspection, received by the Inspection Panel on April 30, 2007 (hereinafter “the Request”).

⁴ In this report, the Project may also be referred to by its acronym, TPP.

⁵ Bank Management Response to the Request for Inspection Panel Review of Albania: Power Sector Generation and Restructuring Project (IDA Credit No. 3872-ALB) (hereinafter “Management Response”).

*thermal generation; and (b) measures to implement sector reforms and institutional strengthening.”*⁶

7. **The Project’s objectives** are to be achieved through two Project components: (a) construction of a combined-cycle thermal power station (Vlora Thermal Power Plant--Vlora TPP) at a six-hectare undeveloped (“greenfield”) site north of Vlora, rehabilitation of the adjacent oil tanker terminal, and connection to the power transmission network; and (b) provision of technical assistance and training to the Albanian Power Corporation (KESH)⁷ for the implementation of the Project, improvement of operation of KESH and sector reforms, and provision of training to KESH in procurement and environmental management.⁸
8. **According to** the Project Appraisal Document (PAD), the Vlora⁹ Thermal Power Plant is designed to allow conversion to natural gas if and when imported gas is brought to Albania. The plant size would initially be 85 MW – 135 MW depending on the evaluation of bids.
9. **Implementation Responsibilities:** Management of the implementation of the Project would be carried out by KESH. The Vlora Thermal Power Plant would be owned and operated by a separately incorporated enterprise, with all of its shares held by KESH. There would be a power purchase agreement between the enterprise and KESH, probably with a guaranteed take-or-pay arrangement for a limited period and a provision for automatic adjustments to reflect variations in the price of imported distillate oil.¹⁰
10. **Financing:** The total Project cost was estimated to be US\$112.66 million. In addition to the IDA Credit equivalent to US\$25 million (SDR 16.9 million)¹¹, the Project is being financed through an European Bank for Reconstruction and Development (EBRD) loan in an amount of US\$37.5 million, and an European Investment Bank (EIB) loan in an amount of US\$37.5 million. KESH is contributing US\$12.66 million to the Project cost.
11. The Project cost includes US\$3 million for possible refurbishment of a derelict oil tanker terminal and US\$4.4 million for connection to the Albanian transmission system at the planned Babica 220/110kV substation located seven km away. The total Project cost also includes US\$4.85 million for technical assistance and training.

⁶ Project Appraisal Document on a Proposed Credit in an amount of SDR 16.9 million (US\$25 million equivalent) to Albania for the Power Sector Generation and Restructuring Project, dated February 17, 2004 (hereinafter “PAD”), p. 2.

⁷ Korporata Elektroenergjitike Shqiptare.

⁸ Project Agreement between Albania and International Development Association for Power Sector Generation and Restructuring Project, Credit Number 3872 ALB, dated April 6, 2004, p.14.

⁹ The name Vlora (used in this report) is also frequently spelled Vlore and Vlorë. The three spellings are all interchangeable and do not signify practical difference.

¹⁰ According to the PAD, this arrangement will provide for “*a track record of the financial performance of the subsidiary company...*” and “*could facilitate its subsequent privatization*” (PAD, p. 18).

¹¹ The IDA Credit was relented to KESH for 20 years with a 5 year grace period and an interest rate equal to the six-month US Dollar Libor rate plus 0.75%.

12. Project closing was initially set for January 31, 2008, but project implementation and disbursement fell behind schedule. The Project's closing date was extended to December 31, 2009.

C. The Complaint to the Aarhus Convention

13. The Request has a particular “pre-history”, in that the Requesters first approached another international body: the Aarhus Convention Compliance Committee (the “Committee”) (see Box 1)¹².

Box 1:
The Aarhus Convention

The 40 members of the Economic Commission for Europe, including Albania, adopted the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (the Aarhus Convention) in Aarhus on June 25, 1998. Albania ratified the Aarhus Convention on 27 June 2001. The Aarhus Convention is concerned with the actions of the states that have accepted it (Parties). The Aarhus Convention grants the public a series of rights concerning:

- Access to environmental information held by public authorities. According to the Convention, public authorities are obliged to actively disseminate environmental information in their possession and to make environmental information available upon request. This can include information on the state of the environment, on policies or measures likely to affect the environment, or on the state of human health and safety where these can be affected by the state of the environment. People who request this information are entitled to obtain it within one month, without having to say why they require it;
- Public participation in environmental decision making. Arrangements are to be made by public authorities to enable the public and environmental non-governmental organizations to participate—within a transparent and fair framework—in the preparation of plans and programs relating to the environment. The public will also be given the opportunity to comment during the preparation of legally binding rules that may have a significant effect on the environment. The results of public participation will be taken into account in decision-making and information will be provided on the final decision and the reasons for it;
- Access to justice. The public has the right to review procedures and to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general.

The Aarhus Convention has a Compliance Review Mechanism which is unique in environmental law in that it lets members of the public communicate concerns about the compliance of a member state (Party) directly to a committee of independent experts empowered to examine a case. The review mechanism can be triggered if: (a) a Party makes a submission concerning its own compliance, (b) a Party makes a submission concerning another Party's compliance, (c) the Convention Secretariat makes a referral to the Committee, or (d) a member of the public makes a communication concerning the compliance of a Party.

14. In support of their Request, the Requesters state that on April 27, 2005, they submitted a communication to the Aarhus Convention. They alleged that Albania was

¹² United Nations Economic Commission for Europe. *Convention on Access to Information, Public Participation in Decision-Making And Access to Justice in Environmental Matters*, done at Aarhus, Denmark, 25 June 1998 (hereinafter “Aarhus Convention”). ECE/CEP/43; also Morgera, Elisa. *An Update on the Aarhus Convention and its Continued Global Relevance*. *Review of European Community & International Environmental Law*, Volume 14, Issue 2 (p 138-147).

not complying with its obligations concerning public access to information and participation in the construction of a Bank-financed thermal power plant project and an energy park.¹³ That complaint was focused on matters covered by the Aarhus Convention, primarily regarding access to information, consultation and participation. The Aarhus Convention Compliance Committee accepted the request and initiated its own investigation, in December 2006, concluding it in June 2007.

15. The Requesters point out, in support of their subsequent Request to the Bank, that their complaints to the Aarhus Convention were found to be justified; specifically, they note that: “*The procedures concerning the Vlorë TEP were already found in violation of Article 6 of the Aarhus Convention on Access to Information, Public Participation and Access to Justice, as determined by the Aarhus Convention Compliance Committee in its Draft Finding and Recommendations of March 23, 2007.*”¹⁴ The Requesters also filed a complaint to the accountability mechanisms of the European Bank for Reconstruction and Development (EBRD) and European Investment Bank (EIB) for the same Project.
16. The Requesters’ claims and Management Response are briefly summarized below. The subsequent chapters of this report provide an in-depth examination, issue by issue, of Requesters and Management submissions, the findings of the Panel’s own investigation, and the conclusions reached by the Panel regarding compliance or non-compliance with Bank policies and procedures.

D. The Content of the Requesters’ Complaints

17. The Request raises a considerably broader range of issues beyond those brought to the Aarhus Convention, which concerned public participation and access to information. The Request addresses issues regarding violation of Bank Policies on environment assessment, cultural heritage, and project economic analysis, in addition to a host of social issues including the consultation of stakeholders, public access to project information and transparent disclosure. The Requesters state: “*we have suffered, or are likely to suffer, harm as a result of the World Bank’s failures or omission in the Vlorë Thermal Energy Power Plant.*”¹⁵ They indicate that, before addressing the Inspection Panel, they had contacted Bank Management on several occasions, but were not satisfied with the explanations received and the answers did not solve their problems.¹⁶
18. In their submission to the Inspection Panel, the Requesters assert that the answers received from Bank Management fail to “*consider the brutal fact that:*
 - (i) *the Bank’s project is based on the material misrepresentation of the site;*
 - (ii) *the EIA upon which the Bank’s loan was based was misleading, illegal, and wrong;*

¹³ Communication ACCC/C/2005/12 by the Alliance for the Protection of the Vlorë Bay (Albania).

¹⁴ Request, p. 2. These draft findings were confirmed in the final “Findings and Recommendations” of the Aarhus Convention Compliance Committee in June 2007, after the request was submitted (see Chapter 5 or ECE Aarhus Convention Compliance Committee, *Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶76).

¹⁵ Request, p. 1.

¹⁶ Request, p. 1-2.

(iii) *the whole Bank's procedure leading to the Project is in violation of Albania's laws on environmental public participation, cultural heritage and EIA, as well as the EU's laws and guidelines.*"¹⁷

19. The Request claims that *"if built, the Vlorë thermal power plant will irreparably destroy environment, tourism, safe fisheries, natural habitat, ecosystem, coral colonies as well as the unique historical and cultural significance of the entire Vlorë Bay and Narta Lagoon."*¹⁸
20. The Request raises specific concerns about the Environmental Impact Assessment (EIA), the improper location selected for siting the thermal plant, the size of the power plant and the likelihood of major subsequent negative cumulative impacts resulting from the likely expansion of the initial plant. They state: *"The Environmental Impact Assessment, in [sic] which the Bank based its loan, refers only to one thermal power plant of 100 MW, while in the decision of government No. 610 dt. 21.9.2004 – which the Bank is or should have been aware of- it is explicitly written that it is agreed to reach a capacity of 300 MW in next phases."*¹⁹ The Request further indicates that *"the Government approved (through Law No. 9231 dated 05/13/2004) just one km far from Vlorë thermal power plant a concessional agreement of building of [a] large oil storage deposits in the Vlorë Bay."*²⁰
21. The Requesters add that, *"[i]n short, [the project] will destroy our past, present and future."*²¹
22. During meetings with the Inspection Panel on its eligibility visit, the Requesters further detailed their concerns. Their complaints address the following spectrum of issues, and refer to the Bank policies guiding project design and implementation:
 - Environmental issues
 - Project site selection
 - Public consultation and information disclosure
 - Natural Habitat Protection
 - Protection of Local Cultural Heritage and Endowments
 - Cumulative Impacts Analysis
 - Economic Analysis

A brief summary of each follows.

1. Environmental Issues - Analysis of Alternatives

23. The Requesters claim that in selecting the plant's location and available alternatives, the Bank's Management has violated the Bank's environmental and cultural heritage policies, and the Bank's own guidelines for new thermal power plants. They state that the analysis and criteria used to determine the site were chosen to justify the selection

¹⁷ Request, p. 2.

¹⁸ Request, p. 1.

¹⁹ Request, p. 1.

²⁰ Request, p. 1.

²¹ Request, p. 1.

of the Vlora site. The Requesters claim that using appropriate selection criteria would indicate that the best and most effective option would not be building a new plant at Vlora, but rehabilitating the existing power plant in Fier, a town 20 miles north-west of Vlora. The Requesters also expressed concern about the adequacy of Management's assessment of other fuels as alternatives to the use of distillate oil.

24. The Requesters' concerns expressed to the Panel Team also relate to the potential harm caused by the TPP emissions in the Vlora area. Residents fear that both air and water emissions will affect and contaminate the enclosed Vlora Bay and Vlora city air because of the prevailing wind and water currents. The Requesters claim that these negative impacts will effectively destroy the potential of the tourism industry in the entire Vlora area, where tourism is an important source of employment and income, and will also have additional negative effects on the local population and fishing industry.

2. Project Site Characterization and Selection

25. Requesters claim that the EA misrepresents the Project site. The Requesters object to the EA's representation of the site as a "*green field site...relatively barren coastal area with little vegetation or wildlife.*"²² The Requesters note the proximity of the Project site to the Narta Lagoon, which is a protected area composed of beaches, sand dunes, forests and wetlands and is home to a number of endangered species. The Requesters assert that the area is sanctuary to important animals, plants and coral colonies, which might be significantly harmed by the project. They allege that this was not considered during the preparation of the EA.

3. Harm to Natural Habitats

26. The Requesters assert that the Project site is located only 746 meters from the Narta Lagoon, which is a protected area, rather than two kilometers as indicated in the Project documents. According to the Requesters, the Project will have significant adverse impacts on the lagoon protected area and the Bank's Policy on natural habitats applies.

4. Overlooked Cumulative Impact

27. The Requesters assert that the Bank-approved project allows, by its design, the subsequent expansion of the capacity of the initial thermal power plant, which will correspondingly amplify the entire spectrum of negative impacts. In this respect, the Requesters complain that the Bank failed to take into account the future cumulative environmental impact of one or more additional generating plants that would raise generation capacity at the selected Vlora site to as much as 300 MW, and would entail a greater volume of oil imported through the bay, with related risks and impacts. Additionally, they complain that the Bank failed to—as required by Bank Policy—assess in the EIA the potential cumulative impacts of the other industrial investments already approved by the Government in the vicinity of the Project site.

²² Executive Summary, Final Environmental Impact Assessment, Vlora Combined Cycle Generation Facility, October 6, 2003. Site Description, p. 4.

5. Harm to Local Cultural Endowments

28. The Requesters assert that the project site has important archaeological, cultural and historical significance that was overlooked and not assessed during project preparation, instead of being identified and evaluated as the Bank's Policies require. They assert that, as a result, the construction of the Vlora TPP at that site will harm this heritage irreparably, in direct conflict with the Bank's Policy on cultural heritage.
29. Specifically, the Requesters state that the project site is in very close proximity to the ancient Mediterranean port city Treport Cape/Aulona located in Vlora Bay, which is well known and documented, and whose archaeological remains are freely visible not far from the TPP site both in the water and on the ground. Also, the Requesters state that the project site has historical significance because it is where groups of Sephardic Jews escaping from the Spanish Inquisition in 1492 landed in the Vlora Bay, were hospitably received by the local population, and settled in the nearby Vlora town.
30. The Requesters base their opposition to the siting of the TPP in this archaeologically significant area on the argument that, if the thermal power plant is built, it will deteriorate the unique historical endowments and cultural value of the Vlora Bay and will also destroy its intrinsic interest and economic potential for expanding tourism, upon which much of the town's livelihood is predicated.

6. Inadequate Public Consultation and Disclosure

31. The Requesters assert that, in violation of Bank policy, the preparation of the project lacked adequate public consultation and transparency in provision of information. They claim that the few meetings about the project were not properly announced, that the information provided was incomplete, and that anyway most of the meetings were a simple formality as they took place **after** the Project site had already been selected and approved by Government authorities. In this respect, the Requesters complain that the Bank has completely failed to ensure public participation and consultation in decision-making regarding the initiation and design of this Project, and has ignored the history of opposition publicly expressed against this project and its location during the immediately preceding national elections.
32. As stated above in section C of this Chapter, the Requesters further note that, on these grounds, they submitted a communication to the Aarhus Convention Compliance Committee (the "Aarhus Committee") on April 27, 2005 concerning public access to information and participation in decision-making under the Aarhus Convention in the construction of an energy park and a thermal power plant.²³

7. Inadequate Economic Analysis

33. The Requesters claim that economic analysis of both alternative locations and/or usage of alternatives to the proposed distillate oil fuel was not adequate and consistent with applicable Bank policies and procedures and best practices. The Requesters also question whether the Bank conducted an adequate cost-benefit analysis of the potential impact of the Project on tourism activities and revenues in the Bay of Vlora

²³ Communication ACCC/C/2005/12 by the Alliance for the Protection of the Vlora Bay (Albania).

and nearby areas. The Requesters state that economic growth in the area is driven primarily by the activities that are likely to be harmed by the Project, namely tourism and fishing.

E. Management Response

34. On June 1, 2007, Management submitted its Response to the Request for Inspection.²⁴ The Response addresses key issues raised by the Requesters. The Response states that Albania has suffered from electricity shortages since the summer of 2000 due to both growth in electricity demand and impacts from adverse hydrology on Albania's predominantly (95 percent) hydropower-based system. Management states that since 1997, Albania has had to import significant quantities of electricity. At the end of 2006, and as recently as January 2007, the country has suffered from significant power supply disruptions.²⁵
35. The Response notes that Albania's electricity needs are supplied almost solely by hydropower, which is subject to considerable variability since it is dependent on rainfall. Management states that *“the average generation in a normal hydrological year is about 4,000 GWh, compared to current demand of about 6,800 GWh.”*²⁶ Management asserts that domestic thermal generation capacity is needed to reduce dependence on imports of electricity and to diversify domestic generation.
36. Management states that the electricity crisis has had multiple negative impacts on the poor. Management further notes that the use of budgetary resources for electricity imports means that funds are diverted from poverty reduction efforts.
37. Management states that following the request of the Government of Albania, the Bank initiated discussions with EIB and EBRD regarding co-financing of a thermal electric power plant. Management states that in 2002 an international consulting firm prepared a siting and feasibility study of the proposed TPP, and that this consulting firm also prepared the environmental assessment of the Project in 2003.²⁷
38. Management notes that the Albanian system needed to be interconnected with the Union for the Coordination of Transmission of Electricity (UCTE), and that maintaining UCTE interconnection required Albania, among other conditions, to commission a thermal power plant.
39. Management states that the key safeguard policies that were considered as relevant under the EA (OP 4.01) process included Natural Habitats (OP 4.04), due to the proximity of the Narta lagoon (since then designated for protection) and Involuntary Resettlement (OP 4.12), due to the possible need for land acquisition. After consultations with the United Nations Development Program (UNDP) on the protected area around the Narta lagoon, it was concluded that the impacts on natural habitats would not be significant and hence the Bank's safeguard policy would not be applicable.

1. Environmental Analysis and Alternatives

40. Management indicates that the Project was assigned a “Category A” rating for Environmental Assessment (EA), because it recognized the potential significant

²⁴ Management Response.

²⁵ Management Response, ¶6.

²⁶ Management Response, ¶9.

²⁷ Management Response, ¶12.

impacts on the environment and the need for avoidance, mitigating and monitoring measures. Particular areas of concern include the impacts on air quality from stack emissions, water quality from cooling water discharge, and any ancillary impacts on the Narta lagoon, which according to Management is located about two kilometers from the Project site.

41. According to Management, an analysis of alternatives was carried out; four sets of alternatives to the Project were examined, as well as other fuels as alternatives to the use of distillate oil. The other sites investigated were: Durres, Elbasan, Fier, Korce, Shengjin, and Vlora (site A).²⁸ Management notes that the sites were evaluated on the basis of ten criteria, each assigned a different weight, and that the Vlora (site B) and Fier sites were found to be best from a transmission perspective; the recommended Vlora site was ranked first over the site at Fier²⁹, which was ranked second.³⁰
42. Management states that the use of natural gas, indigenous coal and heavy fuel oil was considered. Management indicates that the option of a natural gas-fired combined-cycle unit at each of the proposed sites was found to be more costly than the distillate fuel option but that, if imported natural gas is brought to Albania, the Vlora plant could be readily converted to gas.

2. Site Characterization

43. Management states that the EA provided sufficient in-field review and site characterization and that where field data was missing reasonable surrogates were chosen. Management adds that the EA does rely on a certain level of reconnaissance level information on some topics, which will need to be refined as implementation progresses. Management adds that it “*sees no appreciable gains from an examination of additional project possibilities or choices selected.*”³¹

3. Power Plant Capacity and Potential Extension

44. Management states that based on a review of available TPP unit sizes from different manufacturers, bids were invited for a capacity between 85 MW and 135 MW, and the contract was awarded for a thermal power plant of 97 MW capacity.³² Management notes that construction of a thermal plant in the southern part of the country will reduce technical losses and significantly improve the security and quality of supply in the country overall and in particular in the south, which is poorly served at present. Management states that the TPP is designed to allow conversion to natural gas if and when it is imported to Albania.
45. Management states that the Project documentation shows the Vlora site could physically accommodate additional units for a total installed capacity of 300 MW.

²⁸ Management Response, ¶26.

²⁹ The site proposed for the new TPP in Fier is located in a demarcated industrial zone close to a derelict heavy oil powered thermal station, an old oil refinery – now producing bitumen, and an abandoned fertilizer manufacturing facility. Some eight hectares are available northeast of the old power plant site with additional space south of the old site on which to expand if required. The proposed site abuts an existing sub-station and transmission yard that was not decommissioned when the Fier plant stopped generating power.

³⁰ Management Response, ¶30-31.

³¹ Management Response, ¶55.

³² Management Response, ¶15.

Management further states that “*the Project being financed by the Bank, EBRD and EIB is limited to one facility of 97 MW capacity and the final EA focused on that only.*” Management adds that “*if the Government decides to proceed with additional generation units (either at the Vlore site or another location), then a new comprehensive EA will be required.*”³³

4. Public Consultation and Disclosure

46. With respect to the Requesters’ concerns regarding: (i) a proposed major industrial or “energy park”; and (ii) a proposed oil storage facility operated on a concession basis and located at a partially-built site south of the Vlora TPP. Management states that to its knowledge, the proposal for the energy park never advanced to the pre-feasibility stage and that an onshore oil terminal concession is not related to the Project. In Management’s view, Project due diligence for unassociated investments in the Project area did not need to be carried out by the Bank.
47. Management states that a public meeting was held in Vlora in October 31, 2002, to discuss the findings of the final siting study (dated October 21, 2002), and the draft feasibility study (dated August 6, 2002) including a detailed preliminary environmental analysis and a draft outline of an EA. Management indicates that following the standard Bank procedures for Category A projects, public consultations were held at the early EA preparation stage on April 2, 2003, and draft EA report stage on September 3, 2003.
48. With respect to the Requesters’ claim regarding the lack of public participation and disclosure, Management considers that the process leading up to the Project respected the requirements of the Aarhus Convention.³⁴ In comments addressing compliance with the Aarhus Convention, Management states that the Project complies with Bank policies and procedures, including EA and disclosure and consultation requirements, that a satisfactory analysis of alternatives was carried out and discussed with local stakeholders, and that “*consultation and disclosure of information did take place during project preparation in a manner satisfactory to the Bank and other development partners.*”³⁵
49. Management asserts that the EA was carried out “*in full compliance*” with relevant European Union laws and guidelines, and that the Government has stated that all Albanian legal requirements have been complied with in approving the Project and issuing the relevant licenses.³⁶

5. Natural Habitats

50. With respect to the Requesters’ concern about the Project’s potential impacts on ecosystems (i.e. “*fisheries, natural habitat, ecosystem, coral colonies*”), Management states that the EA and measures to be taken during implementation are adequate. Management indicates that the Project site is outside the protected area around the

³³ Management Response, ¶52.

³⁴ Management Response, ¶62.

³⁵ Management Response, ¶62, with further detail in Management Response, Annex 5. “World Bank Response to Draft Findings of the Aarhus Convention Compliance Committee.” May 15, 2007.

³⁶ Management Response, ¶61.

Narta lagoon, designated as such in 2004 by the Government, and is not anticipated to have an impact on this area. Management considers that the Bank's policy on Natural Habitats does not apply.³⁷

6. Cultural Heritage and Tourism

51. In its Response, Management recognizes that there was insufficient review in the EA on the potential impacts on cultural property. Management indicates that when this issue was subsequently raised, it carried out a supervision visit in July 2006,³⁸ which concluded *“that the site is not of archaeological significance due to the known locations of the ancient city sites in the Vlore Bay region and the lack of any evidence of human habitation during digging for the adjacent fishing harbor in the early 1980's and beyond. Consequently a surface survey of the selected site prior to the start of construction is neither necessary nor justifiable.”*³⁹
52. Management also states that *“monitoring of excavations during construction of the plant and related civil works to identify and protect ‘chance finds’ was deemed the only action that needed to be taken, consistent with established Bank practice, and this is provided in the Engineering Procurement and Construction contract.”*⁴⁰
53. Management states that the issue of tourism potential is not covered directly by Bank safeguard policies, but only indirectly through related issues such as potential impacts on cultural property and natural habitats. In Management's judgment, tourism adjoining the immediate site could possibly be reduced, but the benefits of more reliable power in the Vlora area for tourism *“is undeniable.”*⁴¹

7. Involuntary Resettlement

Management indicates that the Bank Policy on Involuntary Resettlement was “triggered” and a Policy Framework for Land Acquisition was included in the PAD and disclosed. Management notes that this Framework was needed to address the very small amount of land that will need to be acquired for transmission line towers and not for the TPP itself.⁴²

F. Eligibility of the Request

54. To determine the eligibility of the Request and the Requesters, as set forth in the 1993 Resolution establishing the Panel and the 1999 Clarifications, the Panel reviewed the Request for Inspection and Management Response. Then Panel Member Tongroj Onchan, together with Deputy Executive Secretary Dilek Barlas and expert consultant Eduardo Abbott, visited Albania from June 24 to 30, 2007. During their visit, the Panel Team met with Government and Project officials and a wide array of Project stakeholders and visited the Project site, the city of Vlora, and the Fier site.

³⁷ Management Response, ¶57.

³⁸ Back-to-Office Report on Cultural Property Issues, July 2006 included as Annex 3 to Management Response.

³⁹ Back-to-Office Report on Cultural Property Issues, July 2006, p. 1, included as Annex 3 to Management Response. Quoted in Management Response, ¶56.

⁴⁰ Management Response, ¶44.

⁴¹ Management Response, ¶59.

⁴² Management Response, ¶60.

55. The Panel Team found that the selection of Vlora as the Project site is a source of significant dispute and controversy for the local community. The Panel also determined that the Request fulfilled the eligibility requirements for inspection.
56. The Panel recommended an investigation to the Board of Executive Directors because the Request and the Management Response contained conflicting assertions and interpretations of the issues, contradiction in mentioned facts, conflicting assessments of compliance with Bank Policies and Procedures, and evidence of actual and potential harm.
57. On July 18, 2007, the Board approved the Panel's recommendation to conduct an investigation into the matters alleged in the Request for Inspection. The Request, Management Response, and the Panel's Report and Recommendation were made public shortly after the Board authorized the inspection sought by the Requesters.

1. The Investigation

58. The purpose of the investigation was to establish whether the Bank complied with its own policies and procedures in the design, appraisal and implementation of the Project, and whether, if instances of non-compliance were found, they caused, or were likely to cause, harm to the Requesters and the people they represent. Then Panel Member Tongroj Onchan served as the Lead Inspector for the Panel's investigation. After completion of Mr. Onchan's term as a Panel member, Panel Chairperson Werner Kiene assumed the role of Lead Inspector.
59. The Panel conducted its investigation starting with detailed research into Bank written records and documents related to the Project, and interviews with Bank Staff, followed by an in-country fact-finding visit. To assist in the investigation, the Panel retained three expert consultants, who are internationally recognized specialists on the various environmental, economic and social issues raised in the Request: Prof. Michael Cernea, sociologist and cultural heritage specialist, Prof. Richard Fuggle, environmental specialist; and Prof. William Ward, economist.
60. Then Panel Member Tongroj Onchan, Deputy Executive Secretary Dilek Barlas and expert consultants Eduardo Abbott, Michael Cernea and Richard Fuggle, visited Albania from January 14-25, 2008. During the visit, the Panel met with the Requesters and other local area people, Government authorities, country archeologists and cultural historians, Project officials and Bank Staff in Tirana. The Panel visited the Project site at Vlora and the alternative site in Fier, as well as various cultural heritage monuments and sites in and around the Project area.
61. The Panel interviewed Bank Staff in Washington, D.C., and in the Bank office in Tirana. In its investigation, the Panel identified and carefully reviewed all documents relevant to the case that the Requesters, Bank Staff, and other sources provided to the Panel. The Panel also analyzed other evidence gathered during the field visits or otherwise in its research, including scholarly literature, and elicited evidentiary statements from several cultural specialists.

62. This Report presents the results of the Panel’s investigation regarding the environmental, social, cultural, economic issues the Requesters raised in their submission to the Panel.

2. Bank Operational Policies Applicable to the Project

63. With respect to this Project, the Panel assessed whether the Bank complied with the following applicable Operational Policies and Procedures:

OMS 2.20	Project Appraisal
OP/BP 4.01	Environmental Assessment
OP/BP 4.04	Natural Habitats
OP/BP 10.04	Economic Evaluation of Investment Operations
OPN 11.03	Management of Cultural Property in Bank- Financed Projects
OP/BP 13.05	Project Supervision

G. The Project’s Energy-Related Context

64. Since its transition to a market economy in the 1990s and the civil unrest that followed the collapse of the economic pyramid schemes in 1997, Albania has made significant progress in its efforts to foster economic growth and reduce poverty. Still, recent studies estimate that almost one fifth of the population falls below the poverty line and that, moreover, the poor appear more concentrated in rural areas, which lag in access to and quality of essential services.⁴³
65. Albania has faced frequent and prolonged power outages since the second half of 2000, which the Country Assistance Strategy (CAS) of 2002 noted as a challenge to service delivery and the efforts to gain private sector investment. Despite recent improvements in the energy sector, Albania remains challenged by an “[i]nadequate and unreliable electricity supply”.⁴⁴

1. Electricity Supply in Albania

66. Albania is currently in the midst of the “deepest energy crisis in its history.” Energy supply is interrupted 6-8 hours per day on average countrywide and 16-18 hours per day on average in rural areas.⁴⁵ Over 95% of Albania’s total electricity production is provided by hydropower, which depends greatly on climate conditions. Droughts have recently affected Albania’s electricity supply, and recent studies predict that climate change will have a severe impact on water availability and thus on electricity generation in Albania. However, Albania’s existing power sector strategies do not address climate risk.⁴⁶

⁴³ World Bank, Poverty Reduction and Economic Management Unit, Europe and Central Asia Region, “Albania Urban Growth, Migration and Poverty Reduction: A Poverty Assessment,” December 3, 2007. pp. i, iii.

⁴⁴ World Bank, Albania Country Assistance Strategy, 2006 (hereinafter “CAS 2006”), p. 15.

⁴⁵ Fida E, Bruci E, Baraj B. Security of the Energy Sector in Albania in the Face of Climate Change. S. Stec and B. Baraj (eds.), *Energy and Environmental Challenges to Security*, Springer Science and Business Media B.V. 2009.

⁴⁶ *Ibid.*

67. The total installed capacity of thermal power plants in Albania is very low, and most plants are out of use due to poor maintenance or obsolete technology.⁴⁷ Albania is heavily dependent on imported electricity. Power shortages in South Eastern Europe, which is a net importer of electricity, suggest uncertainty regarding the future availability and affordability of imports. Per capita electricity use increased in all countries in South Eastern Europe between 1998 and 2004, and economic development is expected to further increase electricity demand in Albania.⁴⁸ Albania's electricity production has remained almost unchanged since 1999.⁴⁹
68. After adopting a Power Sector Policy Statement⁵⁰ in 2002 and guided by the 2003 Energy Sector Study, the Government of Albania developed and adopted the National Energy Strategy in 2003.⁵¹ As noted in the PAD, the National Energy Strategy *“identifies priority investments (based on expected demand growth and the impact of energy conservation measures), financing needs and required reforms for the energy sector.”*⁵²
69. The 2006 CAS stated that these efforts have *“substantially reduced the vulnerability of the economy to external shocks, including through increased production and improved collection.”*⁵³ At that time--after Albania's capital, Tirana, had suffered from widespread power outages of up to 18 hours in late 2005⁵⁴--it observed that, *“[a]s a result of concerted action by the Government and KESH, aided by favorable hydrology over the last two years, Albania is slowly emerging from a major electricity crisis, caused by shortage of electricity supply, which adversely affected both its macroeconomic performance and the quality of life of its inhabitants.”* However, the CAS noted that, *“during a dry cycle, Albania will again have to rely heavily on imports, and regional shortages may emerge causing a rise in the prices of electricity imports.”*⁵⁵
70. However, the 2006 CAS also states that *“[i]nadequate and unreliable electricity supply continues despite marked improvements in the energy situation, due to the poor stock of electricity infrastructure (generation, transmission and distribution), over-reliance on hydropower, and poor cost recovery for electricity supply.”*⁵⁶

⁴⁷ Fida E, Bruci E, Baraj B 2009.

⁴⁸ Hooper E, Medvedev A. Electrifying integration: Electricity Production and the South East Europe regional energy market. Utilities Policy, Volume 17, Issue 1. March 2009. pp. 24-33.

⁴⁹ *Ibid.*

⁵⁰ The Power Sector Policy Statement was developed with assistance from consultants financed by the United States Agency for International Development (USAID). Final Report: USAID Support for Commercialization, Training and Utility Advisor for Albania, July 29, 2003. Available at http://www.coreintl.com/core_library/USAIDSupportCommTrainingUtilityAdvisorAlbania.pdf (accessed on July 16, 2009).

Also discussed in Albania-EU Energy Efficiency Centre, *Energy in Albania Newsletter*, June 2001. Available at <http://www.eec.org.al/newsletter%2015.pdf> (accessed on July 16, 2009), p. 3.

⁵¹ PAD, p. 11.

⁵² PAD, p. 11.

⁵³ CAS 2006, pp. 4-5.

⁵⁴ Economist, 2006. Lights out: Albania's Electricity Shortages (Power Cuts in Tirana). *The Economist*. January 2006. Available at http://findarticles.com/p/articles/mi_hb5037/is_200601/ai_n18254035/. Accessed 29 June 2009.

⁵⁵ CAS 2006, p. 35.

⁵⁶ CAS 2006, p. 15.

2. World Bank involvement with the Power sector in Albania

71. The Bank has taken a lead role in the power sector in Albania. Its support has included the Power Loss Reduction Project (1995); the Power Transmission and Distribution Project (1996); the Power Sector Rehabilitation and Restructuring Project (2002), which supported sector reform and further rehabilitation of transmission and distribution networks in the Durres, Elbasan and Kucova regions; and the Power Sector Generation and Restructuring Project (2004), which is subject to this investigation.
72. The Bank has also supported Albania's integration and participation in the regional energy sector through the Energy Community of South East Europe (ECSEE) project.⁵⁷ Following the signing of the Athens Memorandum⁵⁸ in December 2003, the ECSEE was established to foster the regional integration and development of the energy sector. The 2006 CAS highlighted these efforts, noting that Albania's participation in the establishment of a regional electricity market in South East Europe is part of the country's efforts to enhance national infrastructure necessary for economic growth and private sector development.⁵⁹

3. Other Developments in the Project Area

73. This section provides a summary of the investments proposed for the Vlora area, which, although not financed by the Bank, relate to the Requesters' claims and references, and associated developments.
74. In addition to approving the construction site of the Bank-financed TPP Project, on February 19, 2003, the Council of Territorial Adjustment of Albania adopted two decisions on energy related investments in Vlora. These decisions include the approval of an Industrial and Energy Park immediately to the north of the city of Vlora, and the approval of the construction site for a coastal terminal for storage of oil and oil by-products and associated port infrastructure in Vlora.⁶⁰

⁵⁷ The Energy Community of South East Europe Project (ECSEE) is financed by a US\$1 billion Adaptable Program Loan (APL) facility approved in January 2005. As noted by the Bank, "two IBRD loans, to Romania and Turkey, have been approved from the APL facility, and two IDA credits, for Albania and Serbia, were approved in 2005. In 2006, IDA credits were approved for Bosnia and Herzegovina, Macedonia, and Montenegro." An additional loan to Turkey was also approved in 2006. "Bank clients participating in the Energy Community can apply for financing of electricity transmission and selected generation and distribution projects, but to qualify, they first must be on track with reforms." From "Sharing Energy in South East Europe," Available at <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTECAREGTOPENENERGY/0,,contentMDK:20417792~pagePK:34004173~piPK:34003707~theSitePK:511377,00.html> (last accessed on June 29, 2009).

⁵⁸ The Memorandum establishes the agreement of the Governments of Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Macedonia, Romania, Serbia and Montenegro, Turkey, and United Nations Interim Administration for Kosovo (UNMIK) to develop a South East Europe Regional Energy Market (SEEREM). David Kennedy and John Besant-Jones, World Bank Framework for Development of Regional Energy Trade in South East Europe, Energy and Mining Sector Board Discussion Paper, Paper No. 12, March 2004, p. 5.

⁵⁹ CAS 2006, p. 41.

⁶⁰ The Council of Territorial Adjustment of Albania, Decision No. 9, dated February 19, 2003.

75. On December 5, 2003, the Council of Territorial Adjustment of Albania also approved the route of the proposed Albanian Macedonian Bulgarian Oil Corporation (AMBO) pipeline, which ends at the Vlora Bay.⁶¹

(a) Vlora Industrial and Energy Park

76. The Council of Territorial Adjustment Decision on the TPP indicated that the thermal power plant will be situated within the Industrial and Energy Park. Although other investments envisaged for the Industrial and Energy Park had yet to be confirmed, the approval of the thermal power plant created serious concern among the residents of Vlora.
77. In 2005, the Requesters collected 14,000 signatures under a petition against the Industrial and Energy Park and the thermal power plant requesting a local referendum. The State Central Electoral Committee rejected the request on November 25, 2005. The Requesters appealed to the Constitutional Court in Tirana but the appeal was rejected in December 2006.⁶²
78. In May 2007, the Council of Territorial Adjustment removed the reference to “Energy” from the name of the park; the site is now referred to as the Industrial Park.

(b) Coastal Oil Storage Terminal

79. On July 19, 2002, a private company submitted to the Ministry of Industry and Energy a proposal for the development of a new coastal oil storage terminal in Vlora.⁶³ On February 19, 2003, the National Council on Territorial Adjustment approved construction of a terminal site for the storage of oil and byproducts and related infrastructure. In May 2003, following the approval of the private proposal for the oil storage terminal, an Inter-Ministerial Working Group was established to negotiate the agreement.
80. According to project documents, the company received a project concession to build and operate the terminal in May 2004: “*the Concession Agreement in the form of “BOO”(Build Operate, Own) for the construction and operation of the coastal Terminal and the Concession Agreement in the form of “BOT” (Build, Operate, Transfer) for the construction and operation of the marine infrastructure were approved; they were then ratified by the Parliament, by the Law no. 9231 dated May*

⁶¹ The Council of Territorial Adjustment of Albania, Decision on 5 December 2003.

⁶² Aarhus Convention Compliance Committee. Report of the Compliance Committee on its Sixteenth Meeting: Findings and Recommendations with Regards to Compliance by Albania, Geneva, June 13-15, 2007, p. 7.

⁶³ The Proposal was accompanied by a “draft ‘protocol of agreement’ and a technical description of the Terminal’s preliminary project.” Executive Summary, Environmental Impact Assessment for PIA Terminal-Vlore-Albania, revised July 31, 2007, p. 4. The EBRD considered financing the construction of the terminal. However, in June 2008 EBRD decided to cancel its consideration to support the project. See: EBRD says NO to Vlora hydrocarbons terminal. CEE Bankwatch Network. 21 July 2008. Available at <http://www.bankwatch.org/project.shtml?apc=--2045138r2104545-1&x=2104545>, accessed 25 June 2009.

13th 2004, and signed by the parties on May 24th 2004.”⁶⁴ The construction of the coastal terminal was officially launched on September 19, 2007.⁶⁵

(c) AMBO Pipeline

81. In July 2003 Albania, Macedonia and Bulgaria signed an agreement to initiate the development of an oil pipeline by a US-registered corporation, the Albanian Macedonian Bulgarian Oil Corporation (AMBO).⁶⁶ Once constructed, the pipeline would stretch 900 kilometers across the three countries, from the Bulgarian port of Burgas on the Black Sea, through Macedonia to the Albanian city of Vlora on the Adriatic coast.⁶⁷ The pipeline is expected to have a capacity of 750,000 barrels of oil per day.⁶⁸
82. On December 28, 2004, Albania, Macedonia, and Bulgaria, signed a memorandum of understanding with the President of the AMBO.⁶⁹
83. The 2003 National Strategy of Energy and Plan of Action, updated in 2005, stated that the

*“AMBO project will be a priority, as a very important project with high impact for three countries where the project will pass through. Oil pipeline AMBO represents an important regional object at East-West Trans-Balkan infrastructure.”*⁷⁰
84. In addition to the investments mentioned above, there is discussion of several other energy-related investments in the Vlora area. According to latest news report, the Government has approved the construction of Europe’s potentially biggest onshore wind-farm on the Karaburun peninsula with a potential of 500 MW.⁷¹ According to the same news report the project will include the construction of a transmission line running from the port of Vlora in Albania to the Italian port of Brindisi. A 400kV power cable, stretching 145km under the Adriatic at a depth of over 900 metres, will

⁶⁴ Executive Summary, Environmental Impact Assessment for PIA Terminal-Vlore-Albania, revised July 31, 2007, p. 4.

⁶⁵ Energy Matters: The Vlora coastal terminal. Fact-finding mission report on energy and industry developments in Vlora, Albania. CEE Bankwatch Network. April 2008, p. 9.
http://bankwatch.org/documents/FFM_vlora_report.pdf Accessed 23 July 2009.

⁶⁶ Marina Stojanovska. "AMBO pipeline deal clears another hurdle", Southeast European Times, 2007-02-14.
http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2007/02/14/feature-03
Accessed 16 July 2009.

⁶⁷ BBC News, "Go-Ahead for Balkan Oil Pipeline," December 28, 2004.
<http://news.bbc.co.uk/2/hi/business/4130271.stm> Accessed 16 July 2009.

⁶⁸ Marina Stojanovska. "AMBO pipeline deal clears another hurdle", Southeast European Times, 2007-02-14.
http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2007/02/14/feature-03
Accessed 16 July 2009.

⁶⁹ BBC News, "Go-Ahead for Balkan Oil Pipeline," December 28, 2004.
<http://news.bbc.co.uk/2/hi/business/4130271.stm> Accessed 16 July 2009.

⁷⁰ Ministry of Industry and Energy, National Strategy of Energy and Plan of Action, June 2003 (Updated April 2005), p. 29. Available at http://unfccc.int/files/meetings/seminar/application/pdf/sem_albania_sup1.pdf
Accessed 16 July 2009.

⁷¹ See: <http://www.balkaninsight.com/en/main/news/20436/>; and "Signed commitment to the largest wind farm planned in Europe." Newsfromitaly.today.com. Economy, Industry. 2 December 2008.
<http://newsfromitaly.today.com/2008/12/02/signed-commitment-to-the-largest-wind-farm-planned-in-europe/#more-7> Accessed 9 July 2009.

allow electricity to be transmitted in either direction. The interconnection line and the wind farm have an estimated cost of 1.25 billion Euros. Construction is expected to start in 2010.⁷² To allow exchange of electricity between Albania and Italy, the Albanian government has given its permission for a private undersea cable to be laid between Vlora and South Brindisi, Italy.⁷³

85. Furthermore, there are plans to construct a container terminal in the Port of Vlora. This container terminal is expected to “serve as a transshipment hub and transit port to the region” and would be capable of handling over 3 million TEU per year.⁷⁴ The Vlora Thermal Power Plant is thus one of several energy-related investments under discussion in the Vlora area.

⁷² See: <http://www.balkaninsight.com/en/main/news/20436/>

⁷³ “Italy, Albania to Be Linked By Undersea Electric Power Cable.” Global Energy Network Institute. Jan 21, 2008—BBC Monitoring. <http://www.geni.org/globalenergy/library/technical-articles/transmission/bbc-monitoring/italy-albania-to-be-linked-by-undersea-electric-power-cable/index.shtml>. Accessed July 2009. Originally published by Il Sole-24 Ore website, Milan, in Italian 18 Jan 08.

⁷⁴ “Container terminal and free port—Vlora, Albania.” . <http://zumaxag.com/vlore.html> Accessed 9 July 2009.

Chapter Two: Environmental Compliance

A. Requesters' Claims

86. The Requesters do not object to the need for increasing power generation in Albania and do not dispute the Bank's Sectoral Policy analysis that underpins the rationale for power capacity development. What in essence is of greatest concern to them, and triggered their complaints to the Panel, are three confined but important issues.

1. Three major Issues

- i. First – the location of the thermal power plant close to the mid-point of the Vlora Bay coastline and to both the Bay's shore and to a natural lagoon of recognized importance: Narta Lagoon. In the Requesters' judgment, this specific location threatens the potential for tourism and development, which they perceive to offer greater economic opportunity to the Vlora Bay area and the city of Vlora than the Project.

According to the Request, if the plant is built at the selected location, *“the Vlora TEPP will irreparably destroy environment, tourism, safe fisheries, natural habitat, ecosystem, coral colonies as well as the unique historical and cultural significance of the entire Vlora Bay and Narta Lagoon.”*⁷⁵

- ii. Second – that Bank financing of the current Vlora thermal plant will lead to one or more additional thermal generating units being built, as well as to other energy related plants being established, resulting in “cumulative impacts” more harmful than the TPP financed under the current Bank-assisted project. The Requesters' concern is that the cumulative risks and potential adverse impacts have not been assessed and considered in the World Bank's analysis of the Vlora project.

The Request states that the *“EIA, [o]n which the Bank based its loan, refers only to one thermal power plant of 100 MW, while in the decision of government No. 610 [dated 09/21/2004] – which the Bank is or should have been aware of – it is explicitly written that it is agreed to reach a capacity of 300 MW in next phases.”*⁷⁶

Referring to Government-sponsored additional industrial plans, the Request further indicates that *“the government approved (Law No. 9231 [dated 05/13/2004]) just one km far from TEP Vlora a concessional agreement of building of large oil storage deposits in the Vlora Bay.”*⁷⁷

- iii. Third – how fuel will be delivered to the TPP. Tankers unloading oil at an oil terminal located in the waters of Vlora Bay will supply the oil necessary for

⁷⁵ Request, p. 1, ¶3.

⁷⁶ Request, p. 1, ¶4.

⁷⁷ Request, p. 1, ¶4.

the Vlora thermal plant. According to the Requesters, this adds to the impact of the land-located plant the risks and impacts of an oil terminal situated in Bay waters. The Requesters envisage accidental spills during the continuous operations of tankers offloading oil for the TPP (and other plants) as a threat to the quality of the Bay's waters.



Figure 1 Areal View of Vlora and Project Site

2. Additional Claims

87. The Requesters contend that the negative ecological heritage of the former communist regime, still visible and tangible, needs to be eliminated, not amplified, to revive, rescue and protect the tourist potential of the Vlora Bay area. They claim that an incorrect location for the power plant is doing the opposite, adding to and compounding the problems inherited from the past.
88. The Requesters strongly challenge the quality, objectivity and suitability of the Project's Environmental Assessment. They state that the Project is based on "*material misrepresentation of the site.*"⁷⁸ They assert that the Bank's Management failed to consider that: "*the EIA, upon which the Bank's loan was based was misleading, illegal and wrong.*"⁷⁹ Further, they assert that "*the whole Bank's procedure leading to the Project is in violation of Albania's laws on environment, public participation, cultural heritage and EIA, as well as the EU's laws and guidelines.*"⁸⁰

B. Management Response

89. Management indicates that the Project was assigned a "Category A" rating for Environmental Assessment (EA), because it recognized the *potential significant impacts on the environment* and the need for avoidance, mitigating and monitoring measures. *Particular areas of concern include the impacts on air quality from stack emissions, water quality from cooling water discharge, and any ancillary impacts on*

⁷⁸ Request, p. 2, ¶5.

⁷⁹ Request, p. 2, ¶5.

⁸⁰ Request, p. 2, ¶5.

the Narta lagoon, which according to Management is located about two kilometers from the Project site.

90. *According to Management, an analysis of alternatives was carried out as part of the Project appraisal process, and four sets of alternatives to the Project were considered. Management further notes that the Project feasibility study considered other sites, and also considered other fuels as alternatives to the use of distillate oil in a combined-cycle generating unit at Vlora (site B). The other sites investigated were: Durres, Elbasan, Fier, Korce, Shengjin, and Vlora (site A).*⁸¹
91. Management notes that the sites were evaluated on the basis of ten criteria, each assigned a different weight. Management indicates that *“there are no internationally standardized approaches to conducting such site rankings, and that other evaluators might have chosen different ranking factors or weightings.”*⁸² Management states that the Vlora (site B) and Fier sites were found to be best from a power transmission perspective. Management further notes that there was a close correspondence between the ordering of the sites on the basis of the ten criteria and the ordering on the basis of *“levelized cost alone.”*⁸³ Management states that in both cases, the recommended Vlora site was ranked first over the site at Fier, which was ranked second.⁸⁴
92. Management states that the use of natural gas, indigenous coal and heavy fuel oil was considered. Management indicates that the option of a natural gas-fired combined-cycle unit at each of the proposed sites was found to be more costly than the distillate fuel option but that, if and when imported natural gas is brought to Albania, the Vlora plant could be readily converted to gas.⁸⁵
93. Management states that the EA provided sufficient in-field review and site characterization and that where field data was missing reasonable surrogates were chosen. Management adds that the EA does rely on a certain level of reconnaissance-level information on some topics, which will need to be refined as implementation progresses. Management adds that it *“sees no appreciable gains from an examination of additional project possibilities or choices selected.”*⁸⁶
94. Management states that based on a review of available TPP unit sizes from different manufacturers, bids were invited for a capacity between 85 MW and 135 MW, and the contract was awarded for a thermal power plant of 97 MW capacity.⁸⁷ Management notes that construction of a thermal plant in the southern part of the country will reduce technical losses in the Albanian electricity grid and significantly improve the security and quality of supply in the country overall and in particular in the south, which is poorly served at present. Management states that the TPP is designed to allow conversion to natural gas if and when it is imported to Albania.

⁸¹ Management Response, ¶26.

⁸² Management Response, ¶47.

⁸³ Management Response, ¶31.

⁸⁴ Management Response, ¶30-31.

⁸⁵ Management Response, ¶27-29.

⁸⁶ Management Response, ¶55.

⁸⁷ Management Response, ¶15.

C. Bank Policies

95. The Bank Policy on Environmental Assessment states that the:

“EA is a process whose breadth, depth, and type of analysis depend on the nature, scale, and potential environmental impact of the proposed project. EA evaluates a project’s potential environmental risks and impacts in its area of influence;-[footnote omitted] examines project alternatives; identifies ways of improving project selection, siting, planning, design, and implementation by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts; and includes the process of mitigating and managing adverse environmental impacts throughout project implementation. The Bank favors preventive measures over mitigatory or compensatory measures, whenever feasible.”⁸⁸

96. This Chapter continues by examining the characterization of the Project site, and then with an analysis of the specific issues, especially in relation to the adequacy of the Project’s environmental assessment, the Narta Lagoon and the applicability of the Bank Policy on Natural Habitats, the assessment of the Project’s impact on air and water quality, and the Project’s cumulative impact assessment. Chapter 5 of this Report will discuss public consultation and disclosure, which are also essential parts of the Bank policy on Environmental Assessment (OP 4.01).

D. Characterization of the Project Site

97. The Requesters assert that in 1993 Albania declared the Vlora area as a priority tourism area, which contrasts with the current placing of a thermal power plant close to Vlora Bay’s shoreline. During the Panel visits, the Requesters expressed serious concern over the potential negative impacts of Vlora Bay projects, including the construction of the thermal power plant, on the local tourist industry. In their view, these developments will destroy the beaches in the area through emission of air pollutants, discharge waters, and oil spills. During the Panel visit, the Requesters indicated that *“the project has little economic benefits for the city of Vlorë at the price of a heavy environmental footprint.”⁸⁹*
98. The Requesters have taken particular umbrage to the following characterizations of the site in the Final Environmental Assessment, considering them misleading and a “material misrepresentation”:

“The selected Vlorë site is a six hectare green field site adjacent to the offshore oil tanker terminal located on the Adriatic coast north of the Port of Vlorë. It is located approximately six km from the Port of Vlorë. The site is situated on a relatively barren coastal area with little vegetation or wildlife.”⁹⁰

“The Narta Lagoon is located about two km north of the site.”⁹¹

⁸⁸OP 4.01, ¶2.

⁸⁹Interviews with Requesters.

⁹⁰Final Environmental Impact Assessment, Vlorë Combined Cycle Generation Facility, October 6, 2003 (hereinafter “Final EIA”), p. 9.

⁹¹Final EIA, p. 38.

99. To the contrary, the Requesters assert that: *“The area in which the Thermal Power Plant is to be built is characterized by high population density, and is notable for its forest, marshland and salt pans.”*⁹²

100. Contesting the way the project site has been characterized the Requesters ask:

*“...Why this powerful thermo electric plant (131 MW) is being constructed so close to the sea and in the immediate surroundings of a city like Vlora, threatening hundreds of acres of pines and one of the most precious lagoons of the country, so close to the village of Narta, across from the exceptional island of Zvërneci, together giving wine and olives, meat and salt, spices and the taste of life, where tourism our most important economic resource should properly flourish?”*⁹³

1. The Panel’s Examination

101. Factual examination by the Panel of these contradictory statements indicates that the TPP site proper is very close to six hectares in extent. Before construction of the plant started, no buildings or other infrastructure were present within it. It is adjacent to the Vlora fishing harbor. The oil tanker “terminal” is some three kilometers offshore and consists now of a derelict single buoy mooring and a disused pipeline that passes close to the site, en route to a derelict oil storage facility east of the nearby village of Narta. The site is situated about two kms from Vlora’s nearest residential areas and from Narta village.



Figure 2 Treport Beach between the TPP site and the Beach

102. The site is located on low (<1 meter) sand dunes forming the transition from the beach to a plantation of pine trees. Both the beach and the sand-dune littoral have been in the past, and continue now, to be impacted by human activity—vehicles driving across the beach and dunes, sand excavation, disused military bunkers,

⁹² Letter from the Civic Alliance for the Protection of the Bay of Vlorë to the World Bank dated June 20, 2005.

⁹³ Letter from Environmental Associations and Representatives of Civil Society in Albania to the World Bank dated February 18, 2005.

uncontrolled solid waste disposal. The inter-tidal beach has no vegetation and the back-beach and associated dunes are sparsely vegetated. What was a pristine shoreline has deteriorated due to past neglect.

103. Aerial photographs taken before construction started show that the site was sparsely populated with apparently stunted pine trees and that the pine plantation both north and south of the chosen location is more dense and regular. The Panel team found documents confirming that during site preparation 247 pine trees were felled.⁹⁴ Further 1474 trees have been felled to clear the transmission line corridors.⁹⁵
104. The distance from the site to the closest point of the Narta lagoon is closer to one kilometer, as the Requesters contend, not to two kilometers, as the EA described it; the distance from the site to the main body of the lagoon is over five kilometers.
105. The Narta Lagoon is a formally recognized natural endowment. It forms part of the Vjose-Narta Landscape Protected Area.⁹⁶ The site of the Vlora TPP lies south of the protected area boundary and in a zone labeled as an industrial park.⁹⁷
106. These different characterizations of the same location indicate divergent perceptions of the site selected for the Vlora TPP and of its relevance for the Vlora Bay's overall development potential. Neither is completely wrong or completely right. The actual site under development was formerly a portion of Pine plantation, adjacent to low sand dunes—both degraded. The Vjose-Narta Protected Landscape lies to the north of the TPP site and has the characteristics identified by the Requesters.
107. The actual site/footprint of the TPP is not a pristine natural area with high potential to attract tourism and thus lead to development of tourism infrastructure. However, the coastal portion of the Vjose-Narta protected area does have these characteristics as does Zvërrneci Island and the Treport headland and the larger part of the Vlora Bay shoreline. None of these locations will be immediately impacted by the TPP: however, there is a substantial medium-term and long-term risk that the “sense of place” of the Treport headland and Vlora Bay as a desirable tourist site would be changed through the presence and longtime operation of the TPP, the oil terminal and possible further development of the Vlora Industrial Park.

E. Assessment of Studies under the Project

108. Pursuant to the Albanian Power Sector Strategic Action Plan⁹⁸ a consultant firm was retained by the Albanian Ministry of Energy⁹⁹ to evaluate technologies, fuels and sites for a new Albanian base load thermal generation facility. The study was conducted in two parts: first a general evaluation to determine preferred technology and site; second, a preliminary environmental, economic and financial assessment of the

⁹⁴ Documents witnessed and signed by the Forest Police on August 29, 2007 were shown to the Panel Team.

⁹⁵ Management letter to the Requesters dated April 6, 2009.

⁹⁶ Albanian Council of Ministers Decision Nr. 680 dated October 22, 2004. Accessed at <http://www.dajlaniproperty.com/law680.htm> on 21 July 2009.

⁹⁷ Map accompanying Decision Nr. 680.

⁹⁸ Albanian Strategic Action Plan Task Force, *Strategic Action Plan*, February 28, 2001.

⁹⁹ The study was funded by a grant from the United States Trade and Development Agency in 2002.

preferred option. The evaluation of potential sites and generation technologies is also discussed in Chapter 4.

1. Siting Study

109. Potential sites for a thermal power plant were evaluated at Durrës, Korçë, Fier, Shëngjin and Vlora, where two sites were considered, A and B. Both the A and B sites are located approximately four kilometers northwest of the city center. According to Management, Site Vlora A “encompasses part of an abandoned chemical plant that is a source of extensive mercury contamination as well as other chemical waste.”¹⁰⁰ Site Vlora B is an adjacent greenfield site. The criteria and weighting used to rank the suitability of these sites were: Technical — reduction of transmission losses (12% weighting), fuel availability (14%), proximity to transmission lines (10%); Economic — generation costs (12%), site environmental remediation costs (12%); Availability of infrastructure — water (10%), transport (8%), property (6%); Environmental — air quality (8%); Socio-economic (8%).
110. The Panel notes that only two environmental parameters, one specific physical concern and one general social indicator, were used, and that these together carry less than one fifth of the total weight. The arbitrarily determined weighting placed greater emphasis on quantifiable technical measures at a detriment to valuing social and environmental concerns, as well as of the further overall tourist development potential of the Vlora Bay area. The generation technologies considered were:
- Conventional steam turbine power plant, using coal or oil-based technology;
 - Simple cycle gas turbine (SCGT) power plant, oil or gas-fired;
 - Combined cycle gas turbine (CCGT) power plant, oil or gas-fired;
 - Diesel power plant, slow speed diesel (SSD) and medium speed diesel (MSD).
111. The study concluded that without available natural gas, the best technological options would be:
- Gas oil-fired CCGT for base-load generation;
 - Gas oil-fired SCGT for peak-load generation.
- But if natural gas becomes available, the same plants—fuelled with natural gas rather than gas oil--would be best.
112. The consultant’s site and technology study assessed the Vlora B site as the best for a distillate oil-fired, base load, combined cycle generation facility and recommended further detailed studies for this site.¹⁰¹

¹⁰⁰ Management Response, ¶31.

¹⁰¹ Final Siting Study, October 21, 2002 (hereinafter “Final Siting Study”), p.6.

2. Feasibility Study¹⁰²

113. A preliminary environmental analysis of the Vlora B site was undertaken by the same consultant firm between June and October 2002.¹⁰³ This study used existing data to provide an overview of environmental and socio-economic conditions, potential project impacts, and proposed mitigation measures. This short analysis (48 pages) includes a six-page work plan and outline for completing an Environmental Impact Assessment during a subsequent stage of project development. However, this study was not designed to meet the requirements for an Environmental Impact Assessment of a Category A World Bank funded project and it does not do so.

3. The Environmental Impact Assessment

114. **Upon completion of the Feasibility Study, the same consultant firm was commissioned by the Albanian Ministry of Industry and Energy to undertake the Environmental Impact Assessment for the selected Vlora site.** This assessment was started in late 2002 and completed in October 2003.¹⁰⁴ An addendum to the EA was added in December 2003.¹⁰⁵
115. The World Bank's Project Concept Document and Project Information Document for the Albania Power Sector Generation and Restructuring Project are both dated 2 January 2003. These documents repeat the potential environmental impacts outlined in the feasibility study—but they completely omit the critical concerns about the environmental impact assessment, which were expressed in earlier office correspondence between Bank staff.¹⁰⁶
116. This Bank memoranda and correspondence indicate that staff expressed serious doubts about whether the Project was in accord with OP 4.01 in two respects. First, that the same consultants were preparing the project, Feasibility Study, and the Environmental Impact Assessment. Second, that the EIA was not providing input to the Feasibility Study.
117. Regarding the same consultants being responsible for both the Feasibility Study and the Environmental Impact Assessment, Bank Management initially expressed the view:

¹⁰² The terms of reference for a feasibility study of the site identified in the Siting Study read as follows: “*The Contractor will perform a preliminary environmental analysis on the recommended site. While the environmental ramification of the chosen technology is considered in Sub-Task 1, the Contractor will perform a preliminary site environmental analysis including an investigation of flood plains, wetland issues, sensitive receptors, geological hazards, archaeological and historical resources, noise pollution, and threatened and endangered species that may be prevalent at or near the sites. In addition, the Contractor will perform an assessment of water availability, and air quality resources. The Contractor will also review and summarize the EIA requirements of the multilateral financial institutions involved in the project (World Bank, EBRD, and EIB).*” (Amendment number 1 to contract between Ministry of Public Economy and Privatization (now called Ministry of Industry and Energy) and the consultant firm for a feasibility study of the electricity system transmission interconnection project. April 10, 2002, p. 11).

¹⁰³ The terms of reference for the study were provided in April 2002. Authorization for the consultant firm to proceed with the feasibility study for Vlorë B was granted on June 21, 2002. The Final Feasibility Study containing the Preliminary Environmental Analysis (as Chapter 4) is dated October 21, 2002.

¹⁰⁴ Final EIA, 427p.

¹⁰⁵ A 36-page document dated December 17, 2003.

¹⁰⁶ Bank communication dated October 9 and 17, 2002.

*“From the TOR it is clear that the same consultant group will be responsible for all activities including feasibility study and basic design, preparation of technical specifications or detailed design, procurement documents based on the detailed design, and the preparation of the EIA. As mentioned already during our preliminary review, and also mentioned below, having the same consultant doing the design work and the EIA is not acceptable to OP 4.01.”*¹⁰⁷

118. The Bank’s policy on Environmental Assessment (OP 4.01) reads:

*“The borrower is responsible for carrying out the EA. For Category A projects, [footnote omitted] the borrower retains independent EA experts not affiliated with the project to carry out the EA.”*¹⁰⁸

119. Despite this, Bank Management developed an argument (based on footnote 6 to paragraph 4 of OP 4.01 quoted above) that the feasibility study did not constitute basic engineering and consequently there was no impediment to the same consultant undertaking both studies.¹⁰⁹ The footnote to paragraph 4 reads:

*“EA is closely integrated with the project’s economic, financial, institutional, social, and technical analyses to ensure that (a) environmental considerations are given adequate weight in project selection, siting, and design decisions; and (b) EA does not delay project processing. However, the borrower ensures that when individuals or entities are engaged to carry out EA activities, any conflict of interest is avoided. For example, when an independent EA is required, it is not carried out by the consultants hired to prepare the engineering design.”*¹¹⁰

120. The second concern of Bank Management was that the environmental impact assessment was not providing input to the feasibility study or to the comparison of advantages and disadvantages of the possible sites. The specific concern was that the Terms of Reference for the EIA restricted the assessment to the selected site and thus did not meet the requirement of OP 4.01 that alternative sites to be evaluated.¹¹¹

121. As indicated above, these concerns are not addressed in the PCD or the PID. They are also not acted on or taken up in the preparation of the Environmental Impact Assessment undertaken in 2003. These concerns of Bank staff are also not reflected in the Project Appraisal Document (PAD) dated February 17, 2004, despite a specific recommendation that attention be devoted to the matters raised. Illustrative excerpts are

“The EA should make an evaluation of different alternatives based on environmental, technical, and economic issues in order to find out what is the

¹⁰⁷ Bank communication dated October 17, 2002.

¹⁰⁸ OP 4.01, ¶4.

¹⁰⁹ Bank communication dated October 9, 2002, and February 5, 2003.

¹¹⁰ OP 4.01, ¶4, Footnote 6.

¹¹¹ Bank communication dated October 17, 2002.

most cost effective and environmentally sustainable solution. This was specifically pointed out in previous comments.”

“As a side comment I would say that we can now see the result of having the same company preparing Site Study, Feasibility Study and Environmental Assessment, on which choice we commented quite seriously last year, and it looks like the EA is made in order to not contradict previous studies and decisions.”¹¹² (emphasis in original)

122. As a consequence of these reservations an Addendum to the Environmental Impact Assessment was produced.¹¹³ A Bank staff member’s comments on a draft of this addendum make an about-turn on the concerns noted above:

“I have with pleasure reviewed the Draft EIA Addendum, and I find that the consultants have done a diligent job in addressing all the issues which were raised in my mail dated October 10, 2003, and that the additional information provides a complete answer to the questions. A pity that the information was not included from the beginning, but with this addendum, I find that all information needed in the EIA has been provided.”¹¹⁴

123. Neither the above excerpt nor the Management’s Response explain how the *post hoc* addition of materials through an Addendum overcame the factual objection that the Environmental Impact Assessment had not provided input to the siting and feasibility studies done before the Addendum was “added.” The implication is that the Addendum was written as an ex-post-factum justification of the siting and feasibility done previously to explain away an omission identified by staff earlier, but not properly corrected in time.

124. As discussed above, the fourth paragraph of the Bank’s policy on Environmental Assessment (OP 4.01) mandates that for Category A projects, “the borrower ***retains independent EA experts not affiliated with the project to carry out the EA***” (emphasis added).¹¹⁵ However, despite the requirement that independent experts conduct the Environmental Assessment, the same consultants as had prepared the project’s siting and feasibility studies undertook the Environmental Assessment for the Vlorë TPP. Emails between Bank staff show that they were aware of and concerned by this lack of independence and its consequence before project appraisal.

125. Being aware that independent experts were not preparing the Environmental assessment, Bank staff sought to offset the requirement of independent assessment and the possibility of bias and conflict of interests by having a purportedly independent review of the EA undertaken.

“... the Bank would like an independent review of the Environmental Assessment of the Vlorë thermal power project to be carried out once the draft EA is ready. The reason for this request is to provide an independent objective verification of the findings and recommendations of the EA, particularly given

¹¹² Bank communication dated October 10, 2003.

¹¹³ A 36-page document dated December 17, 2003.

¹¹⁴ Bank Communication dated December 15, 2003.

¹¹⁵ OP 4.01, ¶4.

that the EA is being prepared by the same company that prepared the feasibility.

We have discussed with ... (CIDA) the possibility of having SEETEC¹¹⁶ finance the independent review.”¹¹⁷

126. A short review of the draft EA was subsequently undertaken by a Canadian company.¹¹⁸ In 2001 this company had been awarded the lead role in a consortium to undertake the Southeastern Europe Electrical System Technical Support (SEETEC) Project.¹¹⁹ The goal of SEETEC is to foster economic growth in South-Eastern Europe by improving the management, delivery and rational use of electricity in the region.¹²⁰ The SEETEC project includes Albania, thus the authors of the EA Review were also closely associated with electricity supply to Albania from the proposed Vlorë TPP. The propriety of Bank staff recommending and accepting an “independent EA review” from a party also closely involved in electricity supply to Albania must be questioned.

4. Adequacy of the Environmental Assessment

127. The fundamental purpose of OP 4.01 is to help ensure that Bank financed projects are environmentally sound and sustainable and that environmental assessments improve decision-making.¹²¹ OP 4.01 requires that an EA:

“... examines project alternatives; identifies ways of improving project selection, siting, planning, design, and implementation by preventing, minimizing, mitigating, or compensating for adverse environmental impacts and enhancing positive impacts...”¹²²

“... takes into account the natural environment (air, water, and land); human health and safety; social aspects (involuntary resettlement, indigenous peoples, and cultural property); and transboundary and global environmental aspects. EA considers natural and social aspects in an integrated way.”¹²³

“... is initiated as early as possible in project processing and is integrated closely with the economic, financial, institutional, social, and technical analyses of a proposed project.”¹²⁴

¹¹⁶ Southeastern Europe Electrical System Technical Support Project.

¹¹⁷ Bank communication dated April 24, 2003.

¹¹⁸ Review of the Vlorë TPP Environmental Impact Assessment Study. Analysis of the EIA Study. October 2003. 9 pages.

¹¹⁹ Annual Report, p. 14. Available at http://www.snc-lavalin.com/pdf/investors/2001/ra_en.pdf. Accessed 20 July 2009.

¹²⁰ SEETEC Goal Statement. Available at http://www.seetec-balkans.org/goal_statement, last accessed 30 June 2009.

¹²¹ Paragraph 1 of OP 4.01 reads: “The Bank requires environmental assessment (EA) of projects proposed for Bank financing to help ensure that they are environmentally sound and sustainable, and thus to improve decision making.”

¹²² OP 4.01 ¶2.

¹²³ OP 4.01 ¶3.

¹²⁴ OP 4.01, ¶3.

128. OP 4.01 paragraph 5 also clearly places the onus on the Bank to advise borrowers of the Bank's EA requirements:

*“The Bank advises the borrower on the Bank's EA requirements. The Bank reviews the findings and recommendations of the EA to determine whether they provide an adequate basis for processing the project for Bank financing. When the borrower has completed or partially completed EA work prior to the Bank's involvement in a project, the Bank reviews the EA to ensure its consistency with this policy. The Bank may, if appropriate, require additional EA work, including public consultation and disclosure.”*¹²⁵

129. **The Panel finds that Management failed to ensure compliance with the requirements of OP 4.01 by allowing the Borrower to employ the same consultant that conducted the siting and feasibility studies for also undertaking the Project's Environmental Assessment.**

5. Consideration of Alternatives

130. OP 4.01 Annex B, paragraph 2 (f) requires that various forms of alternative be considered.¹²⁶ Evaluation of alternatives is also discussed in Chapter 4.

(a) Technological Alternatives

131. The 2001 Albanian Power Sector Strategic Action Plan¹²⁷ and the 2003 Albania Energy Sector Power Transmission and Distribution Project¹²⁸ both concluded that to assure a reliable firm supply of electricity throughout the year Albania must become less reliant on imports of electricity and on hydropower generation. These studies recommended development of new generating facilities for several reasons: to supply firm energy,¹²⁹ to balance electricity generation, to reduce dependence on hydropower generation, and to reduce the almost permanent overloading of the power transmission and distribution systems, which gives rise to Albania's frequent unscheduled power outages and ubiquitous load shedding. Energy from small hydroelectric plants, wind farms and solar installations provide non-firm energy, since variable weather and seasonal conditions imply that electrical supply from these sources cannot be guaranteed to be available at all times. **It is thus appropriate that non-firm technological alternatives were not considered further in the Environmental Impact Assessment.**
132. Technological alternatives capable of delivering firm energy were considered in the Final Siting Study.¹³⁰ These alternatives considered both coal fired and combined cycle technologies. The alternative fuels considered were coal, natural gas and distillate oil (gasoil). Alternative sources of water (surface, ground and sea), for both plant use and cooling, were also considered. Although the discussion in the Siting

¹²⁵ OP 4.01, ¶5.

¹²⁶ OP 4.01 Annex B, Content of an Environmental Assessment Report for a Category A Project.

¹²⁷ Albanian Strategic Action Plan Task Force, *Strategic Action Plan*, February 28, 2001.

¹²⁸ Study undertaken with World Bank funding.

¹²⁹ Firm energy refers to the actual energy guaranteed to be available for production and transmission at any given time. Nonfirm energy refers to available energy that cannot be guaranteed to be available at any time.

¹³⁰ Final Siting Study, sections 3.1, 3.2, and 4.

Study is not reproduced in the Final Environmental Assessment, **appropriate technological alternatives for the Project were assessed. This is in accord with OP 4.01.**

(b) Site Alternatives

133. The sequence of preparatory studies undertaken for the Vlora TPP effectively negated the purpose of the Bank's Policy on Environmental Assessment. A site for a new TPP was first determined on largely technical grounds,¹³¹ and a study of the feasibility of constructing a TPP on the selected site was done simultaneously.¹³² An Environmental Assessment followed, with a final addendum being made to the EA¹³³ to supply *post hoc* justification for site selection.
134. Bank staff recommended against this: "It is recommended that the time table for the different activities should be established in such a way, that the outcome of the EIA could be included in the final feasibility study"¹³⁴ (emphasis in original). Nevertheless, no firm action appears to have been taken to ensure that the borrower and its consultants understood the fundamental purpose of undertaking an EA as set out in OP 4.01. **The EA thus contributed nothing to improving Project selection, siting, planning, or design. The purpose of the Vlora EA was thus reduced to improving Project implementation after decisions to proceed had been taken. This process was not compliant with OP 4.01 paragraphs 1, 2 and 3.**
135. OP 4.01 Annex B sets out the requirements for Category A Environmental assessment Reports. Section (f) relates to the consideration of alternatives.

*"(f) Analysis of alternatives. Systematically compares feasible alternatives to the proposed project site, technology, design, and operation—including the "without project" situation—in terms of their potential environmental impacts; the feasibility of mitigating these impacts; their capital and recurrent costs; their suitability under local conditions; and their institutional, training, and monitoring requirements. For each of the alternatives, quantifies the environmental impacts to the extent possible, and attaches economic values where feasible. States the basis for selecting the particular project design proposed and justifies recommended emission levels and approaches to pollution prevention and abatement."*¹³⁵

136. The Final Environmental Impact Assessment failed to meet the Bank's requirements in respect of, *inter alia*, an analysis of alternatives.¹³⁶ Section 6 of the Addendum to the EIA consequently produced to redress deficiencies¹³⁷ provides an analysis of alternatives to supplement the analysis given in section 7 the Final EIA, which in turn relates back to the alternatives considered in the Final Siting Study of October 2002.

¹³¹ Final Siting Study.

¹³² Final Feasibility Study, October 21, 2002.

¹³³ Filed in World Bank Infoshop January 15, 2004.

¹³⁴ Bank communication dated October 17, 2002.

¹³⁵ OP 4.01, Annex B, ¶2 (f).

¹³⁶ Bank communication dated October 10, 2003.

¹³⁷ Final EIA Addendum, December 2003. Lodged in World Bank Infoshop January 15, 2004.

137. The Addendum provides brief summaries of the characteristics of each of the seven sites considered as a location for a TPP. The summaries are based entirely on the ten dominantly technical criteria used for the initial selection of candidate sites. No further studies or analyses were undertaken of the potential environmental impact if a TPP were to be constructed at each of the sites. Little baseline data is provided for the alternative sites, and that which is given is trivial. The potential impact of construction of a TPP at each of the candidate sites is not addressed. No consideration is given to the potential effects on potentially affected communities, and any consideration of the articulation of the proposed TPP with local planning is absent. These issues are discussed in more depth in Chapter 4.
138. As indicated above, the Final Addendum to the EIA does no more than supply *post hoc* justification for a site selected on primarily technical grounds. It does not contribute to the Bank’s requirement that Environmental Assessments be undertaken to improve decision making and ensure that projects are environmentally sound and sustainable.¹³⁸ The studies neither individually nor collectively ensure that “*environmental considerations are given adequate weight in project selection, siting, and design decisions.*”¹³⁹
139. **Based on the foregoing, the Panel concludes that Management did not comply with OP 4.01 paragraph 5 in accepting studies that failed to meet the fundamental purpose of the Environmental Assessment policy. The Bank failed to insist on further appropriate studies to remedy shortcomings.**

6. Omission of Social Analysis

140. OP 4.01 requires that Environmental Assessments “... *consider natural and social aspects in an integrated way.*” The Policy also suggests that Environmental Assessments should be “... *integrated closely with the economic, financial, institutional, social and technical analyses of a proposed project.*”¹⁴⁰
141. As will be discussed further and in more detail in Chapter 3 on *Compliance with Social and Cultural Policies*, the Panel’s analysis found that neither the Environmental Assessment for the Vlora Thermal Plant Project nor the associated plant-siting and feasibility studies have done this. These aspects are only briefly examined in the present chapter in terms of their necessary linkages with the environmental feasibility analysis, as required by the Bank’s OP 4.01. The review of social and cultural dimensions are expanded and further detailed in Chapter 3 of this Report.
142. The Panel’s analysis found that the social dimension is poorly represented in all the project preparation studies. The five pages devoted to “Socioeconomic Conditions” in the Final Environmental Assessment contain general statements on social and economic conditions in Albania and Vlora, but make no attempt to understand or analyze the likely social impacts of the TPP.¹⁴¹ Social variables normally discussed in

¹³⁸OP 4.01, ¶1.

¹³⁹OP 4.01, Footnote 6.

¹⁴⁰OP 4.01, ¶3.

¹⁴¹Lack of on-the-ground survey of social issues for the Environmental Assessment Study was confirmed by Bank staff during interviews.

assessments (e.g. Composition of the Project area population, its livelihood and income sources; Formation of attitudes towards the project; Interest group activity; Change in size or structure of local government; Planning and zoning activity; Industrial diversification; Economic inequities; Employment equity; Changing occupational opportunities; Sense of place; Cherished features)¹⁴² are not dealt with at all. Some of these social dimensions absent in the EIA are also required by the Bank's OMS 2.20 on Project Appraisal. Social issues are also conspicuously absent from the EIA Final Addendum.

143. Because of these multiple omissions, the project documents simply do not support the statement made in Management's Response:

*“Project appraisal commenced in November 2003, with careful attention to the project's economic, technical, institutional, financial, and commercial aspects, as well as its social impact.”*¹⁴³

144. Three social issues surface in documented Bank staff exchanges on economic and socio-cultural implications: (1) payment of a subsidy to poor and vulnerable consumers to offset an increase in electricity tariff;¹⁴⁴ (2) public participation in the Environmental and Social Assessment process;¹⁴⁵ (3) cultural heritage as reflected by archaeological sites and finds.¹⁴⁶
145. The extent to which the site of the Vlora TPP is cherished by the local community for recreational purposes, prospective tourism infrastructure and because of the pine trees planted to stabilise sand dunes, was not probed at all.¹⁴⁷ Similarly, the Environmental Assessment documentation is silent on whether the TPP articulates positively or negatively with regional and city plans for development.
146. In short, the Environmental Assessment simply does not assess the impact that the Vlora TPP may have on the social fabric of the proximal village of Narta, the town of Vlora, or the Vlora Bay littoral communities. It also does not attempt to show how the TPP project will integrate with or stimulate regional development and poverty alleviation.
147. **Based on its analysis of the Project documents, the Panel concludes that a large array of social issues and potential economic risks to the area population, resulting from design, siting and impacts, were not considered in the Project's preparation and EAs. This is not compliant with Bank policy. There was also no integration between biophysical and social studies or between the Environmental Assessment and economic and technical studies. In all these respects,**

¹⁴²See for example: Burdge et al 1994: *A Conceptual Approach to Social Impact Assessment*, Social Ecology Press, Middleton, Wisconsin.

¹⁴³Management Response, ¶12.

¹⁴⁴Aide Memoires, Bank Mission November 10-18, 2003; February 22 - March 4, 2005; August 31 - September 15, 2005.

¹⁴⁵Bank communications dated October 5, 2002; March 24, 2003; March 25, 2003; March 31, 2003; April 2, 2003.

¹⁴⁶Letters dated June 26, 2006; August 2, 2006; March 30, 2007; and Back to Office Report on a Mission to Assess the Potential Impact on Cultural Heritage of a Thermal Power Plant at Vlorë, Albania, July 2006.

¹⁴⁷Cherished features communicated to the Panel team during a meeting with concerned citizens of Vlorë on January 19, 2008.

Management has failed to ensure that the substance of OP 4.01 was complied with in the preparation and appraisal of the Vlora TPP.

F. Narta Lagoon and Bank Policy on Natural Habitats

1. The Narta Lagoon

148. The Narta lagoon is the main terrestrial water body and wetland in the area.¹⁴⁸ A 14 km dyke separates 1500 ha of salt pans in the northern part of the lagoon from 2900 ha of open water. The lagoon is separated from the sea by a Pine covered sand bar, but linked to the sea by two artificial channels.¹⁴⁹ The lagoon has an average depth of 1.26m and is hypersaline especially during summer, while in winter salinity decreases and is similar to the Adriatic Sea. The eastern part of the lagoon is less influenced by seawater and has high oscillations in salinity. When freshwater inflow is reduced (summer) and the channels to the Adriatic are blocked, approximately 1,000 ha of the lagoon become dry while a further 800 ha are less than 10 cm deep. These conditions are harmful to the lagoon biota. The Zverrneci hills are situated in the southeastern portion of the protected landscape, some 2 km north of the TPP site. The hills rise close to 80m, and their natural vegetation cover of Mediterranean maquis and oak forest has been almost entirely replaced by olive groves.



Figure 3 Zverrneci Island

149. Vjose-Narta wetland complex is an important area well-known in Albania for its special flora and a diversity of habitats. It is also important for fish (102 species)¹⁵⁰

¹⁴⁸ The following description of the Narta lagoon is paraphrased from the Vjose-Narta Landscape Protected Area Management Plan compiled by the MedWetCoast Project “Conservation of Wetlands and Coastal Ecosystems in the Mediterranean Basin”, June 2005. Available at http://vinc.s.free.fr/IMG/Narta_Vjosa_MPanglishtja.pdf, last accessed 30 June 2009 (hereinafter “Vjose-Narta Landscape Protected Area Management Plan”).

¹⁴⁹ The southern channel is 200 m long and varies in width between 6 and 48 meters and 0.2 and 1.8 m in depth. The northern channel is 800 m long, 11-60 m wide and 0.3-0.5 m deep. Both channels are often blocked due to sedimentation.

¹⁵⁰ Vjose-Narta Landscape Protected Area Management Plan, section 2.3.3.2. Available at http://vinc.s.free.fr/IMG/Narta_Vjosa_MPanglishtja.pdf. Last accessed 20 July 2009.

and birds (192 species) especially the tens of thousands of water birds that overwinter on the lagoon.¹⁵¹

150. The approved National Strategy for Tourism Development has identified the coastal area from Vjosa to Zvërrneci as a priority zone for tourism development.¹⁵² The Vjose-Narta Management Plan consequently envisages development of eco-tourism and recreation in the protected complex. It notes with concern the approval of the Industrial Park (and the construction of the Vlora Thermal Plant) on the southern border of the Protected Area. The Management Plan states that the industrial park will jeopardize the eco-tourism potential of the area.¹⁵³

2. Requesters' Claims

151. The Requesters assert that the Project site is located only 746 meters from the Narta Lagoon, which is a protected area, rather than the two kilometers indicated in the Project documents. According to the Requesters, the Project will have significant impacts on the protected area and the Bank's Policy on Natural Habitats applies.

3. Management Response

152. With respect to the Requesters' concern of the Project's potential impacts on ecosystems (i.e. "fisheries, natural habitat, ecosystem, coral colonies"), Management states that the EA and measures to be taken during implementation are adequate. Management indicates that the Project site is outside the protected area around the Narta lagoon, designated as such in 2004 by the Government, and is not anticipated to have an impact on this area. Management notes that the Bank's Policy on Natural Habitats does not apply.¹⁵⁴

4. Applicability Of Bank Policy On Natural Habitats OP 4.04

153. Annex A of OP 4.04 defines "natural habitats" and "critical natural habitats" as follows:

*"Natural habitats [footnote omitted] are land and water areas where (i) the ecosystems' biological communities are formed largely by native plant and animal species, and (ii) human activity has not essentially modified the area's primary ecological functions."*¹⁵⁵

"Critical natural habitats are: (i) existing protected areas and areas officially proposed by governments as protected areas (e.g., reserves that meet the criteria of the World Conservation Union [IUCN] classifications [footnote omitted]), areas initially recognized as protected by traditional local

¹⁵¹ Vjose-Narta Landscape Protected Area Management Plan, section 2.3.3.4. Available at http://vinc.s.free.fr/IMG/Narta_Vjosa_MPanglishtja.pdf. Last accessed 20 July 2009.

¹⁵² Vjose-Narta Landscape Protected Area Management Plan, section 2.1.2.2. Available at http://vinc.s.free.fr/IMG/Narta_Vjosa_MPanglishtja.pdf. Last accessed 20 July 2009.

¹⁵³ Vjose-Narta Landscape Protected Area Management Plan, section 2.1.2.4 B. Available at http://vinc.s.free.fr/IMG/Narta_Vjosa_MPanglishtja.pdf. Last accessed 20 July 2009.

¹⁵⁴ Management Response, ¶57.

¹⁵⁵ OP 4.04, Annex A, ¶1(a).

communities (e.g., sacred groves), and sites that maintain conditions vital for the viability of these protected areas (as determined by the environmental assessment process [footnote omitted]); or (ii) sites identified on supplementary lists prepared by the Bank or an authoritative source determined by the Regional environment sector unit (RESU). Such sites may include areas recognized by traditional local communities (e.g., sacred groves); areas with known high suitability for bio-diversity conservation; and sites that are critical for rare, vulnerable, migratory, or endangered species. [footnote omitted] Listings are based on systematic evaluations of such factors as species richness; the degree of endemism, rarity, and vulnerability of component species; representativeness; and integrity of ecosystem processes.”¹⁵⁶

154. OP 4.04 indicates that:

“The Bank does not support projects that, in the Bank’s opinion, involve the significant conversion or degradation [footnote omitted] of critical natural habitats.”¹⁵⁷

“Wherever feasible, Bank-financed projects are sited on lands already converted (excluding any lands that in the Bank’s opinion were converted in anticipation of the project). The Bank does not support projects involving the significant conversion of natural habitats ...”¹⁵⁸

155. The Integrated Safeguards Data Sheet (ISDS) dated January 2, 2003, records that Bank staff are of the opinion that *“The proposed project is not likely to have any significant adverse impact on the [Narta] lagoon”* and consequently record that the need for OP 4.04 to be triggered is yet to be determined.¹⁵⁹ The Project Appraisal Document, dated February 17, 2004, indicates that the Natural Habitats Safeguard is not triggered.¹⁶⁰ The Requesters question this judgment.¹⁶¹

156. Although much of the Narta lagoon is no longer in a natural state, having been drained and used for agriculture, or ponded to facilitate salt extraction, a significant portion of it is still natural and is an important habitat for water birds and fish. The lagoon is also an officially proclaimed protected area that meets the requirements of the IUCN classification of protected areas.¹⁶² The lagoon thus falls within the World Bank definition of a “Critical natural habitat.” The question is therefore whether the project will either “significantly convert” or “degrade” the lagoon.

157. Annex A of the Bank Policy on Natural Habitats defines significant conversion as follows:

¹⁵⁶ OP 4.04, Annex A, ¶1(b).

¹⁵⁷ OP 4.04, ¶4.

¹⁵⁸ OP 4.04, ¶5.

¹⁵⁹ Integrated Safeguards Data Sheet, January 2, 2003, p. 11.

¹⁶⁰ PAD, p. 41.

¹⁶¹ Communicated to Panel team during a meeting with concerned citizens of Vlora on January 19, 2008.

¹⁶² Albanian Council of Ministers Decision Nr. 680 dated October 22, 2004. Accessed at <http://www.dajlaniproperty.com/law680.htm> on 21 July 2009.

*“Significant conversion is the elimination or severe diminution of the integrity of a critical or other natural habitat caused by a major, long-term change in land or water use. Significant conversion may include, for example, land clearing; replacement of natural vegetation (e.g., by crops or tree plantations); permanent flooding (e.g., by a reservoir); drainage, dredging, filling, or channelization of wetlands; or surface mining. In both terrestrial and aquatic ecosystems, conversion of natural habitats can occur as the result of severe pollution. Conversion can result directly from the action of a project or through an indirect mechanism (e.g., through induced settlement along a road).”*¹⁶³

158. As the Vlora TPP does not affect the Vjose-Narta protected area directly it must be asked whether the lagoon will be affected indirectly; in the present case, either by severe air or water pollution. As neither liquid effluent nor process water will be discharged to the lagoon, and no significant ground water contamination is likely, water pollution will not occur. The technical design of the TPP to burn either distillate fuel oil or natural gas mitigates against significant atmospheric emissions from the plant. This, coupled with winds that are seldom from the south¹⁶⁴ (toward the lagoon) makes it most improbable that a body of water as large as the lagoon can be significantly polluted by atmospheric emissions from the plant. Significant conversion of the lagoon is therefore not probable and does not provide a reason for OP 4.04 to be triggered.
159. Bank Policy states that *“Degradation is modification of a critical or other natural habitat that substantially reduces the habitat’s ability to maintain viable populations of its native species.”*¹⁶⁵ As there is no reasonable mechanism¹⁶⁶ through which the Vlora TPP can substantially reduce the Narta lagoon’s ability to maintain its native species, such degradation also fails to provide a reason for triggering OP 4.04.
160. **The Panel concludes that Management was correct in its determination that the Vlora TPP did not trigger OP 4.04. It follows that there is no reason to anticipate that the TPP will be harmful to natural habitats.**

G. Assessment of Air and Water Quality

1. Air Quality

(a) Modeling

161. **Emissions to the atmosphere from the Vlora TPP have been calculated with due regard to the World Bank Pollution and Prevention Handbook.**¹⁶⁷ For this analysis, the well-established United States Environmental Protection Agency *Industrial Source Complex Model - Version 3* (ISCST3) was used. This model allows

¹⁶³ OP 4.04, Annex A, ¶1 (c).

¹⁶⁴ Wind rose for Vlora Airport.

¹⁶⁵ OP4.04, Annex A, ¶1 (d).

¹⁶⁶ Atmospheric emissions were discounted as a mechanism in the previous paragraph.

¹⁶⁷ World Bank Group Pollution Prevention and Abatement Handbook, Thermal Power: Guidelines for New Plants, July 1998.

[http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/\\$FILE/thermnew_PPAH.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/$FILE/thermnew_PPAH.pdf)
Accessed 21 July 2009.

the maximum off-property ground level concentrations of Nitrogen Oxides, fine Particulate Matter and Sulphur Dioxide to be estimated from stack emissions as well as dust and gaseous loads from construction activities.

(b) Construction Phase

162. Fugitive dust emissions from plant operating during construction were modeled for ambient temperature ground level area source emissions.¹⁶⁸ The maximum impact from construction activities was determined to be well within the air quality standards recommended by either the World Bank¹⁶⁹ or the European Union.

(c) Operational Phase¹⁷⁰

163. Model input comprised plant design data for effluent, stack and building configurations. Modeling was performed for two stacks each 46.9m high and 2.67m in diameter. An effluent temperature of close to 125C and a velocity of 25 m/sec were used. Effluent characteristics are commensurate with burning distillate fuel oil. A 500 by 500 metre three-dimensional¹⁷¹ receptor grid was employed for an area of 100 km², this being a square of 10 km side, with the TPP situated at the center point.¹⁷² **These inputs are appropriate.**
164. The ISC-3 model is a Gaussian plume dispersion model that requires hourly wind and temperature data. Wind speed and direction is required as are surface and vertical temperature profiles for the site to be modeled. Such meteorological data for the Vlora site did not exist. Consequently air quality modeling for the Vlora power plant used surrogate meteorological data sets from the National Weather Service stations at San Francisco International Airport (USA) (surface) and Oakland (upper air) for the period 1987-1990.¹⁷³ These stations were selected on the basis of similar mean monthly wind speeds and air temperature—but cannot replicate hourly wind direction and variations in thermal structure of the atmospheric mixing layer. Consequently, the dispersion patterns output by the model cannot be regarded as representative of the Vlora situation.¹⁷⁴ Nevertheless the model output does show levels of atmospheric pollution orders of magnitude below both World Bank and European Union standards for Vlora city and the coastal lowlands. Although still not exceeding the standards, the values predicted for the hills east and southeast of the site are significantly higher.
165. The lack of appropriate meteorological data is recognized in the EIA, which recommends “*the Albanian Government should begin collecting site specific air quality data as soon as possible (at least 12 months). As soon as sufficient site data is*

¹⁶⁸Final EIA, p. 59.

¹⁶⁹As put forth in the World Bank Group Pollution Prevention and Abatement Handbook, Thermal Power: Guidelines for New Plants, July 1998.
[http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/\\$FILE/thermnew_PPAH.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/$FILE/thermnew_PPAH.pdf)
Accessed 21 July 2009.

¹⁷⁰Final EIA, sections 6.4.1, 6.4.2, and 6.4.3.

¹⁷¹Vertical coordinates were obtained from topographic maps.

¹⁷²For an area of one square kilometre centred on the plant a finer grid resolution of 100mX100m was used.

¹⁷³Final EIA, p. 69.

¹⁷⁴The rationale of running sophisticated models in situations where essential input data is not available must be questioned. There is a danger that model results emanating from such exercises may be construed to be reliable and a sound basis for decision-making, which is not the case.

*available, additional air modeling should be performed to confirm the findings of this EIA and recommend any further mitigation measures, if necessary, while the Project is still being implemented.”*¹⁷⁵

166. This recommendation was observed and hourly wind data from an anemometer erected 10m above ground level at the Vlora TPP site has been collected. This data together with atmospheric stability data (vertical profiles) obtained from Corfu have subsequently been used together with the updated version-5 of the United States Environmental Protection Agency *Industrial Source Complex* Model to model the impact of the TPP on Vlora air quality.¹⁷⁶ Results of this modeling based on wind data from the Vlora TPP site also show ground level concentrations of NO_x SO₂ and PM₁₀ to be far below the maximum levels indicated in both World Bank and European Union standards. They also show that the highest ground level concentrations of atmospheric emissions will occur on the hills east and southeast of the TPP site.
167. The potential for hill villages to be most severely affected by atmospheric emissions from the Vlora TPP was anticipated by Bank staff:

*“...it is highly recommended that the modeling particularly addresses the situation for population [centrally] located also at the higher altitudes in the surrounding mountains. The result of the modeling should be the basis for deciding the height of the stack needed for the exhaust gases from burning oil and natural gas in the future.”*¹⁷⁷

168. However, the Panel could not find any evidence that this strong recommendation has been acted on and that any attempt has been made to use atmospheric dispersion modeling to optimize the height of the TPP stacks.¹⁷⁸
169. Despite shortcomings in the meteorological input to the initial models used for the EIA, the results of the air quality modeling, confirmed by subsequent independent modeling using better meteorological data, indicate that atmospheric emissions from the Vlora TPP burning distillate fuel oil will be far below the pollution levels indicated in World Bank and European Union standards designed to maintain a high quality atmospheric environment. **The Panel finds that atmospheric emissions from the TPP do not pose a significant risk of harm to either the human population of Vlora or the floral and faunal populations of the Narta Lagoon.**

2. Marine Environment

170. The marine environment will be affected during both construction and operation of the Vlora TPP.

¹⁷⁵Final EIA, p. 9.

¹⁷⁶KESH retained a company to undertake further modeling based on actual site data.

¹⁷⁷Bank communication dated October 5, 2002.

¹⁷⁸It must be noted that stakeholders might construe optimal stack height differently. Those fearful of Vlora losing its “sense of place” due to high industrial chimneys appearing on the skyline may wish to see lower stacks, provided air quality standards are met. Those fearful of atmospheric emissions harming health in hill villages may prefer stack heights.

(a) Construction Phase

171. During construction, disturbance will occur due to installation of the cooling water intake and discharge outfall pipelines that are estimated to extend 600m into the bay.¹⁷⁹ This work may involve dredging and disposal of excavated material. The work could potentially cause sediment release to the surrounding marine environment.¹⁸⁰ The EIA is silent on the significance of potential impacts but provides placatory statements as to likely effects on fisheries and coastal navigation. The onus is placed on the EPC contractor to ensure minimal environmental and social impact.¹⁸¹ However, the EIA recommends no mechanism for ensuring EPC contractor compliance. There is no requirement for approval of method statements and no standards that must be met have been specified. **The EIA is deficient in this regard.**

(b) Operational Phase

172. During TPP operation the marine environment will be affected by: (1) the water intake entraining marine life; (2) the elevated temperature of cooling water discharged in Bay waters; and potentially by (3) potential oil spills during fuel delivery at the oil terminal located in the Bay waters.¹⁸²

(c) Water Intake

173. The effect of water intake on marine life is treated in a perfunctory manner in the Final EIA¹⁸³ and the potential extent or significance of the impact on either nature or plant operation is not discussed. No detailed marine biology studies are reported, nor is detail provided of the design alternatives mentioned that might be considered to minimize entrainment of marine organisms.¹⁸⁴ The Final Feasibility Study states that investigations will be required before final design of the intake system to minimize impacts.¹⁸⁵

(d) Elevated Temperature

174. The localized rise in water temperature from the TPP cooling water discharge is the parameter that receives most attention in the Final EIA. Plume dispersion modeling was undertaken to predict the potential increase in water temperature in Vlora Bay so as to assess compliance with the liquid discharge temperature standards. These standards specify the rise in temperature that is allowable at a defined distance from the discharge point.¹⁸⁶ For the Vlora TPP discharge the mixing zone is 23 m. At this distance from the discharge point temperature may not be more than 3C above ambient levels.¹⁸⁷

¹⁷⁹ Final EIA, section 4.2.4.

¹⁸⁰ Final EIA, section 6.2.5.

¹⁸¹ Final EIA, section 6.2.5.

¹⁸² Final EI, section 6.4.5.

¹⁸³ Final EIA, section 6.4.5, on Water Intake.

¹⁸⁴ Inclusion of an appropriate specialist was recommended in a Bank communication dated October 5, 2002.

¹⁸⁵ Final Feasibility Study, section 4.2.4 on Water Intake.

¹⁸⁶ This distance is known as the Regulatory Mixing Zone and has a maximum value of 100 metres.

¹⁸⁷ World Bank Group Pollution Prevention and Abatement handbook: Thermal Power, Guidelines for New Plants, July 1998.

175. Thermal impact modeling was performed utilizing the United States Environmental Protection Agency supported Cornell Mixing Zone Expert System (CORMIX).¹⁸⁸ A worst-case scenario was modeled as this produces the highest temperature differential between the effluent and the ambient temperature of the Adriatic Sea. The modeling results produce a less than 1C temperature increase above ambient water 23 m from the discharge point. This is far below the maximum allowable standard of 3C one hundred meters from the point of discharge.¹⁸⁹

(e) Oil Spills During Fuel Delivery

176. The Final EIA devotes a mere three paragraphs to examination of the potentially serious environmental impact of oil spills during fuel delivery.¹⁹⁰ Two pages are devoted to a proposal for an oil spill response and recovery plan.¹⁹¹

177. The Final EIA envisages the use of a disused oil off-loading facility for discharge of distillate fuel for the Vlora TPP.

“The existing oil tanker offloading facility is a single point mooring (SPM) approximately 3.4 km from shore. The SPM will be inspected during construction of the facility and upgraded to meet safety requirements and minimize the potential for oil spillage into the bay. Warning lights should be installed on the SPM.”¹⁹²

178. Despite this facility not being operational and having been out of commission for many years,¹⁹³ no attempt is recorded of assessing whether the facility was fit for the intended purpose. In an interview with KESH,¹⁹⁴ it was reported that the existing oil off-loading facility has been found to be completely derelict and that it is not feasible for it to be used to off-load fuel for the TPP. No alternative fuel off-loading facilities or spill-prevention measures are analyzed in the Final EIA.¹⁹⁵

[http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/\\$FILE/thermnew_PPAH.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/$FILE/thermnew_PPAH.pdf)
Accessed 21 July 2009.

¹⁸⁸ Details of the model may be found at <http://www.cormix.info/> Accessed 21 July 2009.

¹⁸⁹ Final EIA, section 6.4.5 on Thermal Discharge.

¹⁹⁰ Final EIA, pp.78, 97.

¹⁹¹ Final EIA, pp. 97-99.

¹⁹² Final EIA, p. 97.

¹⁹³ It was reported to the Panel team in January 2008 that the Vlora Oil terminal facility (Single Buoy Mooring and associated pipeline and on-shore storage facilities) had not been used for close to 25 years. This report has not been verified.

¹⁹⁴ During Panel team visit, January 22, 2008.

¹⁹⁵ As a minimum the potential for the TPP to use one or more of the facilities of the PIA oil terminal being planned a few kilometres south of the TPP is indicated. This project to construct an oil terminal was proposed in 2002 and considered by the Council of Ministers of Albania on 8 May 2003. Final approval was given through decision of the Council of Ministers no. 278, dated May 12, 2004, and ratified by the Albania Parliament through Law no. 9231 dated May 13, 2004. The project became effective on July 6, 2004, 15 days after its publication in Official Gazette no.40 of June 21, 2004. Planning and Environmental Assessment of the two projects thus had considerable overlap in time.

The PIA terminal will comprise tanks for the storage of liquid hydrocarbons and LPG (Liquefied Petroleum Gases) and other liquid products, together with ancillary equipment for loading tank lorries and rail tankers. It incorporates marine infrastructure for mooring and unloading tankers. Tankers will be moored at a jetty and unloaded by means of loading arms or flexible hoses. A jetty, suitably protected by breakwaters, was preferred to an open sea buoy to reduce the chance of sea pollution or contamination, and to make containment of spills

179. **The Panel finds that failure to give consideration in both the Final EIA and the Addendum to the medium and long-term risks associated with the construction phase and the alternative ways of delivering fuel to the Vlora TPP in the operational phase is a serious shortcoming and renders the Final EIA non-compliant with the OP 4.01 requirement that: “EA evaluates a project’s potential environmental risks and impacts in its area of influence”¹⁹⁶, where ‘area of influence’ is defined as “the area likely to be affected by the project, including all its ancillary aspects, such as power transmission corridors, pipelines...”¹⁹⁷**
180. **The Panel is concerned that, due to this deficiency in the Final EIA and its Addendum, as well as in the PAD, the medium- and long-term risks to the Vlora Bay marine environment and beaches from potential spills when fuel is offloaded are not currently minimized and are not planned to be minimized before operations may start. The project documents examined by the Panel do not require the borrower to incorporate counter-risk measures and to monitor their effectiveness.**

H. Cumulative Impacts

1. Requesters’ Claims

181. A recurring theme in the Requesters submissions to the Panel is the concern that the character of the city of Vlora will be compromised through the incremental addition of energy-related industrial activities, with each activity being assessed as though it were the only project. The Requesters assert that the Bank failed to take into account the future cumulative environment impact of one or more additional thermal power plants that would raise generation capacity at the selected Vlora site to as much as 300 MW, as well as the other investments known to be already approved by the Government in the vicinity of the Project site.

2. Management Response

182. Management states that the Project documentation shows the Vlora site could physically accommodate additional units for a total installed capacity of 300 MW. Management further states that “*the project being financed by the World Bank, EBRD and EIB is limited to one facility of 97 MW capacity and the final EA focused on that only.*” Management adds that “[i]f the Government decides to proceed with additional generation units (either at the Vlore site or another location), then a new comprehensive EA will be required.”¹⁹⁸

from ships easier. This option also reduces the visible impact, as tankers moored to a buoy in the open sea would be visible from anywhere in the Bay (data from Revised EIA for the PIA Terminal, Vlorë, Albania, July 31, 2007).

¹⁹⁶ OP 4.01, ¶2.

¹⁹⁷ OP 4.01, Annex A, ¶5.

¹⁹⁸ Management Response, ¶52.

3. Other Energy Related Projects in Vlora

183. As noted in section G.3 of Chapter 1, several other energy-related investments were being planned in the Vlora Bay area during the preparation of the Vlora TPP, including the oil storage terminal and the AMBO pipeline. The fact that the Vlora TPP Environmental Impact Assessment took little cognizance of the other proximal energy developments supports the Requesters' view that cumulative effects of projects planned for Vlora were not considered. The confusing series of official statements pertaining to the establishment of an "Energy and Industrial Park"¹⁹⁹ in which the Thermal Power Plant is being situated justifiably compounds the population's anxiety and concern.
184. Cumulative effects analysis does form part of a Sectoral Environmental Assessment. The Bank's OP 4.01 Annex A states that a "[s]ectoral EA pays particular attention to potential cumulative impacts of multiple activities." A Sectoral EA is advised when there is "a series of projects for a specific sector."²⁰⁰ As the Vlora TPP is a part of the "Albanian Power Sector Generation and Restructuring Project" and there is *prima facie* evidence that more than one energy-related project is being undertaken in Vlora, **Bank staff should have insisted on a Sectoral EA and the associated cumulative effects analysis in addition to the project-specific TPP Environmental Assessment.**
185. The potential cumulative effect of multiple oil loading/offloading facilities in close proximity in the Bay of Vlora depends on other subsequent industrial developments. The multiple operations will increase the risks of oil spills and affect the quality of water, the aesthetics and sense of place of Vlora Bay. A study of the factors hindering development of a single Vlora oil shipment terminal to service all demands for import and export of oil, gas and related products,²⁰¹ could help identify solutions and could obviate the need for multiple operations and attendant risks to Vlora Bay.

4. Possible Expansion of the Vlora Thermal Power Plant

186. The uncertainty as to whether the Vlora TPP is designed to ultimately generate 97 or 300 MW concerns the Requesters or whether additional power plants will be built at the same site, as some Bank documents and other studies anticipate as possible. They also question whether the cumulative risks and impacts of the probable future expansion of the Vlora TPP have been appropriately assessed and reported.
187. The Bank's Albania Energy Sector Study, Final Report of January 2003 proposes "...four 100 MW combined cycle units at Vlorë TPP," with two units being commissioned in 2006, one in 2007 and the last in 2014.²⁰² The Final Feasibility

¹⁹⁹ On February 19, 2003, the Council of Territorial Adjustment of the Republic of Albania approved, through Decision No. 8, the site of an energy and industrial park immediately to the north of the city of Vlorë. The response of the Albanian Government to the findings of the Aarhus Commission Enquiry indicates that the Decision No. 8 has subsequently been abrogated.

²⁰⁰ OP 4.01, Annex A, ¶8.

²⁰¹ In an interview with the Panel team KESH indicated that discussions between themselves and the company building the oil storage terminal regarding the use of the terminal to supply fuel to the TPP has taken place. It was reported that no agreement on supply was reached because of failure to resolve the question of liability in the event of fuel for the power plant not being available from the terminal.

²⁰² Albania Energy Sector Study, January 2003, p. 50.

Study for the Vlora TPP²⁰³ also evaluates the impact on Albanian electricity transmission of constructing 300, 200 and 100MW power plants at the Vlora B site. Bank Management also states: “*Project documentation shows the Vlore site could physically accommodate additional units for a total installed capacity of 300 MW.*”²⁰⁴ There is thus documented expectation that generation capacity at the Vlora B site will be increased in the foreseeable future, which will entail an amplification of risks and harm.

188. The World Bank’s Guidelines for New Thermal Power Plants contained in its Pollution Prevention and Abatement Handbook state:

*“When there is a reasonable likelihood that in the medium or long term the power plant will be expanded or other pollution sources will increase significantly, the analysis should take account of the impact of the proposed plant design both immediately and after any probable expansion in capacity...”*²⁰⁵

189. Despite this guidance, both the Draft and Final EIA for the Vlora TPP present data only for the 100MW plant, omitting to assess potential cumulative impacts of other expected and probable expansions in capacity. This applies to determination of both atmospheric emissions and cooling water discharge. The Draft EIA does indicate that atmospheric modeling is based on only one combustion unit²⁰⁶ and that the potential impact due to additional power generation units being added was simply estimated by scaling the results obtained from modeling a single unit (i.e. multiplying the modeled results by three to estimate emissions from a potential 300MW plant).²⁰⁷ However, scaled-up emissions are not presented in either the draft or final EIA.
190. For both Sulphur Dioxide (SO₂) and fine Particulate Matter (PM₁₀) scaling up of emission levels produces results far below maximum levels according to both World Bank and European Union standards. But this is not the case for Nitrogen Oxide (NO_x) levels on elevated terrain. The 100MW modeled annual NO_x value is 3.1µg/m³, i.e. 9.3 µg/m³ for a 300MW plant. This figure exceeds the EU maximum standard of 5 µg/m³ for ambient air quality. Similarly, the scaled hourly maximum NO_x emission is 267.95 µg/m³, also exceeding the maximum EU standard of 200µg/m³.
191. The Draft EA is correct in stating: “*In general, the populated areas are not located in the mountainous regions, and the flat terrain concentrations are more representative impacts to the surrounding community.*”²⁰⁸ Nevertheless, it is disingenuous that neither the Draft nor the Final EIA present scaled model results to indicate that NO_x emissions from a 300MW plant are not in accord with European Union standards and will require further consideration.

²⁰³ Final Feasibility Study, October 21, 2002.

²⁰⁴ Management Response ¶52.

²⁰⁵ World Bank Group Pollution Prevention and Abatement handbook: Thermal Power, Guidelines for New Plants, July 1998, pp. 415-416.
[http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/\\$FILE/thermnew_PPAH.pdf](http://www.ifc.org/ifcext/enviro.nsf/AttachmentsByTitle/gui_thermnew_WB/$FILE/thermnew_PPAH.pdf)
Accessed 21 July 2009.

²⁰⁶ A single unit (i.e. a 100MW facility) consists of two turbines; each linked to a heat recovery steam generator, which in turn discharges into a stack. Draft EIA Vlorë TPP, July 17, 2003, p. 63.

²⁰⁷ Draft EIA Vlorë TPP, July 17, 2003, p. 71, section 6.4.3

²⁰⁸ Draft EIA Vlorë TPP, July 17, 2003, p. 70.

192. The Final EIA is silent on cooling water discharge from a 300MW plant. However, the Draft EA indicates that for each generation unit there will be a separate marine outfall.²⁰⁹ Each outfall will be separated from its neighbor by 112 metres. The additive cumulative effect of three outfalls is estimated to be 0.84°C (@ 23m) + 0.52°C (@23+112m) + 0.41°C (@23+122+112m) = 1.77°C. This is within the World Bank’s guideline of a maximum thermal increase of 3°C 100m from the point of discharge.

193. Although the Draft EA gives some attention to atmospheric emission and cooling water from expanding the Vlora TPP from 100 to 300MW, the Final EIA remains silent on these cumulative effects. Management excuses this omission in the following way:

“If the Government decides to proceed with additional generation units (either at the Vlore site or another location), then a new comprehensive EA will be required.”²¹⁰

194. **The Panel notes that the omission of cumulative impact assessment of possible expansion of the Vlora TPP from the final EIA is not in accord with the Bank’s own Guidelines for new thermal power stations.**



Figure 4 Vlora TPP Construction Site

²⁰⁹ “The facility full build-out design allows for each steam turbine unit to have its own, unique outfall to the Adriatic Sea. Therefore, upon complete facility build-out, there will be three outfalls.” Draft EIA for Vlora TPP, July 17, 2003, p. 71.

²¹⁰ Management Response, ¶52.

Chapter Three: Compliance with Social and Cultural Policies

A. Introduction

195. Linked closely to the environmental impacts examined in the previous chapter, the Requesters assert that the Bank has underestimated and misrepresented the socio-cultural characteristics of the area, in particular the presence and significance of major archaeological and cultural heritage resources in Vlora Bay area, and their direct relevance for the local tourism-related industries and the population's tourism-based livelihoods.
196. This chapter will examine how project preparation and appraisal addressed the social and cultural aspects of the Vlora Power project, in light of the Bank's relevant policies. First the chapter summarizes the Requesters' and Management's conflicting contentions on cultural resources and then will analyze them in the light of relevant Bank Policies and evidence gathered during the inspection.

B. Requesters' Claims on the Cultural Heritage of Vlora Bay

197. The Requesters emphasize that Vlora Bay is endowed with a rich cultural-historic heritage, as well as natural assets, which together in recent years have attracted an increasing flow of national and international tourists. These cultural and natural endowments have become important economic and income generating activities upon which part of Vlora population's welfare and development opportunities directly depend.
198. The major cultural heritage endowments, of national and international interest, consist, among others, of the following: the remains of the ancient Roman port-city, Treport Cape/Aulona; the National Archaeological Park of Orikum, which contains a large number of distinct ancient structures and archaeological remains, including a well preserved Roman amphitheater estimated to have seated 400 people, and other significant above-ground monuments; the Castle of Kanina, dating from the 3rd century B.C.; and the Marmiroi Church with frescoes dating from the 13th century A.D. Among the major natural endowments are the Vlora Bay itself, one of the most beautiful among Albania's tourist sites, the Narta Lagoon and Natural Habitat, and others.
199. The Requesters assert that the Bank has underestimated the presence and multisided importance of the archaeological and cultural resources of Vlora Bay area and that Project documents misrepresent them. They contend that – because project preparation work did not identify and evaluate these cultural resources – the Project failed to take into account the major contribution of these cultural resources to the local economy and to the population's income earning activities. Instead, the Project brings high risks and adverse impacts to these activities. They assert that the tourism industries (hotels, restaurants, transportation, commercial shops, etc) are very significant to the Vlora economy and population, but the likely impacts on them was ignored in the Bank's social and economic calculations for the Project.

200. The Requesters argue that – while the historic-cultural endowments greatly increase Vlora’s comparative advantages as both a cultural-and-beach tourist destination — the insertion of a thermal oil-fed power plant near beaches and as well as the location of an oil terminal in the Bay’s waters, with the possibility of water pollution, will diminish the tourist value of Vlora Bay. This, they believe, will inflict serious economic damage to tourism enterprises and will reduce the population’s employment, its current and future income sources and development opportunities. They emphasize that Albania’s National Tourism Strategy points to the opposite direction, by identifying Vlora as an important center to be further developed for international and national tourism

201. The Requesters sum up their views as follows:

*“If built, the Vlora TEPP will irreparably destroy the environment, tourism, safe fisheries, natural habitat... as well as the unique historical and cultural significance of the entire Vlora Bay and Narta Lagoon. In short, it will destroy our past, present and future.”*²¹¹

202. The Requesters make clear that they do not object to the Project’s goals of power generation, for which they express support. The focal point of their critique is the location selected for the Project. They request that the TPP be located at Fier, a town further inland. The Requesters challenge the Bank to show “*any other instance where an oil-based power plant is erected on a Mediterranean Beach.*”²¹²

203. The Requesters further argue that Vlora Bay is an important place for preserving the memory of historic events. Specifically, they argue that Vlora Bay has historical associations with Sephardic refugees escaping the Spanish Inquisition in and around 1492, landed in Vlora and benefited from the hospitality and protection of the local population. The Requesters hold that the area should be used for memorializing this and other similar historical events as a tribute to Albania’s tradition of hospitality and protection.²¹³ A detailed examination of this issue is included in Section I of this Chapter and Annex C to this Report.

C. Management Response on the Cultural Heritage of Vlora Bay

204. Management expresses a different view from the Requesters on archaeological remains and their significance, and on whether the presence of the TPP will affect the potential for tourism of the Vlora Bay. Management’s response to Requesters is that the Project site “*is not of archaeological significance.*”²¹⁴

205. In its Response, Management does not dispute the presence of cultural resources in the Vlora Bay area, surrounding the plant’s location. The Response focuses only on

²¹¹ Request, p. 1, ¶3.

²¹² Panel team interview with Requesters.

²¹³ This request was the subject of many letters to the World Bank’s management. In addition to the letters of the Civic Alliance for the Protection of the Bay of Vlora (CAPBV), during 2006, 2007, and 2008, a number of letters were sent to the Bank by Dr. Anna Kohen, a native and honorary citizen of Vlora, member of CAPBV, and President of the Albanian-American Women’s Organization and the Albanian-Jewish Committee of New York.

²¹⁴ Management Response, ¶56.

the TPP's impact on the small patch of land (6 hectares) of the construction site and its possible archeological remains, but does not encompass the larger Vlora Bay area.

206. Management argues that the plant's location was the result of selecting among a list of possible locations, based on several criteria.²¹⁵ Regarding the in-land Fier location proposed by the Requesters, Management indicates that it ranked second to Vlora because, being away from the shore, it would require some additional pipeline for transporting the oil to the plant.
207. Contrary to the Requesters' view, Management asserts that the project was prepared and appraised in compliance with the Bank's policies and procedures for project areas with cultural resources, and that the Borrower also complied with these procedures.
208. Management, however, recognizes that the 'reconnaissance survey' demanded by the Bank's OP 11.03 was not carried out during project identification, preparation or appraisal, because it was not regarded as necessary. Management informs that about 2 years after project approval, in 2006, it realized that insufficient work was done to identify the cultural characteristics of the project site. It states: "*there was insufficient coverage ...on the matter of the review of potential cultural property*"²¹⁶ when the decisions on Project design and plant location were made. A supervision mission was sent to review cultural property issues in 2006 and validated the previous decision not to conduct a "reconnaissance survey" prior to the start of construction.
209. According to the Response, the mission concluded,
- "that the site is not of archaeological significance due to the known locations of the ancient city sites in the Vlore Bay region and the lack of any evidence of human habitation during digging for the adjacent fishing harbor in the early 1980s and beyond. Consequently a surface study of the selected site prior to the start of construction is neither necessary nor justifiable."*²¹⁷
210. Regarding tourism, in its Response, Management stated that tourism is "*not an issue covered directly by Bank safeguard policies, but only indirectly through related issues such as potential impacts on cultural property and natural habitats.*"²¹⁸
211. Management Response also recognized that "*tourism adjoining the immediate site could possibly be reduce*" but contended that "*the benefit of more reliable power in the Vlore area (and generally in the southern part of Albania) for tourism is undeniable.*"²¹⁹

²¹⁵ The selection criteria and process are discussed in detail in the Environmental Compliance chapter and the Economic Evaluation of Alternatives chapter of this Report.

²¹⁶ Management Response, ¶56.

²¹⁷ Management Response, ¶56.

²¹⁸ Management Response, ¶59.

²¹⁹ Management Response, ¶59.

D. Bank Policies on Project Impacts on Cultural Resources

212. The Panel based its considerations regarding the aforementioned issues on the following Bank Operational Policies: Management of Cultural Property in Bank-Financed Projects (OPN 11.03),²²⁰ Project Appraisal (OMS 2.20), and Environmental Assessment (OP 4.01).
213. The Bank's OPN 11.03 on the Management of Cultural Property uses the United Nations' concept of "*cultural property*" for defining unique archeological/cultural endowments as well as unique natural endowments. "*Cultural property, therefore, encompasses both remains left by previous human inhabitants...and unique natural environmental features...*"²²¹
214. In its "*Procedural Guidance*," OPN 11.03 indicates that before proceeding with a project that includes large-scale excavations, Bank staff must insist on the following steps: (i) determine what is known about the cultural property aspects of the proposed project site; (ii) draw the government's attention specifically to impacts on those aspects; (iii) consult relevant agencies, NGO's or university departments; (iv) if there is any question of cultural property in the area, a brief reconnaissance survey should be undertaken in the field by a specialist.²²²
215. As physical cultural resources may not be visible and known in advance, it is important that a project's potential impact on physical cultural resources be considered early in the project planning cycle. Therefore, OP 4.01 as well instructs Management to include the identification and evaluation of physical cultural resources in the TOR for environmental screening, first in feasibility studies and subsequently in the EIA of the proposed site, before the site is approved. Usually, the key instruments are a reconnaissance survey of the area and professional documentation.
216. The Bank's overall policies, and specifically its policy regarding Cultural Properties, aim to prevent project-caused adverse effects on heritage resources and to protect their value and potential for spurring economic development activities. In some cases the Bank goes as far as to recommend that a development project be relocated to prevent harmful effects.²²³ As a matter of policy, the Bank helps countries to activate the development and economic potential of their cultural endowments through support to tourism or coastal zoning projects and other means.
217. Specifically, the OPN 11.03 states:

"The Bank will assist in the protection and enhancement of cultural properties encountered in Bank-financed projects, rather than leaving that protection to

²²⁰OPN 11.03 on Management of Cultural Property in Bank-Financed Projects was effective at the time of project preparation (beginning in 2002 and continuing to the approval of the Credit Agreement on March 23, 2004). Consequently, the Panel has determined Management's compliance with OPN 11.03, though in July 2006 it was replaced by OP/BP 4.11 on Physical Cultural Resources.

²²¹ OPN 11.03, ¶1.

²²² OPN 11.03, ¶3.

²²³ OPN 11.03, ¶2 (b).

chance. In some cases, the project is best relocated in order that sites and structures can be preserved, studied, and restored intact in situ...Such activities should be directly included in the scope of the project, rather than being postponed for some possible future action, and the costs are to be internalized in computing overall project costs.”²²⁴

E. The Omission of Cultural Resources in Project Preparation

218. The feasibility study for the Project omitted to take into account the above-the-surface cultural endowments of the Vlora area, which are well known even without any archaeological reconnaissance survey. Their existence and location vis-à-vis thermal plant site and its ancillary structures, as well as their current and future contribution to the area’s economic and tourist development of the area, were not considered in the EIA. Rather, it focused on technical and physical-environmental factors.

219. Despite its length (some 417 pages), the borrower’s EIA gives little attention to cultural resources (only two paragraphs). Furthermore, these paragraphs are misleading; they incorrectly claim that

“Detailed information and data concerning cultural resources and any potential archaeological sites in the Vlorë area are not available.”²²⁵

220. Research by the Panel has confirmed that detailed information and data are readily available about the cultural resources of the Vlora area from multiple sources.²²⁶ Albanian scholars have studied Vlora for several decades and their research is published. Archaeological explorations have been carried out at Treport and documented. International scholars have also studied this area because of its cultural significance. Its most important cultural and historic endowments are recorded in the national registry of monuments.

²²⁴ OPN 11.03, ¶2 (b).

²²⁵ Final Environmental Impact Assessment, Section 5.5.3 (p. 54).

²²⁶ For instance, L.M.Ugolini found ancient pottery at Aulona in 1924, as well as a large group of sculptures including the famous “Fanciulla di Valona.” Writing about Treporti’s site, Ugolini says that it was “full of fragments belonging to Greek and Roman antiquities.” He also describes the wall-structure built with large rectangular stone-blocks (of which he made an unique and worldwide famous photograph) and a paved street, both under water.” In turn, in the ‘30s, N.G. Hammond signals the presence of “Mycenaean pottery” at Triporti. (Cf. Giuseppe Roma, Letter to the Panel. January 14, 2008).



Figure 5 Treport Headland

221. In the Project’s files, the Panel found no reference to Vlora Bay’s cultural endowments during Project preparation. Project documentation does not reflect any of the due-diligence steps specifically listed in OPN 11.03 before proceeding with a project that includes large-scale excavations, such as consultations with relevant agencies, NGOs, or university departments about the presence of cultural assets, or the reconnaissance survey if there is any question of cultural property in the area. Nonetheless, in the Project Appraisal Document, Management stated that the Project did not trigger the Bank’s Safeguard Policy on Cultural Property (OPN 11.03).²²⁷
222. The Requesters contend that the selection of the Vlora site contradicts Albanian law as well. The *Act on Cultural Heritage*, which was adopted in 2003 by Albania’s Parliament, demands that any investor or constructor that builds a project in an area with archaeological remains should use expert archaeologists to verify that the construction will not cause harm to local cultural heritage.
223. *The Act on Cultural Heritage* requires that investors in any industrial construction project “consult with the experts of the Albanian Institute of Archaeology and the Institute of Cultural Monuments” during the preparation and implementation of their projects.²²⁸ The Panel was not able to find in the project files any indication that either the borrower or the Bank itself has consulted with these Institutes.²²⁹
224. **The Panel finds that from the early feasibility stages and up to Project appraisal, the Bank did not seek to obtain information on the presence and role of cultural endowments in the Vlora area. The Bank did not ensure that the studies consider the likely risks and negative impacts of locating an industrial thermal plant in an area dependent on cultural and beach tourism. Thus the resulting Project concept and design overlooked these risks.**

²²⁷ PAD, p. 41.

²²⁸ Parliament of Albania “For the Cultural Heritage” – Act # 9048, of April 07, 2003. Article 47.

²²⁹ During its investigation visit, the Panel visited Albania’s Institute of Archaeology and Albania’s Institute for Cultural Monuments, the two key scientific centers authorized by the Albanian legislation to perform such archaeological due-diligence assessments. The Institute of Archaeology told the Panel team that the borrowing agency, KESH, did not ask the Institute of Archaeology to do the assessment required by Albanian law.

225. **Based on these findings, the Panel concludes that the Project preparation, including both the feasibility and EIA processes, and Project appraisal, did not comply with the requirements of OMS 2.20 on the appraisal of projects, on risk analysis and with the procedural requirements of the Bank’s Policy on Management of Cultural Property in Bank-Financed Projects (OPN 11.03).** The Panel observes that the initial non-compliance with OPN 11.03 may have affected the analysis of alternatives that led to the selection of the Vlora B site.
226. Because the historical importance of the Treport’s ancient port and location is widely known²³⁰ and its archaeological remains are easily visible 2.5km northwest of the project’s selected site, it is the Panel’s opinion that, in accordance with OPN 11.03, a brief reconnaissance survey should have been undertaken in the field by a specialist. **The Panel finds that this was not done.**

F. The Lack of Social Assessment and the Absence of Social Risks Analysis

227. As is also discussed in Chapter 2 of this Report, a flaw in the Bank’s work for the Project was the absence of a social assessment during Project appraisal. The social analysis is important because it is intrinsic to the Bank’s overall paradigm of improving people’s **livelihood and reducing poverty.**
228. **The Operational Procedures** discussed in the previous chapters are complemented by the Bank’s Policy on Project Appraisal, OMS 2.20. The OP 4.01, OP/BP10.04, OPN 11.03, and particularly OMS 2.20, all require Bank staff *to integrate* into the pre-project analysis the key economic, commercial, demographic, social, environmental, cultural and institutional dimensions. Accordingly, during project preparation and appraisal, Bank staff is required to take into account the project area’s population, its productive and economic activities, and how a given project may impact on these.
229. OMS 2.20 explicitly requires the identification and assessment of a project’s “*sociological aspects*” before and during project appraisal and defines the four key elements to be covered by the sociological analysis. These are:
- (a) *the socio-cultural and demographic characteristics of local beneficiaries;*
 - (b) *the social organization of productive activities of the population in the project area;*
 - (c) *the cultural acceptability of the project and its compatibility with the behavior and perceived needs of the intended beneficiaries; and*
 - (d) *the social strategy for project implementation and operation needed to elicit and sustain beneficiaries’ participation.*²³¹
230. Further, OMS 2.20 specifies that the appraisal should:

“Verify that the project design is based on a sound understanding of the social organization of productive activities: (a) how the intended beneficiaries have

²³⁰During its field investigation, the Panel learned that since 1977 Albania’s Ministry of Education and Culture has given Treport-Aulona the protected status of a National Historical Landmark (Ordinance January 8th 1977).

²³¹ OMS 2.20, ¶56.

access to, make use of, and exercise control over productive resources available in the area; how the structure of the household and of the family systems prevalent in the area affects [sic] the development potential and constraints, labor availability and ownership patterns; (c) whether small producers have reasonable access to information on wider markets and regional economies and (d) how land tenure systems and usage rights, as well as alternative employment opportunities, may affect intended beneficiaries' interest in the proposed project activities.”²³²

231. The Panel reviewed the essential Project documents and found that neither a social assessment nor a formal risk analysis, particularly of the medium and long term risks, were carried out for the Project, either during preparation or at appraisal For instance:

-Consultations with Vlora’s local population were not done on time;

-Even when the consultations were scheduled as a formality, i.e. *after* the decisions had been adopted, they were few and uninformative about social impacts (see Chapter 5)²³³;

-At feasibility phase, and in the EIA, information about cultural resources in Vlora area was incorrectly declared as “*unavailable*”;

- Both during feasibility and preparation, no data were collected on Vlora’s population, on its economic basis, businesses, productive activities and occupational structure, and on how these might be affected by the project;

- At appraisal, no social analysis was initiated. The usual “social assessment” common in the majority of the Bank’s investment projects was skipped altogether, and no social development staff (or consultant) was included in the appraisal team; and

- The PAD does not contain adequate description of the population living in the Project area of influence; and

232. OMS 2.20 also requires a “*formal risks analysis*” of the possible project-entailed risks. This identification of risks should be also accompanied by their “disclosure”, together with inclusion of recommended measures for risk-reduction. OMS 2.20 on Project Appraisal explicitly provides that “...*for projects with marginal returns or large risks, further quantification of the risks through formal risk analysis is also desirable. Where necessary, the appraisal also includes precautionary measures which should be undertaken to reduce the risks.*”²³⁴ In turn, OP/BP 10.04 requires staff appraisal reports to fully document the “...*results of the project’s...riks analysis and fiscal impact assessment.*”

²³² OMS 2.20, ¶58.

²³³ This was also the conclusion of the Aarhus Convention Compliance Committee’s investigation, as discussed in Chapter 5.

²³⁴ OMS 2.20, Project Appraisal

233. The examination of the PAD's risk analysis and the risk table,²³⁵ as well as of other relevant Project documents, showed how insufficient and technically one-sided the Project's risk analysis is. The risk table, and instrument required in each PAD does not include or signal in the Vlora Project any risks to the local population from the Project, although the Management Response states that the Project was expected to have "*significant environmental and social impacts.*"²³⁶
234. The lack of a social analysis deprived Project design and Management's decision-making of crucial information and understanding about the Project's socio-economic context, the population productive commercial and tourism income sources, and the pre- and post-Project economy of the Vlora Bay area and its potentials for development. The "*key social issues*" mentioned in the PAD are narrowly limited to power consumption by users (quality and affordability of power supply) and the need for subsidies to offset the increases in electricity tariffs.²³⁷ A direct consequence of omitting a social assessment is that the characteristics of the Vlora community, which constitute the socio-demographic context of the Vlora TPP, remained unknown and were not considered. The PAD contains no discussion or description of the project area's demography and local economy, or of the Vlora community itself, as required by OMS 2.20.²³⁸
235. The omission of social assessment has compounded the non-compliance with the Bank policy requirement of consulting the area population and learning from its concerns.²³⁹ The Panel reviewed the essential project documents and found that in Project preparation and appraisal social factors were not considered. Consequently, the Panel cannot agree with Management's Response that the Project's environmental assessment "*was carried out with an appropriate mix*" of methods, procedures, and documentation, and that it assured adequacy of safeguards compliance.²⁴⁰ The absence of a regular consideration of the Project's sociological aspects is in contradiction with the Project's rating as Category A, which signals from the outset that the project is expected to bring serious impacts and risks. The Panel's findings about the lack of an overall social assessment corroborates the finding outlined above about the omission of the social dimensions required for the EA.
236. **The Panel finds that a broad range of social issues were not considered at all during preparation and appraisal, and corresponding social and economic analyses were not integrated into the fabric of the Project. Management failed to undertake the necessary sociological analysis and risk analysis of the Project's potential long-term impacts and thus did not ensure compliance with OMS 2.20 on Project Appraisal.** Project preparation was narrowly techno-centric and did not give due weight to local social, economic and cultural concerns.
237. **The Panel finds that these policy violations directly affected the decision about the Vlora TPP's location. They deprived Management of the understanding of**

²³⁵ PAD Power Sector Generation and Restructuring Project. Feb. 17, 2004, p. 43.

²³⁶ Management Response, ¶45.

²³⁷ PAD, pp. 38-40.

²³⁸ OMS 2.20, ¶56.

²³⁹ The lack of adequate consultation during Project preparation and implementation is discussed in detail in Chapter 5 of this Report.

²⁴⁰ Management Response, ¶54.

what the presence of a thermal plant and of its ancillaries may entail in reducing the flow of cultural-and-beach tourists to Vlora Bay’s areas/asests, in reducing the area’s productive activities and incomes, and its potential for further development.

238. **The Panel also concludes that Management is not in compliance with the Bank’s requirements for carrying out a risk analysis and for incorporating precautionary approaches and measures to prevent and reduce risks. The absence of a “formal risk analysis”²⁴¹, as explicitly provided by OMS 2.20, and especially of the project’s medium- and long-term social and economic risks to the local populations, left an important gap in the project’s design and left the local population unprotected against the long-term risks to its businesses and incomes.**

G. Omitted Analysis on Tourism Contributions

239. A significant part of the Vlora population has a distinct tourism-focused economy and income base. During the Panel team’s field visit, the tourism-related concerns of Vlora’s citizens were conveyed during an extended meeting held on January 19, 2008, in Vlora. The strong concern of the local tourism industry is that the Project will negatively affect their livelihood and income sources.
240. In these meetings, the Requesters emphasized that a considerable part of Vlora’s population is employed in service activities related to tourism. These include Vlora’s hotel industry, its food processing and restaurant industry, tourist tour organizers, travel agencies, etc. Other small businesses also depend on the tourism industry for their economic stability and sustainability. The Requesters also indicated that investments have been made recently in expanding the number of beds in the local hotel base and that the University of Vlora offers courses in tourism management to its students, in view of increased demand for tourism professionals.²⁴² However, the potential impact of the Project on these activities and population groups has not been documented.
241. The EIA mentions tourism only in passing,²⁴³ without any substantive analysis of its weight in the local economy and in the population’s productive activities, commercial activities, and overall livelihood. In turn, no information about these activities and population groups is reflected in the PAD. The PAD does not treat tourism and impact on tourism as an issue.
242. In addressing the Requesters’ claims, Management’s Response admits for the first time the possibility of decreased tourism in Vlora, but provides the following explanation, as referenced earlier:

²⁴¹ OMS 2.20, Project Appraisal, para.17, 61

²⁴² Individual interviews and focus groups with Requesters.

²⁴³ In the main text of the EIA, tourism is mentioned once, under the discussion of “*Education*,” in the section on “*Socioeconomic Conditions in Vlorë*”: “*Vlore has one University, the Polytechnic University, which offers undergraduate degrees in business, tourism, engineering, teaching...*” (EIA, p. 54). The Appendices to the Final EIA include notes from consultations in Vlora, which state that at the meeting on September 3, 2003, the community asked questions regarding tourism (EIA, Appendix E, pp. 4, 11).

“Management notes that while tourism adjoining the immediate site could possibly be reduced, the benefit of more reliable power in the Vlora area (and generally in the southern part of Albania) for tourism is undeniable.”²⁴⁴

243. Management provides two reasons for its failure to address the long-term risks to tourism:
244. **First**, Management suggests that the losses to the Vlora population caused by tourism reduction in Vlora could be seen as acceptable because the benefits of more reliable power will accrue to the southern part of Albania, to which Vlora belongs. However, this justification would not stand if the economic, financial and social losses due to decreased tourism outweighed the benefits of more reliable power. Benefits to residents of other parts of southern Albania do not alleviate direct harm to Vlora residents, for which no direct mitigation measures have been envisaged in the borrower’s proposals and the Project documents.
245. **Second**, the Management Response states that *“regarding impacts on tourism potential, this is not an issue covered directly by Bank safeguard policies...”²⁴⁵* This is clearly not a reason for omitting real life impacts, since the Bank’s projects are subject not only to safeguard policies but to all operational policies. Social impact risks and economic risks are covered in such policies as OMS 2.20 and OP/BP 10.04, both of which apply to the project. It is precisely because OMS 2.20 was not applied in terms of its social analysis requirements that these social risks were not considered in the project’s concept, design, and preparation. Chapter 4 will discuss economic risks related to tourism in more detail.
246. Absence of social assessment at project inception, coupled with insufficient economic feasibility analysis,²⁴⁶ resulted in failure to identify and incorporate these important social, economic, and cultural characteristics of Vlora’s population into the project’s decision-making. **The Bank’s Project rationale did not place the Project in its surrounding social, economic, and demographic context and left such risks outside its purview.**

H. Cultural Assessment after Project Approval

247. As discussed earlier in this Chapter and in Chapter 5, the Requesters sent letters to Bank Management to raise concerns about cultural property in the Vlora Bay area. Specifically, beginning in 2006, letters were sent from Dr. Anna Kohen to assert that the studies done for the Project had not assessed the cultural heritage of the Vlora site and that further research should be done to ascertain the significance of the area.
248. In April-May 2006, Management sent a “Threat of Project Suspension” to the newly elected Government, due to its delay in confirming the site for the power plant. Following the formal “Threat of Suspension,” the Government confirmed the Vlora site in mid-May 2006.

²⁴⁴ Management Response, ¶59.

²⁴⁵ Management Response, ¶59.

²⁴⁶ See Chapter 4 for a detailed discussion of these insufficiencies.

249. During July 2006, two years after the Bank’s Board approval of the Project and after the Government’s confirmation of the site, following the Bank’s 2006 threat of Project suspension, Management undertook a Supervision Mission in response to the Requesters’ contention on cultural heritage issues. Considering “*that further consultations and a field visit would be beneficial to address this issue,*”²⁴⁷ the mission aimed

*“to determine whether supplementary information and investigation were needed to meet the requirements of the World Bank’s policy OPN 11.03 (Management of Cultural Property in Bank-financed Projects) and the Albanian laws and regulations governing protection of cultural heritage in the context of the Power Sector Generation and Restructuring Project.”*²⁴⁸

250. The mission, comprised of a member of the Project team and a cultural heritage consultant, met with experts in Albania—including members of the Government of Albania—as well as the Requesters. The mission acknowledged that the Cape of Treport is of archeological value, recognized as a national monument of Albania, but stated that “*The ancient settlement on the Cape of Treport did not extend to the project site area.*”²⁴⁹

251. The mission also stated that the Project complies with Bank Policy²⁵⁰ and noted that the Contractor should take reasonable precautions to prevent removal or damage of “*chance finds encountered during project implementation,*” as provided in Standard Bidding Documents.²⁵¹

252. The mission concluded “*that the site is not of archaeological significance due to the known locations of the ancient city sites in the Vlore Bay region and the lack of any evidence of human habitation during digging for the adjacent fishing harbor in the early 1980s and beyond. Consequently a surface survey of the selected site prior to the start of construction is neither necessary nor justifiable.*”²⁵²

253. From its review of the Project documents, **the Panel observes that Management narrowed its analysis to the Project’s impact on the small patch of land (6 hectares) covered by the TPP itself, rather than assessing the potential implication of the TPP siting on the greater Vlora area.**

254. **While the Panel acknowledges that this mission was sent in recognition of the absence of a reconnaissance survey in an earlier phase, the Panel notes that such a retrospective mission—carried out after the approval of the site by the Government and the Bank—does not allow cultural property considerations to influence the TPP siting decision and its potential longer term impacts. The positive finding that during excavations for the TPP’s foundation no archaeological chance finds were identified removes the concern that the TPP footprint itself may forever cover significant archaeological relics, but does not**

²⁴⁷ Management Response, ¶56.

²⁴⁸ Back to Office Report, Supervision Mission July 9-15, 2006, ¶1.

²⁴⁹ Back to Office Report, Supervision Mission July 9-15, 2006, ¶6.

²⁵⁰ Back to Office Report, Supervision Mission July 9-15, 2006, ¶12.

²⁵¹ Back to Office Report, Supervision Mission July 9-15, 2006, ¶13.

²⁵² Back to Office Report, Supervision Mission July 9-15, 2006, ¶2.

eliminate the long-term risks and impacts that the presence and operations of the TPP brings to the larger Vlora Bay and its potential for cultural tourism development, as well as to the incomes and livelihoods of the local population. These risks and impacts are still to be addressed and mitigated.

255. On April 6, 2009, Management informed the Panel, as well as the Requesters, that excavations were required mainly for building foundations for the turbine and power generation units, for the offshore cooling system pipes, desalinization water intake, and offshore fuel pipelines. Some of these excavations reached a depth of about 5 meters. The excavations were monitored by the EPS Contractor, KESH and the implementation contractor, and records were kept. In this letter to the Requesters, Management stated that “*the records of the above excavation works show that subsurface materials encountered were mainly sand or soft sediments and probably of recent origin...No chance findings of archaeological or cultural nature were encountered in the site works.*”²⁵³

I. Vlora as a Site of Cultural Heritage to Memorialize Events

256. The Requesters also contend that the Project site is of historical significance as the site where Sephardic Jews landed in the year 1492 and sought refuge from the Inquisition in Spain and Portugal. The Requesters note that the siting of the Project would impede the plans of an international organization to make the landing site at Treport beach an “*International Memorial Park in Remembrance of Victims of Genocide in Europe.*”²⁵⁴ The Panel’s detailed analysis of the issue is included as Annex C of this Report. In summary, based on scholarly research and discussions with international and Albanian scholars, the Panel’s investigation has found that published archaeological and historical research has not identified an exact landing site of the Sephardic Jewish refugees at Vlora Bay, and therefore the plant site cannot be regarded as such. However, historic and demographic research confirms that the Vlora community was one of the destinations for refugees from that Iberian religious persecution.²⁵⁵ While current national and international practices show that memorializing is regarded as a historic and moral duty, memorializing does not necessarily depend on identifying the exact physical “footprint” of a specific event in order to express the ideas and the respect that are embedded in a memorializing activity. Approaches to memorializing event cover a broad spectrum of options and activities.²⁵⁶ For a more detailed discussion, see Annex C.

²⁵³ Management letter to the Civic Alliance for the Protection of the Bay of Vlora, dated April 06, 2009.

²⁵⁴ Dr. Anna Kohen, representing this organization, wrote about the plan for such a memorial park in Vlora to the World Bank in several letters, as well as in letters to the U.S. government and various government agencies including the U.S. Trade and Development Agency, which funded the consulting company that carried out the EIA. See letter titled, “TDA’s funding of a controversial power plant project at a Mediterranean beach in Albania” September 4, 2007.

²⁵⁵ See discussion on “*Historical Evidence of Jewish Settlement in Vlora*” in Annex C to this Report.

²⁵⁶ See discussion on “*Memorializing Historic Events*” in Annex C to this Report.

Chapter Four: Economic Evaluation of Alternatives

A. Introduction

257. As Bank Policy acknowledges, economic assessment of a project and its alternatives is a critical aspect of the project cycle. This chapter discusses and evaluates Management's economic assessment²⁵⁷ of the thermal power plant (TPP) and its siting at Vlora in the context of compliance with OP 10.04, Bank Policies on Economic Evaluation of Investment Operations and Project Appraisal.

B. Requesters' Claims

258. Economic analysis issues raised by the Requesters relate to (a) methods used in analyzing and choosing from among the project alternatives (technology, fuel, and site), (b) failure to account for fisheries and tourism revenues lost due to environmental damages that the Requesters say will accrue from the Project, and (c) failure of the economic analysis to reflect stakeholder concerns and risks resulting from the environmental and socio-economic impacts of the Project and its alternatives.

259. The Requesters argue that selection criteria were chosen to justify the selection of the Vlora site. They claim that with appropriate selection criteria the best and most effective option would have been the rehabilitation of the existing thermal electric power plant in Fier, a town 30km north of Vlora.²⁵⁸

260. The Requesters also charge that the weighting and ranking scheme used in the selection of alternatives is arbitrary and designed to yield a site conclusion (Vlora B) that already had been decided.

C. Management Response

261. Countering these charges, Management states that seven candidate locations for a thermal power plant were evaluated on the basis of ten weighted criteria, including environmental and social factors and that "*there are no internationally standardized approaches to conducting such site rankings, and that other evaluators might have chosen different ranking factors or weightings.*"²⁵⁹

262. Management also asserts, contrary to the Requester's claims, "*increased electricity availability should help to support the growth of tourism in the Vlore area as well as further south.*"²⁶⁰ Regarding safeguard policies Management states, "*impacts on tourism potential...is not an issue covered directly by Bank safeguard policies, but only indirectly through related issues such as potential impacts on cultural property*

²⁵⁷ Economic Internal Rate of Return (EIRR) analysis, risk and sensitivity analysis are evaluated in Annex D to this Report.

²⁵⁸ Eligibility Report, ¶42. Based on interviews with Requesters during the Panel visit.

²⁵⁹ Management Response, ¶47.

²⁶⁰ Management Response, ¶21.

*and natural habitats. Management notes that while tourism adjoining the immediate site could possibly be reduced the benefit of more reliable power... is undeniable.*²⁶¹

263. Management states that the use of natural gas, indigenous coal and heavy fuel oil was considered. Management indicates that the option of a natural gas-fired combined-cycle unit at each of the proposed sites was found to be more costly than the distillate fuel option but that, if imported natural gas is brought to Albania, the Vlora plant could be readily converted to gas.

D. Bank Policies

264. To improve project design, increase the expected value, and diminish the risk of failure, OP/BP 10.04, Bank Policy on Economic Evaluation of Investment Operations, states that “[f]or every investment project, Bank staff conduct economic analysis to determine whether the project creates more net benefits to the economy than other mutually exclusive options for the use of the resources in question.”²⁶² In addition, OP/BP 10.04 (para. 8), states that “the economic evaluation of Bank-financed projects takes into account any domestic and cross-border **externalities**” (emphasis added).
265. The Policy acknowledges that consideration of Project alternatives is “one of the most important features of proper project analysis throughout the project cycle. To ensure that the project maximizes expected net present value, subject to financial, institutional, and other constraints, the Bank and the borrower explore alternative, mutually exclusive, designs.”²⁶³
266. Economic assessment is also a critical element of Bank Policy on Project Appraisal, OMS 2.20. In its discussion of the “Major Aspects of Project Appraisal,” the Policy outlines key project requirements, including provisions for economic aspects. The Policy requires that Bank-financed projects reflect the objectives of the Borrower and the Bank as an institution, and that “there are no alternative means of obtaining the same benefits at a lower cost to the economy.”²⁶⁴ OMS 2.20 (para 13) also states that “Economic appraisal **requires** identification, quantification and valuation of the costs and benefits likely to be associated with a project” (emphasis added).²⁶⁵

E. Analysis of Alternatives

267. The subsequent section presents a brief discussion of the “No Project” scenario, followed by a detailed evaluation of Management’s analysis of alternative fuels and sites for the Project.

1. No Project

268. The first alternative to the proposed TPP that was considered in the PAD²⁶⁶ was to continue to import electricity. The PAD repeats the Energy Sector Study’s conclusion

²⁶¹ Management Response, ¶59.

²⁶² OP 10.04, ¶1.

²⁶³ OP 10.04, ¶3.

²⁶⁴ OMS 2.20, ¶10.

²⁶⁵ OMS 2.20, ¶13.

²⁶⁶ PAD, p. 19.

that importing additional supplies of electricity was not a viable option for Albania. Rejection of this alternative to the TPP is well documented and justified in the Energy Sector Study and related reports, and the Requesters do not pose the “no project” option as a serious alternative to the TPP.

2. Alternative Fuels and Sites

269. As discussed in Chapter 2, the Siting Study presented three technology/fuel choices for each of seven potential project sites, yielding a total of 21 possible, mutually-exclusive project alternatives.
270. The Siting Study found “*the best sites from a transmission perspective are the Fier and Vlora sites. Both sites significantly improve the voltage profile throughout the Albanian power system, greatly reduce the number of substations with low voltage, significantly reduce system losses, and have reasonable interconnection costs.*”²⁶⁷ Another advantage of the Vlora sites is the ability to use sea water for cooling. In comparison with the Vlora sites, Fier would require distillate oil²⁶⁸ to be transported overland (via an additional 20 km section of pipeline).
271. There was a close correspondence between the ordering of the sites on the basis of the 10 criteria in the “decision matrix” and the ordering on the basis of levelized cost alone.²⁶⁹ In both cases, the recommended Vlora site (Vlora B) was ranked first.²⁷⁰ These two different methods were used, in part, to account for “incommensurate” and “commensurate” impacts, or in other words, qualitative and quantitative variables.²⁷¹
272. Properly used, the decision matrix is an accepted way of eliciting agreed values for social and environmental factors as a means to either convert the related qualitative impacts into numeric values or, alternatively, as a means to help stakeholders make choices involving tradeoffs among qualitative impacts. However, in the case of this project, the presentation in the Siting Study (and used in the PAD) of the decision matrix used weights chosen by project technicians, rather than elicited from stakeholders, obfuscating the social and environmental tradeoffs by mixing them with technical tradeoffs, effectively double-counting the latter.

²⁶⁷ Albania Ministry of Industry and Energy. Final Siting Study. Project Number 1002968.011801. p. 14.

²⁶⁸ “Distillate oil” is most easily understood as another name for “diesel fuel.” It is burned more efficiently in a combined cycle generating plant than in either the captive generators being substituted by industry in the face of power shortages or in diesel automobiles operating at EU or US standards. In a generating plant of the type and size proposed for the project, Bank staff estimated during Inspection Panel interviews that incremental air emissions in the region would be roughly comparable to an additional 10,000 to 15,000 EU-standard diesel-powered cars brought into the region.

²⁶⁹ Levelized cost is the total cost of building and operating a generating facility (including opportunity cost of capital) over its life-time converted to a specific unit of cost, in this instance, the cost per kWh.

²⁷⁰ PAD, p. 22.

²⁷¹ The term “commensurate” refers to project impacts that can be (a) identified, (b) quantified, and (c) valued and, thus, included with other commensurate project impacts in a single objective function such as economic rate of return analysis (EIRR, or its mathematical equivalents such as B/C, NPV, levelized cost, etc.). Impacts that cannot be taken through that three stage process remain outside the primary objective function and are said to be “incommensurate” with respect to that function. Incommensurate impacts, thus, require separate comparisons with commensurate impacts – for example, via a “decision matrix” comparison such as the 10 criteria used in the Siting Study and the PAD. Or, economic analysis can use the consultation process to elicit values on incommensurate impacts to convert them to commensurate status and thus make them additive within the EIRR calculation process.

(a) Levelized Cost

273. The seven coal-fired alternatives were ruled out in the levelized cost calculation because of the high cost of reopening coal mines and upgrading transport systems to carry the coal, as well as the poor quality—high sulphur and low heat content—of Albanian coal. The imported coal option was found to be more costly than the distillate fuel option at all of the sites.²⁷²
274. Natural Gas is the cleanest-burning of the three fuel choices that were presented. However, levelized cost calculations for each of the natural gas-fired alternatives allocated the full cost of a natural gas pipeline from a source outside the country to each site alternative.
275. Natural gas pipeline infrastructure costs would more than double the capital cost of the natural gas-fired alternatives relative to any distillate-fired alternative located along a navigable part of the Albanian coast.²⁷³
276. Thus, fuel availability and access are important factors in the economic analysis of the 21 alternatives presented in the Siting Study. The levelized cost calculation for each of the alternatives included differential fuel access costs. The procedures used in analyzing fuel choices in the levelized cost calculation, per se, conform to good practice guidelines for economic analysis of alternatives.
277. Fuel cost differences were not the only “factors” integrated into the levelized cost calculation. Differential costs associated with seven other factors were also included in the levelized cost estimates: (1) Costs of environmental remediation, (2) Reduction in transmission system losses and voltage profile improvement, (3) Transmission availability and proximity, (4) Fuel availability, (5) Water and sewer needs, (6) Transportation, and (7) Property availability. These are all technical matters that largely fall within the purview of technical staff of KESH and its consultants (unlike the “air quality concerns” and “socio-economic concerns” discussed further below).

(b) Decision Matrix

278. In the overall site decision matrix, of the ten factors used in the ranking of alternatives, eight are also included in the levelized cost calculation, which is itself included as a factor.²⁷⁴ However, two factors in the decision matrix were not included in the levelized cost: (1) “air quality concerns” (Weight of 8%), and (2) “socio-economic concerns” (Weight of 8%).
279. Eighty-four percent (84%) of the total subjective weighting in the decision matrix is thus given to factors whose impact has already been included in the calculation of the

²⁷² PAD, p. 22.

²⁷³ Capital costs for infrastructure for distillate off-loading and delivery are in the single-digit millions of US\$ rather than the double or triple digit range of the natural gas delivery infrastructure.

²⁷⁴ “All of the factors listed in your question, except for water supply (see below), plus others identified as follows explain the differences in the initial capital costs of the 21 alternatives and are reflected in the levelized cost calculation.” Bank communication dated January 10, 2008, in response to economic analysis questions posed by the Panel.

levelized costs of each alternative (with a few exceptions such as cooling water at Fier). In other words, these factors were included both as costs in the levelized cost factor calculations and again in the decision matrix, greatly reducing the importance of social and environmental factors. This makes levelized cost the dominant factor in site selection.

280. Furthermore, socio-economic impacts on Vlora’s population were not properly considered in the weighting methodology for selecting the most adequate site. As mentioned above, one of the ten criteria used in the ranking of alternatives was “socio-economic concerns.” This criterion, given 8% of the total weighting, included “*the location of residential areas, religious buildings, cemeteries, schools, wet-lands, environmentally protected areas etc. relative to the proposed site, as well as the generation facility’s potential impact on these items.*”²⁷⁵ However, because the social assessment was not carried out, no actual data could be included for this criterion.²⁷⁶ The project’s file makes in this respect only a passing reference to “social development” which, in this case, was reduced narrowly to “consumer satisfaction” about power supply.²⁷⁷ It did not consider any community reaction to the selected site.
281. As Management suggests, the Project technicians’ initial suggestions for weights and scores in the decision matrix are in a sense arbitrary. This would not be a problem, if these were only temporary, suggested values to be initially presented during the consultation and disclosure process to help elicit stakeholder statements of the appropriate weights and scores that would then be placed on these items before the selection of alternatives was finalized. The fact that the weights and scores did not change from the siting study to the PAD presentation, however, suggests that these values were not negotiated with and amongst stakeholders and is consistent with the charge by the Requesters, and the conclusions of the Aarhus review, that the consultation and disclosure process was faulty.

(c) Conclusions

282. The Panel finds Management’s efforts to account for social and environmental impacts inadequate. First, key stakeholders were not given an opportunity to suggest modifications to the criteria and weights assigned in the site selection decision matrix. Second, by including the same factors from the levelized cost measure, as well as the measure itself, in the site selection matrix, Management effectively “crowded out” the influence of social and environmental factors. Finally, even if social factors were given increased weight in the model, without a proper social assessment they could not properly account for the risks and impact caused to the surrounding community.
283. **The Panel finds that as of a result of errors in the incorporation of levelized cost measures and improper accounting for social and environmental impacts in the decision matrix, Management failed to comply with the requirements of OP 10.04 and OMS 2.20 in terms of preparing an economic appraisal that identifies and quantifies all costs, including opportunity costs, associated with the project.**

²⁷⁵ Albania Ministry of Industry and Energy. Final Siting Study. Project Number 1002968.011801, p. 95.

²⁷⁶ PAD, p. 22.

²⁷⁷ PAD, p. 38-40.

3. Fier Plant Rehabilitation as a Project Alternative

284. The Requesters raise the possibility of rehabilitating the old heavy-oil-fired steam facilities at Fier as an alternative to the distillate-fired station at Vlora B.
285. Rehabilitating the old Fier units, if feasible, would require either supplying them with imported heavy oil, which would entail both new off-loading facilities at Vlora and a pipeline from Vlora to Fier, or using the local Albanian heavy low-grade oil. Using the local oil (currently being made into bitumen) would give rise to more air pollution in Fier. This was included in the analysis of alternatives that placed Fier second to Vlora B in the analysis of (internalized) costs. Though no detailed costing for rehabilitating the old plants is presented in the Energy Sector Study, the Final Feasibility Study, or the PAD, each of these concludes that it would be more costly and more problematic to rehabilitate any of the existing Fier plants than to build a new one.
286. Given the Energy Sector Study recommendation not to rehabilitate the old Fier facilities, the decision in the analysis of the TPP to not analyze rehabilitation of the Fier plant(s) as an alternative to the proposed project is deemed to be consistent with OMS 2.20, para 12:

“Normally, the broader sectoral issues related to sectoral objectives and policies would be analyzed as part of the country economic and sector work well before the Bank undertakes to appraise a particular project. The task during appraisal is then to ensure that the project adequately reflects the recommended sectoral strategy.”²⁷⁸

4. The Alternative of a New Distillate-Fired Plant at Fier

287. The Siting Study concludes that a new distillate-fired, combined cycle plant at Fier would be the second-best alternative to the Vlora B site, based on the analysis of differential costs.²⁷⁹
288. The levelized cost for the Vlora B site (calculated using a 12% discount rate) comes to \$0.0504 per kWh (after taking account of systems cost savings, versus \$0.0513 before accounting for them). The comparable levelized cost for a new plant at Fier was calculated to be \$0.0531 per kWh (including systems cost savings, versus \$0.0537 without them). See Table 1 for more detail.²⁸⁰

²⁷⁸ OMS 2.20, ¶12.

²⁷⁹ Albania Ministry of Industry and Energy. Final Siting Study. Project Number 1002968.011801, p. 10.

²⁸⁰ All of these calculations are made within the Excel spreadsheet provided by Management and reconstructed from files.

Table 1: Cost Comparisons between Distillate-Fired Combined-Cycle Plants at Vlora B and at Fier

	PV of Total Cost at 12% (US\$ Mil)	Levelized Cost per kWh at 12% (US\$)	Annualized Cost at 12% (US\$ Mil)
Initial Estimates			
Vlora B (with energy savings)	\$276.484	\$0.0504	\$37.015
Fier (with energy savings)	\$291.033	\$0.0531	\$38.963
Difference:	\$14.549	\$0.0027	\$1.948
With Post-PAD Adjustments^a			
Vlora B (with energy savings)	\$281.029	\$0.0513	\$37.624
Fier (with energy savings)	\$294.279	\$0.0537	\$39.397
Difference:	\$13.250	\$0.0024	\$1.773

^a Including \$3.0 Million additional initial investment for cooling water infrastructure and annual purchase of 70,000 to 80,000 cubic meters of municipal water to cover evaporation losses at the Fier site (costed toward the high end at \$2.00 per cubic meter—see following footnote on article by Clark). A \$6 million fuel offloading facility will also be needed at Vlora B, as the old facility has proved to be unusable.

289. On a present value basis (at 12% discount rate), the life-cycle cost of the distillate oil-fired combined cycle plant at Vlora B was calculated to be \$276,484,191. For a comparable new plant at Fier, the present value of the costs (again at 12% discount rate) was \$291,033,066, yielding a present value difference of approximately \$14 million. On an annualized basis, the Vlora B plant costs are \$37.015 million,²⁸¹ compared to annualized cost for a new plant at Fier of \$38.963 million, yielding an annualized difference of \$1.948 million.

290. As stated previously, Management’s response to Inspection Panel questions on the economic analysis indicated that \$3.0 million should be added to the investment costs for the Fier alternative for a cooling tower and that purchase of an additional 70,000 to 80,000 cubic meters of water would be needed to make up for evaporative losses not previously included. Taking the high end of the water requirement and the high end of municipal water charges recently estimated for developed countries, additional purchased water could add close to \$160,000 per year to operating costs for the Fier alternative.²⁸²

²⁸¹ Of this annual plant cost, \$31 Million is fuel costs. The TPP cost structure and the implications for EIRR sensitivity and project risk are discussed in the Economic Analysis Annex. This same \$31 Million fuel cost value also impacts the Fier site distillate alternative.

²⁸² “A recent survey of 14 countries indicates that average municipal water prices range from 66¢ per cubic meter in the United States up to \$2.25 in Denmark and Germany.” Edwin H. Clark, II, “WATER PRICES RISING WORLDWIDE”, Earth Policy Institute. <http://www.earth-policy.org/Updates/2007/Update64.htm> [accessed 2:39 PM on July 1, 2009].

291. The second part of Table 1 reflects these two additional sets of costs. These post-PAD cost changes raise the annualized cost (at 12% discount rate) of the Fier alternative by only about \$437,000. However, in the interim the offloading facilities at Vlora B have been discovered during project implementation to be unusable, and \$6 million must be added to the Vlora B investment costs.²⁸³ This brings the adjusted PV of costs for Vlora B to \$281.029 million. It also increases the annualized cost for Vlora B to \$37.624 million and the levelized cost to \$0.0513 per kWh. All of these adjustments bring down the advantage in annualized cost enjoyed by the Vlora B site to \$1.773 million.
292. The above cost calculations deal with “internalized costs” and do not include “externalities” that might be imposed upon fisheries and tourism interests.²⁸⁴ The externalities are the subject of the concerns raised by The Requesters.
293. Taking into account the cost differences between a TPP at Vlora B versus a TPP at Fier, the relevant question with respect to fisheries and tourism externalities is: “Will any reasonably-expected negative impact upon fisheries and tourism at the Vlora B site amount to more than \$1.773 million per year, the order of magnitude of difference in the net costs of supplying energy to the Albania grid from the Vlora B site rather than from the Fier site?”

F. Economic Assessment of Externalities

294. As mentioned in Chapter 2, according to the Request, “*if built, the Vlora Thermal Power Plant will destroy environment, tourism, safe fisheries, natural habitat, ecosystem, coral colonies as well as the unique historical and cultural significance of the entire Vlora Bay and Narta Lagoon.*” [emphasis added]²⁸⁵

1. Fisheries

295. The PAD for the World Bank’s Pilot Fisheries Project²⁸⁶ in Albania recognizes that Albania's fisheries sector is in decline and currently accounts for a small portion of the country's economy. Nevertheless, Albania has considerable potential in the commercial fishing and aquaculture industries. Development of this sector could provide expanded employment opportunities, increased export earnings, and other contributions to the national economy: this is not assessed in Project documentation.
296. The total marine catch by boats based at the Vlora Port is close to \$743,000 per year.²⁸⁷ Narta Lagoon yields 28% of the 235 tonnes of lagoon fisheries, valued at

²⁸³ Capital cost estimates for all sites other than Vlora A and Vlora B include \$8 million for “New Offshore Terminal Facility” for the distillate-fired alternative at those respective sites, whereas Vlora A and B originally included only \$3 million for “Oil Terminal Refurbishment.” The Fier site cost tables included an additional \$9.72 million for “Oil Pipeline Construction” for transporting imported distillate from the offloading facility to the power plant.

²⁸⁴ “Externalities,” costs and benefits that accrue to stakeholders other than the TPP owners, are treated separately, for example in the sections on fisheries and tourism that follow.

²⁸⁵ Request for Inspection, letter dated April 30, 2007, ¶3, p.1.

²⁸⁶ Project Appraisal Document on a Proposed Credit in the Amount of SDR4.4 million (US\$5.6 million equivalent) To Albania For a Pilot Fishery Development Project (Report No: 23554-ALB), January 31, 2002.

²⁸⁷ The Food and Agriculture Organization of the United Nations (FAO) indicates that 2,400 persons are employed in marine fisheries in all of Albania with 65 vessels based in Durres, 39 in Vlora, 28 in Shengjin, and

about \$100,000 per year.²⁸⁸ Adding together the estimated value of the Vlora area marine fishery and the Narta Lagoon fishery, the damage from a TPP sited at Vlora B could potentially amount to up to \$843,000 per year.

297. Even doubling this estimate of the reported catch to account for possible under-reporting and assuming a 100% loss of the Vlora marine and Narta Lagoon fisheries, the economic value of lost fisheries still will not exceed the estimated cost differential of \$1.773 million between Vlora B site and the Fier sites.

2. Tourism

298. While coastal and marine fisheries are relatively minor parts of the Albanian economy,²⁸⁹ tourism plays a much larger role and therefore presents greater potential for material impacts from TPP siting externalities.

299. The existence of differing perspectives on tourism in the area of Vlora B has been noted earlier in this report. These divergent perceptions are reflected in the following two statements from the Tourism Strategy report, which existed at the time of the project economic analysis.²⁹⁰ The first statement emphasized the importance of tourism in Vlora prefecture; the second captures the limited scope of current tourism:

*“In this prefecture tourism is considered the most important economic sector in the future.”*²⁹¹

*“For the last few years there has been practically no major foreign incoming tourism.”*²⁹²

300. Nevertheless, the Tourism Strategy does suggest that local efforts were being made to advance the cause of tourism in Vlora:

26 in Saranda. In 2002 Albanian fish production was about 4,100 tonne, with a value of US\$18 million. To get an order-of-magnitude number for the level of project damage to Vlora fisheries presume a total national marine catch of 2 million kg (that is, the 2002 catch reported by FAO converted to kg). Valuing that catch at the price of imported fish reported by FAO (\$1.51 per kg) and apportioning to Vlora the part suggested by Vlora's percentage of the nationally registered boats (roughly one-fourth) yields a value for the total marine catch by boats based at the Vlora Port of \$743,168 per year [2 million kg x \$1.51 x (39/158)]. Albanian Fishing Industry, <http://www.eurofish.dk/indexSub.php?id=3380&easysitestatid=-1451035573> [Accessed at 2:48 PM on July 1, 2009].

²⁸⁸ Taking the total national value of lagoon fisheries and making an allocation based on Narta Lagoon's portion of the nation's total lagoon fisheries area a value for fish taken from Narta Lagoon may be derived. FAO reports a catch of 235 tonnes in 2002 in Albania's coastal lagoon fisheries. It is a reasonable to apportion the Narta Lagoon share of this 235 tonnes of lagoon fisheries catch using Narta's percentage of total lagoon surface area reported by FAO. This yields a Narta Lagoon share of 28% of 235 tonnes, or 65.8 tonnes with a value of \$99,358 (based on the \$1.51/kg used for marine catch).

²⁸⁹ “About 753 registered fishermen are employed in the marine fishery.” Albanian Fishing Industry, <http://www.eurofish.dk/indexSub.php?id=3380&easysitestatid=-1451035573> [Accessed at 2:48 PM on July 1, 2009].

²⁹⁰ Conflict and confusion in the role played by tourism in Albania was also reported by CEE Bankwatch Network in their review of the EBRD role in the TPP. “Energy Matters: the Vlora coastal terminal—fact-finding mission report on energy and industry developments in Vlora, Albania” (April 2008). Available on-line at <http://www.bankwatch.org/project.shtml?apc=147587-2045138---1&x=2091158&d=n> (accessed 2:57 PM, July 1, 2009)

²⁹¹ Albania Tourism Strategy, 12 November 2001, Part I, p. 11.

²⁹² Albania Tourism Strategy, 12 November 2001, Part I, p. 2.

“The activities for promoting tourism mainly deal with the creation of a Local Economic Development Agency (LEDA) in the prefecture of Vlora and the elaboration of a masterplan for the development of tourism, concerning mainly the coastal areas of the Prefecture of Vlore, in particular the area Derdhje Vjoses Triport.”[emphasis added]²⁹³

301. At the time of Project planning and appraisal the potential conflict between a TPP at Vlora B and the stated objectives of the emerging local economic development planning community already existed. There was evidence of local desire to develop tourism in the Vlora area in general and at Triport in particular. There is no evidence of an assessment of the possible effects the Project would have on local economic development. The words “tourism” and “tourist” do not appear in the PAD, the Project Concept Document (PCD), the Project Information Document (PID), the QER, or the Integrated Safeguards Datasheet—not even to suggest that rules of materiality might indicate that net tourism impacts could safely be ignored.
302. Bank Policy on Project Appraisal recognizes that country and sector analyses often provide inadequate background work for project development and goes on to say that:

*“Such cases require both a more thorough analysis of the key sectoral policies during appraisal and the development of a well defined program of studies needed to improve sectoral understanding for future operations; if necessary, such studies could be included in the project.”*²⁹⁴
303. With or without such supplementary studies, good practice for project preparation and appraisal missions involves visiting the project site, interviewing local stakeholders and incorporating the findings from those discussions into back-to-office documentation. Concerning fisheries and tourism, there is no evidence in the documentation that this was done.
304. In project practice, complete and timely social assessments usually offer relevant population data, which are then used by the project’s economists in their analyses of costs, poverty levels, and benefit distribution. Since such a body of data was lacking, due to the lack of social assessment, the economic analysis itself suffered. The direct economic implications of absent social assessment will be mentioned further below.
305. In meetings with the Panel team during its field visit, citizens of Vlora emphasized that the installation of the thermal oil plant adjacent to Vlora beach, and of its oil terminal in the Bay’s waters close to the shore, will considerably detract from the area’s attractiveness for tourism, causing them substantial opportunity costs and losses. These opportunity costs were not factored into the project’s social impact analysis or economic feasibility analysis. The consultation process should have revealed these strong concerns and addressed them, most obviously by addressing them in the economic analysis; even if only to reveal that the impact would have been less than anticipated.

²⁹³ Albania Tourism Strategy, 12 November 2001, Part I, p. 19.

²⁹⁴ OMS 2.20, ¶ 12.

3. Conclusions

306. Based on the Panel's investigation, it is apparent that there was reasonable evidence for Management to be concerned about the long-term risks and adverse effects that a TPP at Vlora B site would impose on Vlora's fisheries and tourism industries. **The Panel finds that the Management's economic analysis did not account for important externalities which may have a material impact on the levelized cost analysis. Consequently, the Panel concludes that the economic assessment by Management does not comply with OP 10.04 that states: "the economic evaluation of Bank-financed projects takes into account any domestic and cross-border externalities."**

Chapter Five: Consultation, Participation, and Disclosure

A. Introduction

307. The previous Chapters devoted to the environment, cultural property and social assessment and economic analysis illustrated non-compliance with Bank policy and procedural requirements on several key issues. The present Chapter explores the causes and roots of Management's non-compliance with critical safeguards related to the environment, cultural property and economic analysis to establish exactly when and how they occurred.
308. The root of many of the problems that surfaced in the Project lie in the manner in which the Bank's Policy on public consultation and transparent information disclosure has or has not been complied with, both during Project preparation and also later, in its implementation. An examination of the timeline of the Project activities will be made in this chapter to provide a historical perspective on the process. This analysis closely follows the Project's paper trail in the Bank's files.
309. The Panel's analysis determined that the crucial issues brought to the Panel in 2007 were previously known. They did not come to light only during the implementation phase, but rather, surfaced in early Project stages. If heeded at that time, these issues could have been solved in the normal course of seeking the best, or most adequate, options. The issues that are in sharp contention in the present Request were, by any measure, tractable.

B. Requesters' Claims on Consultation, Management's Response and Bank Policy

310. **Requesters' Claims.** The Requesters raise two kinds of issue:
- a) issues of **process and procedures** during project preparation, especially the time and manner of information disclosure; as well as organization of the consultation process; and
 - b) issues of **project design and content, and of decision-making** regarding the thermal plant's location.

The combined effects of departures from Bank Policy related to these issues, according to the Requesters' complaints, resulted in serious adverse environmental and economic project impacts that could have been preempted with alternative solutions.

311. The Requesters specifically assert that no adequate public consultation was carried out during the preparation of the Project. They claim that most of the meetings were not properly advertised and that the project information provided to the public was incomplete. They contend that such meetings as did occur were perfunctory, because they took place **after** the selection of project location, that is, after the site of the thermal plant had already been decided by the Borrower and by local Government authorities, without the counsel of the local population.

312. The Requesters note that on April 27, 2005, they submitted a complaint to the Aarhus Convention²⁹⁵ Compliance Committee (“the Aarhus Committee”) documenting Albania’s non-compliance with its obligations under the Aarhus Convention. The complaint concerned public access to information and participation in decision-making on the construction of an energy and industrial park and a thermal power plant.²⁹⁶ The Requesters note that the Aarhus Committee accepted their complaint as justified and found the consultation procedures concerning the power plant to be in violation of Art.6 of the Aarhus Convention. The Requesters added that World Bank procedures during the lead up to the Project were also in violation of Albanian laws on the environment, public participation and cultural heritage, as well as EU directives and Bank Policies.
313. **Management Response:** Management states that they have complied with all applicable policies on consultation and disclosure of information. Management considers that the formal process for safeguards compliance began in October 2002 with the first internal meetings to set safeguards requirements at the concept-stage, and after the project was assigned a “Category A” rating for EA, given its potential significant environmental impact and the need for avoidance of harm, mitigation, and monitoring.
314. Management further states that the draft siting study (June 6, 2002), the final siting study (October 21, 2002), and the draft feasibility study (August 6, 2002), which includes a detailed preliminary Environmental Analysis section as well as a draft outline of an EA, were discussed in a public meeting in Vlora on October 31, 2002.²⁹⁷ Safeguard work was initiated following the identification of the Vlore B site as the leading candidate for the site of the proposed power plant, with the siting study providing information that was then incorporated into the required “alternatives” section of the EA report.
315. Management claims that the Project followed standard World Bank procedures for a Category A projects including: (i) public consultations by the Government, specifically at the EA preparation stage on April 2, 2003, and draft EA report stage on September 3, 2003; (ii) advanced notification of these meetings by Government to stakeholders; (iii) a thorough internal World Bank and IFI review process for drafts and final documents; (iv) resolution of comments through the completion of final reports and an Addendum; (v) posting of draft EA reports in Albania (in Albanian) and in the InfoShop (in English) in a manner consistent with the Bank’s Policy on Disclosure of Information²⁹⁸; and (vi) inclusion of the Policy Framework for Land Acquisition²⁹⁹ in the EA documents.³⁰⁰

²⁹⁵ Aarhus Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, done at Aarhus, Denmark, June 25, 1998, ECE/CEP/43. Available at <http://www.unece.org/env/pp/> Accessed 21 July 2009 (hereinafter “Aarhus Convention”).

²⁹⁶ Communication ACCC/C/2005/12 by the Alliance for the Protection of the Vlora Gulf (Albania).

²⁹⁷ Management Response, ¶38.

²⁹⁸ Volume 1 on October 6, 2003, and a Volume 2 Addendum on January 15, 2004.

²⁹⁹ Management notes that the Policy Framework was prepared and posted in English only due to the initial determination that acquisition of privately held land was unlikely.

³⁰⁰ Management Response, ¶41.

316. Management considers that “...the presentation of the review at the October 2002 public consultation meeting was notable in Albania as one of the first such engagements by Government with civil society at an early stage of a major investment project.”³⁰¹ It also contends “no major objections were raised with the Bank regarding the selection of the Vlore site during the EA process from April 2003 through Board approval.”³⁰²
317. As indicated in Chapter 1, Management considers that the process leading up to the Project respected the requirements of the Aarhus Convention.³⁰³ In response to a review by the Aarhus Convention Compliance Committee, Management asserts that the Project is in compliance with relevant Bank policies and procedures and that “consultation and disclosure of information did take place during project preparation in a manner satisfactory to the Bank and other development partners.” Management also states that “a satisfactory analysis of alternatives was conducted for the project, and that the result of this analysis was discussed with local stakeholders.”³⁰⁴
318. **Bank Policies:** Bank Policy on Environmental Assessment OP 4.01 deals with public consultation and requires that for all Category A projects, the borrower should consult with project-affected groups and local NGOs about the project’s environmental aspects and take their views into account. The Policy further requires that the borrower must consult these groups at least twice: (a) shortly after environmental screening and before the terms of reference for the EA are finalized: and (b) once a draft EA report is prepared.³⁰⁵
319. In accordance with OP 4.01, the borrower also needs to consult with such groups throughout project implementation as necessary to address EA-related issues that affect them. For these purposes, the borrower must provide relevant material, such as draft EA, in a timely manner before consultation “in a form and language that are understandable and accessible to the groups being consulted.”³⁰⁶ By requiring the borrower to timely disclose such project-related information the Bank aims to enable project-affected populations and local NGOs to express their perceptions and locally informed knowledge about the risks and concerns that the project may cause to them.
320. In addition, OP 4.01 requires that the EA takes into account, *inter alia*, the country’s obligations pertaining to project activities under relevant international environmental treaties and agreements as these pertain to specific project activities.³⁰⁷

C. Timeline of Events Related to Consultation

321. As has been noted early in this Chapter and throughout this Report, the root of many of the problems that surfaced in the Project can be traced to Project preparation and consultation. To provide background, the Panel has looked to the Project files to

³⁰¹ Management Response, ¶47.

³⁰² Management Response, ¶48.

³⁰³ Management Response, ¶62, with further detail in Management Response, Annex 5. “World Bank Response to Draft Findings of the Aarhus Convention Compliance Committee.” May 15, 2007.

³⁰⁴ Management Response, ¶62.

³⁰⁵ OP 4.01, ¶14.

³⁰⁶ OP 4.01, ¶15.

³⁰⁷ OP 4.01, ¶3.

compile the following timeline, noting activities relevant to the Panel’s analysis of consultation, participation, and disclosure.³⁰⁸

- On January 22, 2002, the Bank indicated its willingness to finance and assist the Government of Albania (GoA) in raising financing for a new thermal power plant. Funded through a grant from USTDA,³⁰⁹ GoA hired environmental consultants to prepare draft and final feasibility studies, including Siting Study, and an environmental assessment of the identified site.³¹⁰
- On **June 6, 2002**, the consultants **completed a draft Siting Study** that made two recommendations: the Vlora B site as the best location; and distillate oil-fired, base load, combined cycle plant (allowing for conversion to natural gas) as the best generation technology.
- On **June 21, 2002**, GoA, through **the Ministry of Energy and KESH, approved the consultants’ recommendation.**
- Following this approval, the consultants conducted a detailed feasibility study to evaluate the technical requirements and the financial, environmental, and social viability of the proposed generation facility with an installed capacity range of 90 to 130 MW at the selected site.
- On **October 21, 2002**, the consultants **completed the Final Siting Study and Final Feasibility Study.**
- On **October 31, 2002**,³¹¹ the Ministry of Energy and Industry **held a public meeting in Vlora** to introduce the Project and begin the public consultation process. As is apparent from the above steps, the consultants’ recommendation had been approved by the Ministry and by KESH four full months earlier.
- On December 21, 2002, Vlora Council of Territorial Adjustment approved the Vlora B site as the construction site for the TPP Project.³¹²
- On **February 19, 2003, the Council of Territorial Adjustment of Albania approved the siting of the thermal power plant in Vlora.**³¹³ The Council of Territorial Adjustment on the same date, on February 19, 2003, issued two additional Decisions,³¹⁴ the first, to approve the use of the territory for the development of an industrial and energy park; the second, to approve the construction site for a coastal oil terminal for the storage of oil and oil-by products and also to approve the construction of additional port infrastructure in Vlora Bay to service the oil terminal.

³⁰⁸ For a full timeline of events related to the Project, see Annex B to this Report.

³⁰⁹ United States Trade and Development Agency.

³¹⁰ Draft scope of services was sent from consultants to Bank team on January 30, 2002. Contract Amendment signed on April 10, 2002, between GoA and consultant.

³¹¹ Please note that some documents record this meeting date as October 28, 2002.

³¹² Vlora Council of Territorial Adjustment / Arrangement (Vlora County Council), *Decree No. 4, “To approve the Construction Site for Construction of TPP according to Vlora B version”* (21 December 2001).

³¹³ The Council of Territorial Adjustment / Arrangement of the Republic of Albania, *Decision No. 20, “The Construction Site of the New Thermal generation Facility in Vlora”* (19 February 2003).

³¹⁴ The Council of Territorial Adjustment of Albania, Decision No. 9, dated February 19, 2003.

- On **April 2, 2003**, a public meeting was held in Vlora to discuss the terms of reference for the EIA study.
- On July 23, 2003, copies of the draft EIA study were made available in Vlora for public consultation purposes.
- On **September 3, 2003**, a further public meeting was held to discuss the draft EIA study. Management indicates that the meetings held on April 2, 2003 and September 3, 2003 correspond to the two EA consultations required by the Bank for a Category A project.³¹⁵
- On October 6, 2003, the Bank placed the final EIA report on its external web site. On October 18, 2003, KESH issued a press release launching a public discussion on the evaluation of the EIA. KESH invited all interested parties to participate in an open consultation process and provide information on where the relevant documents could be obtained.
- On October 24, 2003, the EIA report (including environment and social aspects) was disclosed in the Bank's InfoShop.
- On January 15, 2004, the EIA Addendum was filed by the Bank in InfoShop and re-disclosed in April 2004.
- On February 10, 2004, in order to meet EBRD's requirements, KESH issued a revised press release, providing more specific details, including where and by what date comments should be submitted and indicating that the suggestions from the public would be included in an annex to the EIA.
- According to Management from February 9, 2004 to June 7, 2004, the EIA materials were made available for a 120-day period for public review and comment, in a number of public locations, including in Vlora. Announcements containing this information were also placed in various newspapers.
- On March 16, 2004, the World Bank Board of Executive Directors approved the Project, the legal documents were signed on April 6, 2004, and the Project became effective on January 26, 2005.
- On February 28, 2005, the Bank received an "Open Letter" dated February 18, 2005, from the Environmental Associations and Representatives of Civil Society in Albania signed by numerous national and local NGOs and their members expressing concerns over the energy park and the thermal power plant.
- On April 27, 2005, the Requesters submitted a complaint to the Aarhus Committee alleging non-compliance by Albania with its obligations under the Aarhus Convention concerning timely public access to information and timely participation in decision-making on the construction of an industrial park and a thermal power plant.³¹⁶ They

³¹⁵ Management Response, p. 25-26.

³¹⁶ Communication ACCC/C/2005/12 by the Alliance for the Protection of the Vlora Gulf (Albania).

alleged that Albania violated its obligations under article 3, paragraph 2; article 6, paragraph 2; and article 7 of the Aarhus Convention. (see further in section D below the detailed description of the inquiry carried out by the Aarhus Convention).

- Beginning from June 20, 2005, the Requesters started to address their concerns to the Bank. They first wrote letters to the Bank Management, mainly raising concerns about the decision to construct the thermal power plant in the Bay of Vlora. The Requesters also organized several public demonstrations and protests at the Project site. The Vlora student movement also organized its own protest demonstrations against the siting of the Project.
- On April 19, 2007, some of the members of the Requesters submitted a complaint to the EBRD's Independence Recourse Mechanism relating to the Project. The complaint raised similar issues to those that are the subject of this investigation. The EBRD accepted the findings of the resulting Compliance Review Report, which concluded that the EBRD had failed to ensure full compliance with policy requirements regarding information disclosure and meaningful public consultation, but that this failure constituted a minor technical violation, not a significant material violation, of the EBRD's Environmental Policy.³¹⁷
- On April 30, 2007 a request for inspection was submitted to the Inspection Panel.



Figure 6 Panel Team Meeting with the Requesters

D. Review by the Aarhus Convention Compliance Committee

322. Given that the Requesters first approached the Aarhus Convention Compliance Committee, which carried out its inquiry before that of the Panel, we will summarize the Aarhus investigation and its findings.

³¹⁷ "Report of the Chief Compliance Officer." The Independent Recourse Mechanism: Annual Report for 2008. European Bank for Reconstruction and Development. p. 2.

323. Importantly, the Aarhus Convention Compliance Committee’s review focused on the actions of Albania (Party), not on the Bank. However, the conclusions of the Committee are relevant because Bank policy gives the main responsibility for consultation to the borrower and requires the Bank to ensure that the borrower fulfills this requirement. Furthermore, requirements of the Aarhus Convention are largely similar to Bank’s public consultation and disclosure requirements set forth in OP 4.01.³¹⁸ The Committee primarily addressed the issue of public participation with regard to Decision 20 of the Council of Territorial Adjustment of Albania, dated February 19, 2003, approving the construction site of the Vlora thermal power station. The Aarhus Committee determined that the requirements of paragraphs 3, 4 and 8 of Article 6 of the Aarhus Convention³¹⁹ are applicable. Article 6 of the Aarhus Convention applies to decisions on proposed activities listed in Annex I, which include thermal power stations and other combustion installations with heat input of 50 megawatts or more,³²⁰ among other activities, and to decisions on other proposed activities which may have “*a significant effect on the environment.*”³²¹
324. Regarding the decision to establish the site of the thermal power plant, the Aarhus Committee concluded that the only element of public participation in this phase of the process appears to have been the public meeting that took place on October 28 or 31, 2002.³²² The Aarhus Committee examined the minutes and the list of participants of the October 31, 2002, meeting and compared them with the minutes and the list of participants of the September 3, 2003 meeting. The Aarhus Committee noted “*out of 16 questions put forward by the participants of the first meeting and 18 questions raised at the second meeting, 12 are exactly the same.*”³²³
325. The Aarhus Committee further noted that nine of these questions received practically verbatim identical replies. In addition, introductions to the meetings and some of the general interventions made by the public officials were also identical. The Aarhus Committee found that the lists of participants of the two meetings differ only regarding four additional public officials who attended the first meeting. The Aarhus Committee stated that

“the results of this comparative analysis raise serious concerns regarding the extent to which the report of the meeting can be relied upon as an accurate

³¹⁸ For example, Article 6 (Public Participation in Decisions on Specific Activities), paragraph 3 of the Aarhus Convention provides that “*The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public ... and for the public to prepare and participate effectively during the environmental decision-making.*”

Article 6, paragraph 4 provides that “*Each Party shall provide for early public participation, when all options are open and effective public participation can take place.*”

Article 6, paragraph 8 provides that “*Each Party shall ensure that in the decision due account is taken of the outcome of the public participation.*”

³¹⁹ See footnote 317 above for Article 6. of the Aarhus Convention.

³²⁰ Aarhus Convention, Annex I, ¶1.

³²¹ Aarhus Convention, Article 8.

³²² The Aarhus Convention Compliance Committee could not establish definitively the precise date on which the meeting was held and noted that the meeting took place either October 28 or 31, 2002. See, ECE Aarhus Convention Compliance Committee, *Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶76.

³²³ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶77.

*record of the proceedings as well as regarding the genuine nature of the questions and concerns raised, recorded and subsequently taken into account in the decision-making process.”*³²⁴

326. With respect to the October 31, 2002, meeting, the Aarhus Committee concluded the following:

*“The unclear circumstances surrounding the meeting in October 2002, and the failure of the Party concerned to provide anything to substantiate the claim that the meeting was duly announced and open for public participation, as well as concerns about the quality of the meeting records, lead the Committee to conclude that the Party concerned failed to comply with the requirements for public participation set out in paragraphs 3, 4 and 8 of article 6 of the Convention.”*³²⁵

327. The Aarhus Committee also reviewed and commented on the meetings that took place on April 2, 2003, and September 3, 2003. (As noted above, Management indicates that the meetings held on April 2, 2003, and September 3, 2003 correspond to the two EA consultations required by the Bank for a Category A project.) The Aarhus Committee stated that the two meetings that took place on April 2, 2003, and September 3, 2003, took place after the decision on the approval of the construction site in Vlora and *“therefore cannot be considered as events contributing to the involvement of the public in that decision.”*³²⁶

328. The Aarhus Committee further noted that Albania did not provide any information *“to demonstrate that the meetings in April and September 2003 were publicly announced, so as to allow members of the public opposing the project to actively take part in the decision-making.”*³²⁷ In addition, the Aarhus Committee stated that Albania did not *“give any reasonable explanation as to why the rather strong local opposition to the project, indicated by the 14,000 people calling for a referendum, was not heard or represented properly at any of these meetings.”* With respect to the meetings held on April 2, 2003, and September 3, 2003, the Aarhus Committee concluded that *“[t]his gives rise to concerns that the invitation process also at this stage was selective and insufficient.”*³²⁸

³²⁴ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶77.

³²⁵ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶78.

³²⁶ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶80.

³²⁷ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶81.

³²⁸ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶81.

329. Following its field inquiry, the Aarhus Committee (see Box 1, Ch.1) issued its overall conclusion after its June 2007 meeting.³²⁹ The Aarhus Committee found that:

*“[a]lthough some efforts were made to provide for public participation, these largely took place **after** the crucial decision on siting and were subject to some qualitative deficiencies, leading the Committee to find that the Party³³⁰ concerned failed to comply fully with the requirements in question.”³³¹*
(emphasis added)

E. International Environmental Obligations under OP 4.01

330. In accordance with OP 4.01, it is necessary that an EA takes into account, *inter alia*, the country’s obligations pertaining to project activities under relevant international environmental treaties and agreements. OP 4.01 states that the Bank does not finance project activities that would contravene a country’s obligations under any such international treaty or agreement.³³²

331. As noted above, with respect to the proposed thermal power plant, the Aarhus Committee found that some efforts were made to provide for public participation, but noted that “...these largely took place *after* the crucial decision on siting and were subject to some qualitative deficiencies” (emphasis added). The Aarhus Committee concluded that Albania failed to comply with the requirements for public participation set out in paragraphs 3, 4 and 8 of Article 6 of the Aarhus Convention.³³³

332. Based on the foregoing, **the Panel finds that Management did not ensure that the Project preparation activities complied with the consultation and public participation requirements of the Aarhus Convention. This does not comply with OP 4.01.**

F. Main Issues in the Bank Project’s Public Consultation Process

1. Public Consultation and Disclosure During Project Preparation

(a) Meaningful Public Consultation

333. As noted earlier, Bank Policy on Environmental Assessment OP 4.01 deals with public consultation and requires that for all Category A projects, the borrower should consult with project-affected groups and local NGOs about the project’s environmental aspects, taking their views into consideration. OP 4.01 requires the borrower to initiate consultations with project-affected population groups and local

³²⁹ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007).

³³⁰ The Party referred is Albania.

³³¹ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007) ¶93.

³³² OP 4.01, ¶3.

³³³ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007) ¶93.

NGOs as early as possible. As discussed earlier, for Category A projects it requires consultation with such groups at least twice: (a) first, after the first environmental screening (desirably, immediately after) but before the terms of reference for carrying out the EA are finalized; and (b) second, once the draft EA report is prepared.³³⁴

334. Further, OP 4.01 specifically requires that “[f]or meaningful consultations between the borrower and project-affected groups and local NGOs on all Category A and B projects proposed for IBRD or IDA financing, the borrower provides relevant material in a timely manner prior to consultation and in a form and language that are understandable and accessible to the groups being consulted.”³³⁵ OP 4.01 is explicit that the borrower must consult affected groups and local NGOs “as early as possible” and “at least twice.”³³⁶ By requiring the borrower to timely disclose such project-related information the Bank aims to enable project-affected populations and local NGOs to express their perceptions and locally informed knowledge about risks and concerns that the project may cause to them.
335. The Requesters claim that: (i) the consultation meetings were not properly advertised; (ii) the information provided was incomplete; and (iii) that most meetings took place **after** Government authorities had in fact approved the selection of the Project site. Therefore, they assert that the “consultations” were only “pro-forma” and were treated by the borrowing entity and the local authorities as irrelevant to their “real” decision-making process.
336. Management states that public consultation meetings and the EA report reference the alternatives examined under earlier pre-feasibility and feasibility studies in the latter half of 2002, a process that led to the recommendation of the current site in Vlora. Management asserts that the analysis of alternatives did include a solid range of analytical criteria, including suitability with regard to the environment.
337. As constructed from the above stated Project timeline, in 2002, after the Bank indicated a willingness to finance and assist the Government of Albania (GoA) in raising finances for a new thermal power plant,³³⁷ the GoA hired a consultant firm.³³⁸ Funded through a grant from the United States Trade and Development Agency (USTDA), the consultants were contracted to identify alternatives for plant location and technology, conduct a feasibility study, select the adequate location, and conduct an environmental impact assessment (EIA) of the proposed facility. The draft Siting Study completed³³⁹ by the consultants made two recommendations: the Vlora B site as the best location; and distillate oil-fired, base load, combined cycle plant (allowing for conversion to natural gas) as the best generation technology. On June 21, 2002—two weeks after the draft Siting Study was released—the GoA, through the Ministry of Energy and KESH, approved the consultants’ recommendation.

³³⁴ OP 4.01, ¶14.

³³⁵ OP 4.01, ¶15.

³³⁶ OP 4.01, ¶14.

³³⁷ See letter dated January 22, 2002 from World Bank to Government of Albania.

³³⁸ On January 30, 2002, a draft scope of services was sent from USTDA consultants on feasibility work, including environment. In April 2002, a contract amendment was signed between the GoA and consultant to prepare draft and final feasibility studies, including Siting Study, and an EA of the identified site.

³³⁹ Released on June 6, 2002.

338. Following this approval, the consultants conducted a detailed feasibility study to evaluate the technical requirements and the financial, environmental, and social viability of the proposed generation facility with an installed capacity range of 90 to 130 MW at the selected site. On October 21, 2002, the consultants completed the Final Siting Study and Final Feasibility Study.
339. On October 31, 2002, a public meeting was held in Vlora to introduce the Project and begin the public consultation process. As noted in paragraph 21 of this Chapter, “*due to unclear circumstances surrounding the meeting,*” the Aarhus Convention Compliance Committee concluded that the meeting that took place on October 31, 2002 did not comply with the requirements of public participation of the Aarhus Convention.³⁴⁰ The Aarhus Committee reached this conclusion following the comparative analysis of minutes and list of participants of October 31, 2002 and September 3, 2003, meetings.
340. On February 19, 2003, the [National] Council of Territorial Adjustment [of Albania] approved the siting of the thermal power plant in Vlora.³⁴¹ On the same date, February 19, 2003, the Council of Territorial Adjustment issued two additional decisions³⁴²: the first, to approve the use of the territory for the development of an industrial and energy park; the second, to approve the construction site for a coastal and oil terminal for the storage of oil and oil by-products and also to approve the construction of additional port infrastructure in Vlora Bay to service the oil terminal.
341. On April 2, 2003, a public meeting was held in Vlora to discuss the terms of reference for the EIA study. On September 3, 2003, a public meeting was held to discuss the draft EIA study. As discussed earlier, management indicates that the meetings held on April 2, 2003 and September 3, 2003 correspond to the two EA consultations required by OP 4.01 for a Category A project.³⁴³
342. For Category A projects, OP 4.01 requires public consultation to take place in parallel with the preparation of the EA, because the EA is the main tool for decision making on environmental issues, including the siting of a project and the analysis of alternatives. As demonstrated in Chapter 2 on Environmental Compliance, and by the timeline reconstruction in this chapter, the EA provided *post hoc* justification to the site, because the site had already been selected before any consultation.
343. It is critical to note that the April 2, 2003 and September 3, 2003 meetings--referred to by Management as the two EA consultations required by the Bank for a Category A project--were held *after* the GoA had approved the siting for the Project. This form of EA consultation created the appearance of consultation and of consistency with the OP, but in reality was a “*pro-forma* move,” not a genuine consultation. It contributed nothing to improving project selection, siting, planning or design of the Project, and was not consistent with timing required by the OP. Aarhus Committee has

³⁴⁰ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶78.

³⁴¹ The Council of Territorial Adjustment / Arrangement of the Republic of Albania, *Decision No. 20, “The Construction Site of the New Thermal generation Facility in Vlora”* (19 February 2003).

³⁴² The Council of Territorial Adjustment of Albania, *Decision No. 9*, dated February 19, 2003.

³⁴³ Management Response, p. 25-6.

commented on these meeting in its decision and concluded that these meetings “cannot be considered as events contributing to the involvement of the public in that decision.”³⁴⁴

344. **The Panel concludes that, through a deficient EA process, Management failed to ensure meaningful public consultations for the Project, which is not in compliance with OP 4.01.**

345. As discussed in Chapters 3 and 4, meaningful consultation constitutes a policy requirement not only for the environmental assessment but also for the economic analysis and cultural heritage considerations in project design and implementation.

346. The lack of meaningful consultations was also discussed in the Aarhus Committee’s findings:

*“once a decision to permit a proposed activity in a certain location has already been taken without public involvement, providing for such involvement in the other decision-making stages that will follow can under no circumstances be considered as meeting the requirement under article 6, paragraph 4, to provide ‘early public participation when all options are open’. This is the case even if a full environmental impact assessment is going to be carried out. Providing for public participation only at that stage would effectively reduce the public’s input to only commenting on how the environmental impact of the installation could be mitigated, but precluding the public from having any input on the decision on whether the installation should be there in the first place, as that decision would have already been taken.”*³⁴⁵

347. In the opinion of the Panel, meaningful engagement of Vlora civil society at an early stage of Project conceptualization would have revealed the deep concerns and fears of the local population and could have allowed these to be considered in the Environmental Assessment.³⁴⁶ Such engagement would also have directed attention to the strongly held local perception that tourism holds the key to the region’s economic prosperity. Early recognition of this concern would have allowed for the likely negative effects of the project on tourism to be systematically weighed and assessed technically, economically, and socially. The current Request stems largely, in the view of the Panel, from the failure to engage Vlora civil society in a meaningful way during Project planning and preparation of the EA.

(b) Extent of Public Consultations

348. From the details of consultation and disclosure, it is clear that Management satisfied itself with only the minimum requirements of OP 4.01. Only two, possibly three,

³⁴⁴ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶80.

³⁴⁵ ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (13-15 June 2007), ¶79.

³⁴⁶ A Social Impact Assessment is a usual component of a full Environmental Impact Assessment.

public meetings were held to engage with affected parties. Following these, Environmental Assessment Reports in Albanian and English were lodged in Albania and the Bank's Infoshop. However, there is no record of any attempt to proactively engage local NGOs, professional bodies or business organizations through focus group discussions, open houses, workshops, or other means before key decisions about the Project were taken. The records of the public meetings³⁴⁷ provide only a cursory overview of the concerns raised by attendees. Management could not point to any specific concern of civil society that has been taken into account in the Environmental Assessment.

349. Based on review of the Project timeline³⁴⁸ and analysis of Project documents, and taking into account that the affected parties had only a minimal involvement in critical decisions regarding the Project, **the Panel does not agree with Management's view that under Bank Policy such minimal involvement of affected parties after critical decisions regarding the Project have been made constitutes "consultation and disclosure of information ... during project preparation in a manner satisfactory to the Bank...."**

(c) Notification and Public Participation

350. The Requesters claim that the meetings were not properly brought to public attention and that the information provided in these meetings was incomplete. Management states that advanced notification of consultation meetings was provided to stakeholders.
351. The Final EIA alleges that the three public consultation meetings were attended by a number of agencies, university personnel, NGOs and the public, and that the public was able to express its concerns or issues. In addition, the EIA informs that accounts of those meetings were included by Albanian television and broadcast on the nightly news.³⁴⁹
352. During its review, the Aarhus Committee independently analyzed the issues of who was notified of the consultation meetings, the content of the notifications, and who actually participated. Because the requirements of OP 4.01 on public notification, disclosure of information and participation requirements are substantially similar to those of the Aarhus Convention--and because the Panel verified in its own investigation the facts examined by the Aarhus Committee--the Panel reaches the same conclusions as the Committee about the inadequacy of the notifications, disclosure of information, and public participation during Project preparation. **The Panel concludes that Management failed to ensure adequate notification to the project affected people and local NGOs and to secure their participation in consultation meetings as required under OP 4.01.**

(d) Disclosure of Documents

353. OP 4.01 states that for consultations to be meaningful, project information should be presented in a timely manner, be accessible to the groups being consulted, and be

³⁴⁷ Appendix E of the Final EIA.

³⁴⁸ See Section F 1(a) of this Chapter and Annex B: Project Timeline of this Report.

³⁴⁹ Final EIA, p. 110.

presented in a form that could be understood (in terms of both language and technical issues). In Category A projects, for the initial consultation (i.e., before the ToR for the EA are finalized), the borrower has the responsibility to provide a description of the project's objectives and potential impacts. For consultations after the EA report is drafted, the borrower should submit to the public a summary of the EA conclusions, so that those consulted could meaningfully react and comment on such conclusions.³⁵⁰

354. The Meeting Notes for the April 2, 2003, meeting indicate that the meeting agenda and “*a copy of the environmental section of the terms of reference in Albanian were distributed to the attendees,*”³⁵¹ instead of making these documents available prior to the meeting as the Policy requires. With respect to the October 31, 2002, meeting, there is no indication in Project files of the documentation that was disclosed, if any, prior to the meeting.
355. The Meeting Notes of the September 3, 2003, meeting state that the draft EIA was disseminated on July 20, 2003, in three different places in Vlora (Prefecture, Municipality and District) and that over 20 copies of the EIA summary, translated into Albanian, were distributed in different local government institutions and NGOs and were available for public comments until September 20, 2003.³⁵² This is the only reported instance of timely provision of information, contrasting with the meetings of October 31, 2002, and April 2, 2003. However, **this single instance of public notification is insufficient to meet the requirements of OP 4.01. Overall, the Panel finds that Management failed to ensure satisfactory public disclosure of Project information to interested local area stakeholders.**

2. Consultation Throughout Project Implementation

356. In addition to requiring public consultations during project preparation, OP 4.01 requires continued consultation by the borrower with project-affected groups and local nongovernmental organizations throughout project implementation “*as necessary to address EA-related issues that affect them.*”³⁵³
357. Management states that no major objections were brought to its attention regarding the selection of the Vlora site during the EA process from April 2003 through Board approval of the Project on March 16, 2004. However, evidence and Panel findings earlier in this Chapter and in other sections of this Report indicate that the consultation process with local population during project design and preparation was deficient.

(a) Local Community Efforts to Voice Concerns

358. The Panel notes that efforts to voice Project-related issues to Management were made throughout Project preparation and implementation and they began long before the

³⁵⁰OP 4.01, ¶15-16.

³⁵¹Final EIA, Appendix E, p. 2.

³⁵²Final EIA, Appendix E, p. 6.

³⁵³OP 4.01 ¶14.

formal complaint and Request for Inspection were submitted to the Panel and before the TPP's construction started.³⁵⁴

359. The Panel has found what is apparently the first such complaint was sent to Management as early as June 20, 2005, two years before the Panel was contacted. That first complaint addressed to the Bank was a collective letter co-prepared by a number of local NGOs and local scientists. The umbrella local organization submitting it was the aforementioned Civil Alliance for the Protection of the Bay of Vlora, which had been established by frustrated local citizens in March 2005 in response to the lack of consultation in the decision-making processes related to energy projects in Vlora Bay.
360. The June 2005 letter described in detail the local population's "*Case Against the Thermo-Electric Power Plant at Vlora*," putting forward a "Legal Argument" and "Technical Arguments." The conclusion of the arguments stated:

"To sum up, we as a group of Albanian experts drawn from this country's civil society, conclude that the studies submitted to the World Bank ...purporting to justify construction of a TPP at Vlora, are seriously deficient. This can only cast doubt on the soundness of the decision to build on the site selected. This letter is therefore intended as an earnest request to the World Bank to freeze the decision to credit construction, in order to permit an independent review of the feasibility study, the site study, and a fresh EIA.

*If not we fear a clear danger to the local population and economy, and what is more, that a precedent will have been established for other oil works in and around the bay of Vlora."*³⁵⁵

361. The authors indicated that they were writing to the Bank because they had been deprived of the chance to participate in the discussion of the plant's justification and siting (as Bank Policy requires). They noted that the first "public consultation" organized by the project entity (KESH) was scheduled, **after** the decision on where to locate the TPP had already been "*agreed unanimously*" by the Council for the Regulation of the Territory, without any consultation.
362. This initial letter was followed by numerous others. In its responses to these letters, Management essentially rejected all environmental, legal and economic criticisms brought against the quality of the EIA and the Project, and declined the request to re-examine the EIA through an independent assessment. As was discussed in Chapter 3 of this report, on *Social and Cultural Compliance*, other complaints signaling the absence of a cultural heritage and archaeological assessment of the project site were also received by Bank Management. These were only re-examined two years after the Project's approval by the Bank's Board and did not contribute to what the Panel considers "meaningful consultation" during Project implementation.
363. During 2005-2006, the justification and rationale of the Project—and particularly the siting of the TPP in Vlora Bay—also became subject to increasing public debate, both

³⁵⁴ Environmental consent and license for the Project were issued by March 2007 and the construction started in August 2007.

³⁵⁵ Letter from the Civic Alliance for the Protection of the Bay of Vlora to the World Bank, 20 June 2005, p. 4.

in the province of Vlora and between the two major parties which competed in the national election.

364. At this time, in addition to the aforementioned communications with Management, numerous public demonstrations were held by the Civil Alliance for the Protection of the Bay of Vlora and the Vlora Student Movement. In 2005, the Requesters initiated a petition requesting a local referendum on the Industrial and Energy Park and the TPP, and collected 14,000 signatures.³⁵⁶



Figure 7 Panel Team with Vlora Students

(b) Change of Government and Threat of Suspension

365. The efforts of the Requesters and residents of Vlora Bay to raise concerns about the Project and its potential impacts on the area's environment, economy, and cultural heritage received attention from the media and elected officials, and the controversy over the TPP and proposed energy-related projects in Vlora became prominent in local and national politics.³⁵⁷
366. Elections took place in Albania on July 3, 2005, which led to a change in government. The immediate impact of the change of government on the Project's implementation was a long period of stagnation and uncertainty about the siting of the Vlora TPP, despite the Project having had Board approval and the loan becoming effective in January 2005. The Project could not proceed without the Albanian Government's clearance, and the new Government was not able for a long period to confirm acceptance of the Vlora site to the Bank and to KESH.

³⁵⁶ The Election Committee rejected the request on November 25, 2005. The Requesters appealed to the Constitutional Court in Tirana but the appeal was rejected in December 2006. ECE Aarhus Convention Compliance Committee, *Report of the Compliance Committee on its Sixteenth Meeting. Addendum: Findings and Recommendations with regard to Compliance by Albania* (June 13-15, 2007), ¶25.

³⁵⁷ Interviews with Requesters. There is also mention of "issues raised regarding the number of large infrastructure projects that were reportedly being contemplated for the area in which the Vlore TPP is to be located" in Aide-Memoire, World Bank Mission (January 24 to February 3, 2006), ¶27.

367. To respond to the concerns of the local population, the newly-elected Prime Minister established an ad-hoc Commission to review the siting of a number of large infrastructure projects that were being contemplated for the area, including the Vlora Thermal Power Plant.³⁵⁸ However, despite the growing local opposition to the siting of the Vlora TPP, Management did not re-examine the design of the Project or further assess its possible risks and negative impacts on the large number of area people who continued to protest against the location of the TPP.
368. Instead, on April 6, 2006, the Bank sent a formal letter to the Prime Minister of Albania in which it requested the Government “*to convey by April 30, 2006 its final decision as to whether or not it intends to proceed with the construction of the plant at the Vlora site.*”³⁵⁹
369. The letter noted that “[t]he *entire process was carried out in accordance with Albanian law and in compliance with applicable EU and World Bank guidelines.*”³⁶⁰ Management stated in the same letter that if the Government could not reach a decision by this date, Management would start the process to apply remedies under the legal agreements.
370. The deadline of April 30, 2006, passed without any response from the Prime Minister and without Government approval for the project site. Consequently a “Threat of Suspension” letter was sent to Albania’s Ministry of Finance on May 5, 2006, formally indicating that
- “if the final decision of the Government on the siting of the Power Station is not conveyed to us by May 31, 2006.”*³⁶¹
371. On May 17, 2006, Management received a letter confirming the Government’s agreement on the original planned site of the thermal power plant. The letter noted that “*regardless the local environmentalist organizations’ concerns, we organized once again a broad consultation process with various players, and we ultimately support the realization of the project.*”³⁶² As a result, the Bank withdrew its Threat of Suspension and Project implementation at the Vlora site continued.

(c) Communication with the Government and Requesters

372. As noted above, beginning in 2006 and during the time of the aforementioned correspondence between the Bank and the Government, public opposition to the Project intensified and Management received numerous letters from the Requesters, particularly regarding the siting of the Project and its possible impact on the cultural heritage of the Vlora Bay area. The Bank responded, on the one hand, by answering some of the complaints with requests for additional information, stating to the Requesters its willingness to carefully consider the issues raised by the local population. (In its May 10, 2006, response to one letter, Management requests further

³⁵⁸ Aide-Memoire, World Bank Mission (January 24 to February 3, 2006), ¶27.

³⁵⁹ See memo from Iftikhar Khalil, Program Team Leader, to Nancy Cooke, Acting Country Director. May 3, 2006.

³⁶⁰ Management letter dated April 6, 2006 to the Government of Albania.

³⁶¹ Management letter dated May 5, 2006 to the Government of Albania.

³⁶² Government of Albania letter dated May 17, 2006.

documentation of the historic and cultural value of the site.) Yet at the same time, the formal procedure for the suspension of project funding had been initiated.

373. In their letter dated June 5, 2006, addressed to Bank Senior Management, the Requesters noted the “*contradiction*” between the Bank’s letters to them and the Bank’s actions with the Government, and asked for clarifications.³⁶³
374. Management acknowledges the receipt of numerous letters from the Requesters and other interested parties before issuing the formal threat of suspension. These letters all raise explicit concerns about the Vlora Bay site for a thermal power plant. Following receipt of the Requesters’ letters, Management appears to have realized that, contrary to the requirements of Bank Policy on Management of Cultural Property in Bank-financed Projects³⁶⁴, the EIA had not examined the cultural significance of the Project site. As discussed in detail in Chapter 3 of this Report, an assessment of cultural property had been excluded from key Project documents and the analysis of Project impacts.
375. Management conducted an assessment of cultural property at the intended TPP site only *after* the threat of suspension and the letter of confirmation from the Government. Had Management paid serious attention to concerns about the area’s cultural assets and their potential for the area’s development, the objections could have been examined earlier and the siting of the plant could have been reconsidered taking into account the Requesters’ arguments. This did not happen.
376. The Panel notes that there was plenty of time to re-examine the EIA and other issues brought to the Bank’s attention by Vlora residents and members of local civil society beginning in 2005 and before August 2007, when the actual construction work of the TPP started.
377. **The Panel finds that, despite the increasing public concern and political contention around the Project, Management failed to ensure that the Project-area population and local NGOs were meaningfully consulted throughout the preparation and implementation of the Project on environmental, social, cultural, tourism and health related issues that affect them. This is not in compliance with OP 4.01 and OP/BP 10.04.**

³⁶³ In the letter to the Bank’s Senior Management of June 4, 2006, one complainant wrote: “...*this action seems in contradiction of the letter you sent to me. On one hand you are expecting information from me, on the other hand we hear the next day the announcement of [TPP site]*” (Letter of Dr. Anna Kohen to World Bank, June 5, 2006, p. 3).

³⁶⁴ OPN 11.03. Management of Cultural Property in Bank-Financed Projects.

Chapter Six: Delineation of the Coastal Zone

378. The Panel has received two Requests for Inspection related to the Albania: Integrated Coastal Zone Management and Clean-Up Project (ICZMCP). While the Panel investigated the issues raised by the First Requesters in a separate investigation, the main concern of the second group of Requesters relates to the development of the Vlora Thermal Power Plant and other oil based investments in the Vlora Bay. At the eligibility stage, therefore, the Panel decided to address the issues raised by the Second Requesters in the context of the Vlora TPP Project and this Report. In accordance with the Panel's recommendation, approved by the Board, the two Requests, Management's Response, and the Panel's analysis are briefly described in this Chapter.

A. The Requesters' Concerns

379. On July 30, 2007, the Panel received the first of two Requests for Inspection related to the ICZMCP. This Request came from representatives of a number of families in the community of Jal, who claimed that their permanent residences were demolished either totally or partially by the Construction Police of the Municipality of Vlora, under the supervision of the Ministry of Public Works and "*in line with the Southern Coastal Development Plan of the World Bank.*"³⁶⁵ The Panel determined that the First Request met the eligibility criteria and recommended an investigation into the matters raised in the First Request for Inspection. The results of this investigation can be found in the Panel's Investigation Report for the Albania: Integrated Coastal Zone Management and Clean-Up Project.³⁶⁶

380. On August 13, 2007, the Panel received a second Request for Inspection related to the same project (ICZMCP), claiming that the Requesters had suffered or were likely to suffer harm as a result of Bank failures or omissions. The Request was submitted on behalf of the Association of Tourist Operators (CTO) of Vlora, and other affected individuals residing in Vlora and in the "*area covering the northern part of the Bay of Vlora, known as Treport Beach, Narta Lagoon Coastal Strip and Bisht Poro.*"³⁶⁷

381. Signatories of the Second Request alleged that the Bank had "*violated policies concerning environment, public participation, cultural heritage and non-discrimination.*"³⁶⁸ They noted that "*although the Project covers an area of the Albanian coastline from Butrint region in the South (Ionian Sea) to the Porto Romano in the North (Adriatic Sea), it nevertheless excludes from its scope and implementation the area covering the northern part of the Bay of Vlora up to the mouth of River Vjosa,*"³⁶⁹ the area where the Second Requesters reside. They argued that "*by excluding the northern section of the Vlora Bay from its focus and operation, the Project creates a dangerous vacuum, which is significantly harmful to tourism*

³⁶⁵ Report and Recommendation: Albania: Integrated Coastal Zone Management and Clean-Up Project (IDA Credit No. 4083-ALB). October 17, 2007, p. 3.

³⁶⁶ Investigation Report: Albania: Integrated Coastal Zone Management and Clean-Up Project (IDA Credit No. 4083-ALB). November 24, 2008.

³⁶⁷ Second Request for Inspection, August 13, 2007, p. 1 (hereinafter "Second Request for Inspection").

³⁶⁸ Second Request for Inspection, p. 3.

³⁶⁹ Second Request for Inspection, p. 1.

*development in the Vlora Bay and its vicinity.*³⁷⁰ They claimed that the Bank's division of Vlora Bay into two differing regions was "*discriminatory, simply unnatural, and fundamentally harmful to our economic and interests [sic].*"³⁷¹

B. Management Response

382. Management submitted its Response to the First and Second Requests for Inspection on September 17, 2007. With respect to the Second Requesters' concerns, Management's Response emphasizes that because ICZM "*is a new approach in Albania and relatively complex to implement,*" the first phase of the ICZMCP is a pilot program "*focused on just one section of the coast (the southern coast) for the sake of manageability and to ensure likelihood of success.*" According to Management, the second phase of the program will expand and build on the first, with extension to the areas identified by the second Requesters depending "*on the success of the pilot program and the Government's interest in applying the Project to a broader area.*"³⁷²

C. Eligibility of the 2007 Request and the Panel's Recommendation

383. In its Eligibility Report for this additional Request for inspecting the ICZMCP and its link to the TPP Project, the Panel determined that the Request's contention of a link between decisions made in these geographically separate projects did "*not warrant by itself a recommendation to investigate at this time.*" The Panel recommended that the investigation in relation to the Albania Power Sector Generation and Restructuring Project (submitted, *inter alia*, by the same Requesters), which was already approved by the Board of Executive Directors, would cover the Requesters' main concerns and allegations of non-compliance.

384. The Panel added that if the "*Requesters are able to allege 'new evidence or circumstances not known at the time of their request' in relation to their concerns of harm, they may submit a new request for inspection as provided in the Resolution and 1999 Clarifications.*" The Board of Directors approved the Panel's recommendations.

D. Subsequent Letters from Second Requesters

385. On March 30, May 14 and May 18, 2009 (attached to this Report as Annex F), the Panel received subsequent letters from the Second Requesters containing what the Second Requesters regarded as "*new evidence or circumstances not known previously to us.*" In these documents, the Requesters reassert the concerns they had outlined in their Request for Inspection, bringing to the Panel's attention several decisions relating to the administrative division of the Albanian coastline and several industrial activities being developed or planned in the Northern Part of the Bay of Vlora.³⁷³

³⁷⁰ Second Request for Inspection, p. 2.

³⁷¹ Second Request for Inspection, pp. 1-2.

³⁷² Bank Management Response to the Request for Inspection Panel Review of the Albania: Integrated Coastal Zone Management and Clean-Up Project (IDA Credit No. 4083-ALB), ¶57 (Hereinafter "Management Response ICZMCP").

³⁷³ New Request for Inspection: Albania: Integrated Coastal Zone Management and Clean-Up Project (IDA Credit No. 4083-ALB). Dated March 26, 2009. Received by the Panel on March 30, 2009.

386. In March 30, 2009 letter, the Requesters take issue with Management's assertion that the Bay of Vlora falls outside of the southern coastal zone as defined by government. They contend that Government documents pertaining to tourism development suggest a different division of the Albanian coast from the one used by Management. The Requesters cite Decision No. 88, dated March 1, 1993 to show that "*the territories from Pisha Poro to Zvernec in the borderline of the Bay of Vlora' and 'all the Karaburun Peninsula'*" were declared priority areas for tourism development. They also cite the Government of Albania's Decision No. 680, dated October 22, 2004, "*declaring as a protected area the Vlora-Narta lagoon system, which includes the coastal area from the Vjosa River mouth to Treport Beach.*"³⁷⁴ The Requesters take issue with Management's division of the Bay and District of Vlora, stating that "*the Vlora District and the Vlora Bay is one single territorial, marine and coastal unit, and even management recognizes that.*" Furthermore, the Requesters question the effectiveness and legal validity a Government decision to which the PAD refers.³⁷⁵
387. To further substantiate their assertion that the lack of inclusion of the Northern Part of the Bay of Vlora into the Project would have a material adverse effect upon them, the Requesters May 14 and May 18 letters also include references to additional "*extremely harmful industrial activities*" being developed or planned to be developed in the Northern Part of the Bay of Vlora. These activities include the construction of large storage facilities in the coastal area between the city of Vlora and Treport Beach, a "*very large*" container harbor in the protected area of the Treport Beach and Treport Forest, and "*a very large windmill park close to the village of Dukat, in near or within the protected area of Karaburun.*"³⁷⁶ The May 18 letter also refers to a study conducted by the University of Split, Croatia, entitled Orikum Area Inventory and Assessment, which considers "*as one single entity the entire coastal area from Radhime in the North to almost the village of Palasa in the South*" and "*provides a detailed analysis of the rich elements and resources of the area and the related risks.*"

E. Background to the Delineation of the Coastal Zones and Alleged Linkage between the TPP and the ICZMP

388. Documentary evidence dating from the mid 1990's shows that between 1992 and 1995 the United Nations Environment Program's Mediterranean Action Plan (UNEP-MAP) undertook the threefold division of the Albanian coast. The division was ratified by Decision of the Council of Ministers No. 364 (18 July 2002) "On approval of the coastal zone administration plan."³⁷⁷

³⁷⁴ New Request for Inspection: Albania: Integrated Coastal Zone Management and Clean-Up Project (IDA Credit No. 4083-ALB). Dated March 26, 2009. Received by the Panel on March 30, 2009, p. 2.

³⁷⁵ New Request for Inspection: Albania: Integrated Coastal Zone Management and Clean-Up Project (IDA Credit No. 4083-ALB). Dated March 26, 2009. Received by the Panel on March 30, 2009, p. 3.

³⁷⁶ New Request for Inspection: Albania: Integrated Coastal Zone Management and Clean-Up Project (IDA Credit No. 4083-ALB). Dated March 26, 2009. Received by the Panel on March 30, 2009, p. 3.

³⁷⁷ Implementation of the International Covenant on Economic, Social, and Cultural Rights. Initial reports submitted by States parties under articles 16 and 17 of the Covenant. Addendum: Albania. United Nations Economic and Social Council. E/1990/5/Add.67, 11 April 2005, p. 5.
http://www.ecoi.net/file_upload/hl1087_E-1990-5-Add67.pdf Accessed 22 July 2009.

389. UNEP-MAP provides background information on the Albanian coastal zones.³⁷⁸ From these documents, it is clear that although the threefold division of the coastline was arbitrary, it is logical and based on landscape attributes (natural features), as well as land use (human and cultural features).

390. The Bank's 2005 Coastal Zone Development Project had four components:³⁷⁹

- The first component sought to enhance the capacity of the Albanian authorities to manage the country's coastal resources.
- The second component focused on southern coastal municipalities and local communities. Its aim was to help preserve, protect, and enhance Albania's coastal and cultural resources, thus leading to improvement of the coastal area and encouraging community support for sustainable coastal zone management.
- The third component addressed oil and groundwater contamination at the site of a former chemical plant at Porto Romano, considered to be one of the most seriously contaminated locations in the Balkans.
- The fourth component provided support for project management, coordination, monitoring and evaluation.

The Requesters' claim relates only to the second component of the Bank project.

391. As stated in Albania's National Environmental Action Plan (NEAP), the Government of Albania and other institutions saw coastal zone management as a means to accomplish the objectives of the Environmental Plan. The Government cooperated with the European Union, the United Nations Development Programme, the World Bank, and the European Investment Bank in implementing the Coastal Zone Management Plan for the whole Albanian coastal area through the Mediterranean Technical Assistance Programme (METAP) for the North and South coastal regions of Albania.³⁸⁰

³⁷⁸CAMP Albania. Priority Actions Programme. The Coastal Management Centre. http://www.pap-thecoastcentre.org/about.php?blob_id=26&lang=en
Detailed Project Information: Coastal Area Management Programme (CAMP) "The Albanian Coastal Region." Priority Actions Programme. Mediterranean ICAM Clearinghouse. http://www.pap-medclearinghouse.org/eng/page_frameset.asp?Page=campalbania.htm&IDLlong=17&IDShort=87 Accessed 16 July 2009.
Detailed Project Information: Albania Coastal Zone Management Plan. Priority Actions Programme. Mediterranean ICAM Clearinghouse http://www.pap-medclearinghouse.org/eng/page_frameset.asp?Page=czmpalbania.htm&IDLlong=16&IDShort=86 Accessed 16 July 2009.

Coastal Area Management Programme (CAMP) "The Albanian Coastal Region" and Albania Coastal Zone Management Plan. Med Project Inventory. Priority Actions Programme. Mediterranean ICAM Clearinghouse. <http://www.pap-medclearinghouse.org/eng/page001b.asp?zemljaID=1&shortID=87> Accessed 16 July 2009.

³⁷⁹ Project Appraisal Document on a Proposed Adaptable Program Lending Credit in the Amount of SDR 11.7 Million to Albania for an Integrated Coastal Zone Management and Clean-Up Project in Support of the First Phase of the Integrated Coastal Zone Management and Clean-Up Program. May 25, 2005 at Project Description (Hereinafter PAD ICZMCP).

³⁸⁰ Detailed Project Information: Albania Coastal Zone Management Plan. Priority Actions Programme. Mediterranean ICAM Clearinghouse http://www.pap-medclearinghouse.org/eng/page_frameset.asp?Page=czmpalbania.htm&IDLlong=16&IDShort=86 Accessed 16 July 2009.

392. UNEP-MAP proposed the Integrated Coastal Area Management Programme (ICAM) for the Central Albanian Coastal Region, the first main activity envisaged by the Coastal Area Management Programme (CAMP). ICAM was the joint responsibility of the Committee on Environmental Protection (CEP, now the Ministry of Environment), on behalf of the Albanian Government, and the Priority Actions Programme Regional Activity Centre (PAP/RAC), on behalf of UNEP-MAP.³⁸¹
393. According to documents from the Mediterranean ICAM Clearinghouse, the work on preparation of the Coastal Zone Management Plan (CZMP) for the Durresi-Vlora (Central) region began in 1992. Meanwhile, considering the value of coastal zone management for the entire Albanian coast, the CEP asked to fully coordinate the Integrated Coastal Area Management Plan for the Central region, sponsored by UNEP-MAP, and the CZMP for the North and South Coastal Region, sponsored by the World Bank. In order to achieve this goal while ensuring continuity and the same methodology for projects related to the whole Albanian coastal area, PAP/RAC and an environmental planning firm carried out work on both projects.³⁸² The major objectives of the overall CZMP were to contribute to institutional capacity building, biodiversity protection, and tourism development.³⁸³
394. The CAMP defines the Durres-Vlore region as extending from the Vlora Bay in the south up to the downstream Ishmi river in the north. The eastern boundary of the region matches the borders of the districts of Durres, Kavaja, Lushnja, Fieri and Vlore, and extends beyond the belt of hills, between the Rodoni cape and Preza, Kavaja, and Darsia, down to the root of Karaburum peninsula, and up to the hills of Trevllazer and Kanina. The Durres-Vlore region covers all of Albania's lowlands.³⁸⁴
395. Albania's CZMP sets the boundaries of the North Coastal Region to match the boundaries of the coastal districts of Shkodra, Lezha, and Laci. The coastline of the North Coastal Region extends from the Buna River at the Albania-Montenegro border in the north to the Rodoni Peninsula in the south.³⁸⁵
396. According to the CZMP, the South Coastal Region stretches along the Ionian Coast from the Karaburuni Peninsula in the north to Stillo Island on the Greek border.³⁸⁶

³⁸¹ "Organization." Detailed Project Information: Coastal Area Management Programme (CAMP) "The Albanian Coastal Region." Priority Actions Programme. Mediterranean ICAM Clearinghouse. <http://www.pap-medclearinghouse.org/eng/Longs/campalbania.htm>. Accessed 16 July 2009.

³⁸² "Project Structure." Detailed Project Information: Coastal Area Management Programme (CAMP) "The Albanian Coastal Region." Priority Actions Programme. Mediterranean ICAM Clearinghouse. <http://www.pap-medclearinghouse.org/eng/Longs/campalbania.htm>. Accessed 16 July 2009.

³⁸³ "Follow Up." CAMP Albania. Priority Actions Programme. The Coastal Management Centre. http://www.pap-thecoastcentre.org/about.php?blob_id=26&lang=en. Accessed 16 July 2009.

³⁸⁴ "Project Area." Detailed Project Information: Coastal Area Management Programme (CAMP) "The Albanian Coastal Region." Priority Actions Programme. Mediterranean ICAM Clearinghouse. <http://www.pap-medclearinghouse.org/eng/Longs/campalbania.htm>. Accessed 16 July 2009.

³⁸⁵ "Project Area." Detailed Project Information: Albania Coastal Zone Management Plan. Priority Actions Programme. Mediterranean ICAM Clearinghouse http://www.pap-medclearinghouse.org/eng/page_frameset.asp?Page=czmpalbania.htm&IDLlong=16&IDShort=86 Accessed 16 July 2009.

³⁸⁶ "Project Area." Detailed Project Information: Albania Coastal Zone Management Plan. Priority Actions Programme. Mediterranean ICAM Clearinghouse http://www.pap-medclearinghouse.org/eng/page_frameset.asp?Page=czmpalbania.htm&IDLlong=16&IDShort=86 Accessed 16 July 2009.

397. **The Panel notes that neither the threefold division of the Albanian coastline nor the determination of the boundaries between them was made by the World Bank. In using these divisions for its Integrated Coastal Zone Management Project, the Bank was following an established practice that had been accepted for almost a decade by United Nations Agencies and since 2002 by the Albanian Council of Ministers. Based on the foregoing analysis, the Panel finds no policy violation in the Bank's decision to finance the Integrated Coastal Zone Management Project as a distinct project in the south coastal region, as requested by the borrower.**

Chapter Seven: Brief Conclusions and Outlook

398. In briefly summing up the results of its investigation and analyses, the Panel found that certain specific concerns expressed by the Requesters regarding environmental and natural/cultural heritage impacts are not born out by the facts examined, as is indicated above in this Executive Summary and is detailed further in the body of the full report.
399. Among these, for instance, are the Requesters' concerns regarding adverse impacts on the Narta Lagoon and Natural Habitat, on the air quality, or the pollution by TPP's anticipated atmospheric emissions. Thus, the Panel concluded that Management was correct in its determination that the Bank Policy 4.04 on Natural Habitats was not triggered by the Vlora Project. Also, and fortunately so, one of the main cultural risks feared by the Requesters regarding the presence of archaeological remains under the specific site of the plant was not born out either, as the excavations demonstrated.
400. At the same time, while fully recognizing the need for additional power generation, the Panel found that the Project preparation and appraisal activities carried out by the borrower and respectively by the Bank are in non-compliance with some of the basic provisions of the following Bank Policies: Project Appraisal (OMS 2.20); Environmental Assessment (OP/BP 4.01); Economic Evaluation of Investment Operations (OP/BP 10.04); Management of Cultural Property in Bank- Financed Projects (OP/BP 11/04); and Project Supervision (OP/BP 13.05). The spectrum of these departures from regular Bank policies is broad, extending from failure in genuinely consulting the local population, to failures in producing a comprehensive environmental assessment, to the total absence of a social impacts analysis, to overlooking the high touristic potentials for Vlora's further development, to leaving out of the requisite economic evaluation the Project's economic opportunity costs and externalities. Each of these instances are outlined in the present Executive Summary and documented factually in detail in the ensuing Report.
401. However, particular highlighting is deserved by two pervasive omissions of a broader nature, identified by the Panel, which may have medium- and long-term consequences, but which, fortunately, are still correctable:
- a) First, the Panel notes that the omission of a cumulative impact analysis of the thermal plant together with its ancillary equipments (such as the oil terminal in the midst of the Bay's waters) and with the follow-up investments already contemplated by the borrowing Government or other investors in the area around the TPP. This omission prevented the consideration of the necessary safeguards for the Vlora TPP Project itself in case such further investments should materialize. The lack of a cumulative assessment cannot therefore be read as an implicit validation of such future investments, since each one of these will require, regardless of the financing source, the full set of both project-specific and cumulative impact-assessments. Local stakeholders need to be consulted and involved in such cumulative impact assessments.

b) Second, as underscored above and throughout the investigation report, the Project failed to examine, inform about, and effectively address the medium- and long-term risks inherent in TPP's operations beyond its construction phase. For instance, OP/BP 4.01 explicitly requires Bank staff and the borrower to "*evaluate a project's potential environmental risks and impacts in its area of influence... including all its ancillary aspects*" as is in this case the oil off-loading terminal.

402. Given the identified instances of non-compliance with the Bank's environmental, economic, and social policies, the Panel is concerned that such medium- and long-term risks to the Vlora Bay marine environment and to segments of the area's population are not currently minimized, and so far are not planned to be minimized before operations begin. Albania's own national program for tourism development identified Vlora as an important area for the development of cultural and beach tourism. In spite of this, none of the Project's documents seen by the Panel has suggested that the borrower institute the counter-risk measures needed to deal with the occurrence of long-term risks for tourism, which could result from the operation of the existing power plant, the expansion of power generation in the Project area, and the potential Project-induced attraction of further industrial development to the Vlora Bay area.

403. The environmental, economic, and social risks defined by the Panel as medium- and long-term risks will not cease to exist when the construction phase of the Project ends; rather, they will begin to make themselves felt in the post-construction operation phase of the TPP. The Panel considers, however, that opportunities exist for prompt and well tailored actions to deal with issues of risk management and the concerns expressed by the Requesters.

Annex A: Table of Findings

Issue	Management response	Panel's findings
Environmental compliance		
Environmental Impact Assessment	<p>EA is consistent with Bank policies and procedures and those of EBRD and EIB for coverage, accuracy and technical quality. Internal and external peer review and disclosure and consultations were also sufficient and necessary pre-conditions for Board approvals in 2004.</p> <p>An internationally recognized consulting firm prepared a siting and feasibility study of proposed TEP with financing from United States Trade and Development Agency (USTDA) in 2002. It also prepared environmental assessment of project in 2003. In support of firm being able to carry out work it was noted that, consistent with Bank EA policy, firm was not conducting any "engineering studies."</p>	<p>Upon completion of Feasibility Study, same consultant firm was commissioned by Albanian Ministry of Industry and Energy to undertake Environmental Impact Assessment for selected Vlora site. Panel finds Management failed to ensure compliance with requirements of OP 4.01, by allowing Borrower to employ same consultant that conducted siting and feasibility studies for Project for also undertaking Project's Environmental Assessment.</p>
Consideration of Technological Alternatives	<p>Project will use a Combined-Cycle Gas Turbine (CCGT) for power generation. This technology dominates investments for most modern power plants because it achieves significantly higher efficiency than other options for thermal power generation combined with very low air emissions. Option of a natural gas-fired combined-cycle unit at each site was found to be more costly than distillate fuel option. Use of indigenous coal in a conventional coal power station was ruled out because of high cost of reintroducing coal mining, and addressing pollution mitigation. Use of heavy fuel oil (HFO) in a combined-cycle plant would be cheaper than distillate oil, but firing low sulfur HFO (less than 1 percent) would not result in any cost savings, due to decreased unit performance</p>	<p>Panel finds it appropriate that non-firm technological alternatives were not considered further in Environmental Impact Assessment. Although discussion in Siting Study is not reproduced in Final Environmental Assessment, appropriate technological alternatives for Project were assessed. This is in accord with OP 4.01.</p>
Consideration of Site Alternatives	<p>Comparative analysis of twenty-one sites at seven localities for a new TEP looked at environmental and social factors, in particular. These and other quantitative rankings led to the recommendation to proceed with further analysis of Vlora B site; first in a preliminary fashion in draft a siting study and then a final siting study.</p> <p>Analysis of alternatives did include a solid range of analytical criteria,</p>	<p>Panel finds Environmental Assessment, containing <i>post hoc</i> justification for site selection, contributed nothing to improving Project selection, siting, planning, or design. Panel notes the purpose of Environmental Assessment was reduced to improving Project implementation after decisions to proceed had been taken. This process was not compliant with OP 4.01 paragraphs 1, 2 and 3.</p>

	including suitability with regard to the environment.	Panel concludes Management did not comply with OP 4.01 paragraph 5 by accepting studies that failed to meet fundamental purpose of Environmental Assessment policy. Bank failed to insist on further appropriate studies to remedy shortcomings.
Omission of Social Analysis	Project in question was rated as Category A for EA since it was the view of Management that project could pose potentially significant environmental and social impacts. Through EA process, however, it is Management's view that significant environmental and social risks of project can be successfully avoided, mitigated, monitored and controlled. Criteria for site selection and assessment also took into account social analysis.	Based on its analysis of project documents, Panel concludes a large array of social issues and potential economic risks to the area's population, resulting from design, siting, and impacts, were not considered in Project's preparation and Environmental Assessments; this is not compliant with Bank policy. There was no integration between biophysical and social studies and between Environmental Assessment and economic and technical studies. In all these respects Management failed to ensure the substance of OP 4.01 was complied with in the preparation and appraisal of Vlora TPP.
Narta Lagoon and Bank Policy on Natural Habitats	During project preparation review and after consultations on protected area around Narta lagoon with United Nations Development Program (UNDP), it was found that potential impacts on Natural Habitats (OP 4.04) would not be significant and hence safeguard was not triggered.	Panel concludes Management was correct in their determination that Vlora TPP did not trigger OP 4.04. Panel finds no reason to anticipate that TPP will be harmful to natural habitats.
Impacts on Air Quality	During site selection, the air quality ramifications of each fuel and corresponding plant design were taken into account. For example, use of high sulfur HFO would have reduced levelized cost by about 6 percent, but would have also resulted in higher particulate emissions and approximately twice amount of NO _x and SO _x emissions. Additional monitoring of air quality and local meteorology has been in place since February 2002 to allow reconfirmation of earlier emission studies, which were based on similar meteorological areas, but not the exact conditions of Vlora.	Model inputs for operational phase are appropriate. However, no evidence can be found that any attempt has been made to use atmospheric dispersion modeling to optimize the height of the TPP stacks. Panel finds atmospheric emissions from Vlora TPP do not pose a significant risk of harm to either human population of Vlora or floral and faunal populations of Narta Lagoon.
Impacts on Water Quality	EIA preparation considered water quality from cooling water discharge, and any ancillary impacts on the Narta lagoon, located about two kilometers from project site. Implementation of EMP in four areas, including reviewing oil spill prevention and response plan for specific designs chosen by the EPC contractor and preparing a Supplemental EA for all studies, included in the EPC contractor scope.	EIA is silent on the significance of potential impacts during construction phase. EIA places responsibility on EPC contractor to ensure minimal environmental and social impact. EIA recommends no mechanism for ensuring EPC contractor compliance. There is no requirement for approval of method statements and no standards have been specified to be met. EIA is deficient in this regard. Additionally, Panel finds failure to give consideration in both Final EIA and Final

		<p>Addendum to medium- and long-term risks associated with construction phase and alternative ways of delivering fuel to Vlora TPP in the operational phase is a serious shortcoming and renders Final EIA non-compliant with OP 4.01 requirement that: “EA evaluates a project’s potential environmental risks and impacts in its area of influence,” where ‘area of influence’ is defined as the “area likely to be affected by the project, including all its ancillary aspects, such as power transmission corridors, pipelines...”</p> <p>Panel is concerned that, due to this deficiency in Final EIA and its Addendum as in PAD, medium- and long-term risks to Vlora Bay marine environment and beaches from potential spills when fuel is offloaded are not currently minimized and are not planned to be minimized before operations may start. Project documents examined by Panel do not require borrower to incorporate counter-risk measures and monitor their effectiveness.</p>
<p>Cumulative Impacts</p>	<p>Project being financed by Bank, EBRD and EIB is limited to one facility of 97 MW capacity. Should Government decide to precede with additional generation units (either at Vlora site or another location), then a new full-fledged EA will be required. A proposed onshore oil terminal concession is not related to project, which will have its own independent offshore terminal, pipeline and storage tanks. In Management’s view, project due diligence for clearly unassociated investment of an onshore terminal in general area need not be carried out.</p>	<p>Panel finds Bank staff should have insisted on a Sectoral EA and the associated cumulative effects analysis in addition to the project-specific Environmental Assessment.</p> <p>The Panel notes that the omission of cumulative impact assessment of possible expansion of the Vlora TPP from the final EIA is not in accord with the Bank’s own guidelines for new thermal power stations.</p>
<p>Social and Cultural Compliance</p>		
<p>Assessment and Management of Cultural Property: Project Appraisal</p>		<p>Panel finds from early feasibility stages and up to Project appraisal, Bank did not seek to obtain information on the presence and role of cultural endowments in Vlora area. Bank did not ensure that studies consider likely risks and negative impacts of locating industrial thermal plant in an area dependent on cultural beach and tourism. Resulting Project concept overlooked these risks.</p> <p>Based on these findings, Panel concludes Project preparation, including both feasibility and EIA processes, and Project appraisal, did not comply with requirements of OMS 2.20 on Project Appraisal, or with procedural requirements of Bank’s Policy on Management of Cultural Property in Bank-Financed Projects (OPN 11.03).</p>

<p>Assessment and Management of Cultural Property: After Project Appraisal</p>	<p>From January 2006, Bank received letters regarding completeness of review of cultural heritage issues in original EA work. Internal Bank review suggested that this specific matter be looked into through a specialized supervision review which was carried out in July 2006. Review included a field visit and discussions with noted experts, and confirmed project complied with relevant Bank policies (OPN 11.03 at the time) and relevant Albanian laws and regulations on historical and cultural resources. Monitoring of excavations during construction of plant and related civil works to identify and protect “chance finds” was deemed the only action needed to be taken, consistent with established Bank practice, and this is provided for in the EPC contract.</p>	<p>Panel observes Management narrowed its analysis to Project’s impact on the small patch of land (6 hectares) covered by TPP itself, rather than assessing potential implications of TPP siting on greater Vlora area.</p> <p>While Panel acknowledges that this mission was sent in recognition of absence of reconnaissance survey in earlier phase, Panel notes that such a retrospective mission—carried out after approval of site by Government and Bank—does not allow cultural property considerations to influence TPP siting decision and its potential longer term impacts. Positive finding that during excavations for TPP’s foundation no archaeological chance finds were identified removes concern that TPP footprint itself may forever cover significant archaeological relics, but does not eliminate long-term risks and impacts that presence and operation of TPP brings to larger Vlora Bay and its potential for cultural tourism development, as well as to incomes and livelihoods of local population. These risks and impacts are still to be addressed and mitigated.</p>
<p>Lack of Social Assessment and Absence of Social Risk Analysis</p>	<p>Project appraisal commenced in November 2003, with careful attention to project’s economic, technical, institutional, financial, and commercial aspects, as well as its social impact. Socio-economic concerns were also one of several weighted criteria for the site evaluation.</p>	<p>Broad range of social issues was not considered at all during preparation and appraisal, and corresponding social and economic analyses were not integrated into fabric of Project. Panel concludes Management failed to undertake necessary sociological analysis and risks analysis of Project’s potential long-term impacts and thus did not ensure compliance with OMS 2.20 on Project Appraisal.</p> <p>Panel finds these policy violations directly affected decision about Vlora TPP’s location. Panel also concludes that Management is not in compliance with Bank’s requirements for carrying out risk analysis and for incorporating precautionary approaches and measures to prevent and reduce risks. Absence of “formal risk analysis” as explicitly provided by OMS 2.20, and especially of the Project’s medium and long-term social and economic risks to the local populations, left an important gap in the project’s design and left the local population unprotected against the long-term risks to its businesses and incomes..</p>
<p>Omitted Analysis on Tourism Contributions</p>	<p>Increased electricity availability should help to support growth of tourism in Vlora area as well as further south. Indeed, anticipated growth of tourism along coast of Albania would</p>	<p>Management reasoning is unconvincing because Bank’s projects are subject not only to safeguard policies but to all operational policies. Social impact risks and economic risks are covered in such</p>

	<p>considerably increase electricity demand, further supporting need for investment in power generation.</p> <p>Regarding impacts on tourism potential, this is not an issue covered directly by Bank safeguard policies, but only indirectly through related issues such as potential impacts on cultural property and natural habitats. Management notes while tourism adjoining immediate site could possibly be reduced, benefit of more reliable power in Vlora area (and generally in southern part of Albania) for tourism is undeniable.</p>	<p>policies as OMS 2.20 and OP/BP 10.04, both applicable to the Project.</p> <p>Panel finds Bank’s Project rationale did not place the Project in its surrounding social, economic, and demographic context, and left such risks outside of its purview.</p>
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Economic Assessment

Economic Analysis of Alternatives	<p>Seven candidate locations for a TEP were evaluated on a number of environmental and social factors. Management notes there are no internationally standardized approaches to conducting such site rankings, and other evaluators might have chosen different ranking factors or weightings. Management considers, however, the approach used under project reflects appropriate and acceptable professional practice, and presentation of review at the October 2002 public consultation meeting was notable in Albania as one of first such engagements by Government with civil society at an early stage of a major investment project.</p>	<p>Panel finds as of a result of errors in incorporation of levelized cost measures and improper accounting for social and environmental impacts in decision matrix, Management failed to comply with requirements of OP 10.04 and OMS 2.20 in terms of preparing an economic appraisal that identifies and quantifies all costs, including opportunity costs, associated with the project.</p>
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Assessment of Externalities	<p>See “Omitted Tourism and Social Analysis” above.</p>	<p>Panel finds Management’s economic analysis did not account for important externalities which may have a material impact on levelized cost analysis. Consequently, economic assessment by Management does not comply with OP 10.04 that states “<i>the economic evaluation of Bank-financed projects takes into account any domestic and cross-border externalities.</i>”</p>
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Consultation, Participation, and Disclosure

Design and Facilitation of Public Consultations	<p>Bank requires the Borrower to carry out EA, and Albania had limited experience with directing EA work of an international standard when project began. Thus, EA benefited significantly from support by USTDA through a consulting arrangement. Subsequent EA documentation produced from this collaboration met Bank requirements through an iterative internal and external review process.</p> <p>Additional internal discussions on approach to due diligence took place from October 2002 through early January 2003. Formal public notification of</p>	<p>Panel concludes that through a deficient EA process, Management failed to ensure meaningful public consultations for Project, which is not in compliance with OP 4.01.</p> <p>Panel does not agree with Management’s view that under Bank Policy such minimal involvement of affected parties after critical decisions regarding Project have been made constitutes “<i>consultation and disclosure of information ... during project preparation in a manner satisfactory to the Bank....</i>”</p> <p>Panel concludes Management failed to ensure adequate notification to Project</p>
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	Bank's intention to prepare project took place on January 2, 2003 with posting of Project Information Document (PID) in InfoShop. An outline of initial approach to safeguards was posted on February 19, 2003 at Bank's InfoShop as a part of Integrated Safeguards Data Sheet (ISDS).	affected people and local NGOs and secure their participation in consultation meetings as required under OP 4.01.
Disclosure of Documents	<p>Consultations and disclosure of EA documentation was consistent with both OP 4.01 and the Bank's Policy on Disclosure of Information.</p> <p>Regarding other IFI requirements, EBRD and EIB relied on same EA documentation as Bank. EBRD, for example, disclosed EA to meet its requirements on February 6, 2004, and held a 120-day comment period from February 9 through June 7, 2004.</p>	Meeting notes of September 3, 2003 indicate draft EIA was disseminated on July 20, 2003. However, this single instance of public notification does not sufficiently meet requirements of OP 4.01. Overall, Panel finds Management failed to ensure satisfactory public disclosure of Project information to interested local area stakeholders.
Implementation of Public Consultations Throughout Project	Regular supervision missions were carried out by project team after approval of the project by Bank's Board. Bank received correspondence from civil society, starting in June 2005, which raised issues about project. Project team reviewed concerns and responded in writing. Country Manager and Country Director held a meeting with representatives of civil society to discuss their concerns in April 2006 while a separate mission took place in 2006 to conduct further investigations on cultural issues.	Panel finds, despite increasing public concern and political contention around Project, Management failed to ensure Project-area population and local NGOs were meaningfully consulted throughout preparation and implementation of Project on environmental, social, cultural, tourism and health related issues that affect them. This is not in compliance with OP 4.01 and OP/BP 10.04.
International Environmental Obligations under OP 4.01	Management maintains Bank's safeguard policy framework supports Aarhus Convention by, among other items, seeking early and meaningful dialogue. It is Bank's understanding that the Committee's compliance process is still underway. Management believes that the process leading up to project respected requirements of the Convention.	Panel finds that Management did not ensure that Project preparation activities complied with the consultation and public participation requirements of the Aarhus Convention. This does not comply with OP 4.01.
Second Request for Inspection on ICZMCP		
Delineation of Coastal Zones	A selective ecosystem approach, informed by environmental factors, technical studies, and 1995 Albania Coastal Zone Management Plan, was used to define areas for support from project intervention. 1995 Plan was approved by Government prior to project preparation and separated Albanian coast, into three distinct coastal zones factoring current and future trends of growth,	Panel notes that neither threefold division of the Albanian coastline nor determination of the boundaries between them was made by World Bank. In using these divisions for Integrated Coastal Zone Management Project, Bank was following established practice that had been accepted for almost a decade by United Nations Agencies and since 2002 by Albanian Council of Ministers. Panel finds no policy violation in

	<p>economic stature by sectors, and natural features of the marine and coastal environment.</p> <p>It is not a violation of Bank policy and procedures not to extend project scope because, by focusing on areas of South Coast where Bank support would result in tangible improvements, project: strategically supports Albania in its commitment to protect Mediterranean Sea; employs an 'ecosystem approach' to meet environmental protection and conservation goals; and promotes participatory development planning.</p> <p>Management acknowledged Second Requesters' concerns pertaining to some "potentially harmful" industrial activities being developed or planned in Vlora Bay area, but stated none of the activities listed by Requesters fall under the purview of ICZMCP-financed activities.</p>	<p>Bank's decision to finance Integrated Coastal Zone Management Project as a distinct project in the south coastal region, as requested by the borrower.</p>

Annex B: Project Timeline

The table below shows a chronology of key events related to the Albania Power Generation and Restructuring Project. Beginning with the siting of the Project, through the consultation with stakeholders, responses to local efforts to voice opinion, and communication between Management and the Borrower, decision-making throughout this project cycle has restricted the analysis of alternatives, the participation of the public, and the overall sound judgement that is required by Bank policy.

YEAR/MONTH	DAY	EVENT
2002		
Jan. 2002	22	Albanian Prime Minister receives letter from Bank Country Director indicating willingness to assist in raising financing for new thermal plant.
	30	Draft scope of services sent from USTDA consultants to Bank team on feasibility work, including environment.
Apr. 2002	10	Contract amendment between GoA and consultant to prepare draft and final feasibility studies, including Siting Study, and an EA of the identified site.
June 2002	6	Consultants completed draft Siting Study that made two recommendations: the Vlora B site as the best location; and distillate oil-fired, base load, combined cycle plant (allowing for conversion to natural gas) as the best generation technology.
	21	GoA, through the Ministry of Energy and KESH, approved the consultants' recommendation. Following approval, consultants conducted a detailed feasibility study to evaluate technical requirements and financial, environmental, and social viability of the proposed generation facility with an installed capacity range of 90 to 130 MW at the selected site.
Oct. 2002	21	Consultants completed Final Siting Study and Final Feasibility Study
	31	Ministry of Energy and Industry held a public meeting in Vlora to introduce the Project and begin the public consultation process.
Dec. 2002	21	Vlora Council of Territorial Adjustment approved the Vlora B site as the construction site for the TPP Project
2003		
Feb. 2003	19	Council of Territorial Adjustment of Albania approved the siting of the thermal power plant in Vlora. The Council of Territorial Adjustment also

YEAR/MONTH	DAY	EVENT
		issued two additional Decisions: the first, to approve the use of the territory for the development of an industrial and energy park; the second, to approve the construction site for a coastal and oil terminal for storage of oil and oil-by products and also to approve construction of additional port infrastructure in Vlora Bay to service the oil terminal.
Apr. 2003	2	Public meeting held in Vlora to discuss the terms of reference for the EIA study.
July 2003	23	Copies of the draft EIA study were made available in Vlora for public consultation purposes.
Sept. 2003	3	Further public meeting held to discuss draft EIA study.
Oct. 2003	6	Bank placed final EIA report on its external web site. On October 18, 2003, KESH issued a press release launching a public discussion on the evaluation of the EIA. KESH invited all interested parties to participate in open consultation process and provide information on where the relevant documents could be obtained.
	24	EIA report (including environment and social aspects) was disclosed in the Bank's InfoShop.
Dec. 2003	17	EIA Addendum was added
2004		
Jan. 2004	15	EIA Addendum was filed by Bank in InfoShop and re-disclosed in April 2004
Feb. 2004	10	In order to meet EBRD's requirements, KESH issued a revised press release, providing more specific details, including where and by what date comments should be submitted and indicating that the suggestions from the public would be included in an annex to the EIA. On February 17, 2004, the Project Appraisal Document was published.
Mar. 2004	16	Board of the World Bank approved the Project. Development Credit Agreement was completed on April 6, 2004 and legal documents were signed on April 8, 2004.
2005		
Jan. 2005	26	Project became effective.

YEAR/MONTH	DAY	EVENT
Feb. 2005	28	Bank received an "Open Letter" dated February 18, 2005, from the Environmental Associations and Representatives of Civil Society in Albania signed by numerous national and local NGOs and their members expressing concerns over the energy park and the thermal power plant.
Mar. 2005		Civic Alliance for the Protection of Vlora Bay was established as a result of local citizens' frustrations due to lack of consultation on energy related projects in Vlora Bay area.
Apr. 2005	27	Requesters submitted a complaint to Aarhus Committee alleging non-compliance by Albania with its obligations under the Aarhus Convention concerning timely public access to information and timely participation in decision-making on the construction of an industrial park and a thermal power plant.
June 2005	30	Requesters sent a letter to Management on " <i>case against the thermo-electric power plant at Vlora, Albania</i> " containing over 25 alleged deficiencies. During 2005, the Requesters collected 14,000 signatures under a petition against the Industrial and Energy Park and the thermal power plant requesting a local referendum.
July 2005	3	National elections took place resulting in a change of government.
2006		
Jan. 2006	12	Dr. Anna Kohen wrote to then-President of the Bank, asserting that the EA incorrectly assessed cultural heritage at the Project site. Much further correspondence between Dr. Kohen and the Bank occurred during 2006.
Apr. 2006	6	Bank sent a letter to GoA and requested that the GoA's final decision " <i>as to whether or not it intends to proceed with the construction of the plant at the Vlora site</i> " be conveyed to the Bank by April 30, 2006.
May 2006	5	Bank sent a formal notice of threat of suspension of disbursements under the Credit if the Government's final decision on the site of the Project was not conveyed by May 31, 2006
	17	Prime Minister sent a letter to the Bank indicating its agreement on the original planned site of the thermal power plant at Vlora. On May 31, 2006, Minister of Finance wrote indicating GoA's commitment " <i>to implement the Vlora Power Plant at the proposed site near Vlora</i> ".
July 2006	9-15	Bank carried out a cultural property supervision mission , including cultural assessment of the Vlora area.

YEAR/MONTH	DAY	EVENT
Sept. 2006		Requesters started to organize several public demonstrations and protests at the Project site and continued to express their concern over the Project to the Bank with additional letters.
2007		
Jan. 2007	26	Albanian Energy Corporation (KESH) signed a contract with an Italian company for the construction of the Project.
Mar. 2007	29	Aarhus Convention Compliance Committee found Vlora TPP procedure on public participation in violation of Article 6 of the Aarhus Convention.
Apr. 2007	19	Members of the Requesters submitted a complaint to the EBRD's Independence Recourse Mechanism (IRM) relating to the Project. The complaint raised similar issues to those that are the subject of this investigation.
	30	Request for Inspection was submitted to the Inspection Panel.
July 2007	31	Aarhus Compliance Committee issued its Final Report.
2008		
Apr. 2008	17	EBRD IRM issued its Compliance Review Report Relating to the Vlore Thermal Power Generation Project.

Annex C: Vlora Bay and the Memorializing of Historic Events³⁸⁷

A. Introduction

1. A reason advanced by the Requesters for not locating the Thermal Power Plant on the Vlora Bay shoreline is that this could possibly affect the site where Sephardic Jews landed in the year 1492 and sought refuge from the Inquisition in Spain and Portugal.
2. The Requesters' also note the plans of an international organization to make the landing site at Treport beach an "*International Memorial Park in Remembrance of Victims of Genocide in Europe*"³⁸⁸.
3. The Panel has made a substantial effort to examine the facts implicit in this concern and discussed the Requesters' concern with Albanian authorities during the Panel team's visit to Albania³⁸⁹. The Panel team visited Albania's Institute of Archaeology and Albania's Institute of Cultural Monuments, held meetings with eminent Albanian historians and other specialists. The team consulted scholars from other countries as well, including specialists at the Center of Jewish Art of the Hebrew University in Jerusalem, who are professionally involved in the study and memorializing of Jewish cultural heritage and monuments in various European countries.
4. Research and analysis focused on the specific examination of the following issues:
 - 1) documented evidence of the landing of Sephardic refugees near Vlora in or around the year 1492;
 - 2) assessments of possible indirect evidence for such a landing derived from the settlement of Sephardic refugees in the Vlora town community itself; and
 - 3) approaches to memorializing such historical events and on whether memorializing is necessarily related to a certain physical site.
5. For this research two written statements were requested and received on events relevant to travels of Sephardic Jews from Spain to various areas of the Ottoman Empire, including Albania, and to their documented presence in Vlora.³⁹⁰ Brief oral presentations on the same issues were also made during the Panel's discussions in Albania, and by consulting other international³⁹¹ and Albanian³⁹² scholars and researchers.³⁹³

³⁸⁷ This Annex was prepared by the Panel's expert consultant, Michael Cernea, sociologist and cultural heritage specialist.

³⁸⁸ Dr. Anna Kohen, representing this organization, wrote about the plan for such a memorial park in Vlora to the World Bank in several letters, as well as in letters to the U.S. government and various government agencies including the U.S. Trade and Development Agency, which funded the consulting company that carried out the EIA. See letter titled, "TDA's funding of a controversial power plant project at a Mediterranean beach in Albania" Septer 4, 2007.

³⁸⁹ During these discussions, a senior government official informed the Panel that the Ministry of Culture had not received any proposal for establishing a memorial park in Vlora.

³⁹⁰ Statements were recieved from an Albanian scholar and from an Italian scholar.

³⁹¹ International scholars include Professor Gilles Veinstein, College de France, Paris. The studies of Professor Gilles Veinstein represent the most extensive historical research available focused directly on the Vlora community for the period of the XV-XVI.

B. The Landing of Sephardic Jewish Refugees at Vlora

6. Published archaeological research has not documented the landing site of Sephardic Jewish refugees at Vlora Bay. But historical research, based on written cadastral documents and other historical information about that period³⁹⁴, has confirmed the arrival and presence in the Vlora community of such emigrants.
7. It has not proved possible to pinpoint with certainty a specific location for such a landing. Nor has any published scholarly research shown that such a landing took place in the year 1492. This does not mean that such a landing did not take place, but only that no firm assertion, confirmed by research findings, can be made about either the landing itself or its spatial location within Vlora Bay.
8. Numerous historical studies have been made of the itineraries followed by those expelled from the Iberian Peninsula. These studies document that various groups of the Sephardic Diaspora landed at many different places: the North African coast; the Mediterranean Northern coast, including Italy and Greece; in various provinces of the Ottoman Empire—which included at that time the territory of today’s Albania. The same research indicates that, once landed, some refugees settled on the coast while others traveled to various locations inland.
9. Research³⁹⁵ suggests also that some of the refugee families who eventually settled in various places in today’s Albania (such as: Saranda, Vlora, Dures, a.o.) first landed on the shores of other countries (for instance, Italy) and then moved inland.
10. In sum, the findings reported above indicate that some Sephardic refugee groups arrived in Vlora during or soon after 1492.

C. Historical Evidence of Jewish Settlement in Vlora

11. Historical evidence does document that the Vlora town settlement contained a number of Jewish families during the Middle Ages. They were residents before the

³⁹² Professor Neritan Ceka, historian and member of the Parliament of Albania; Professor Muzafer Korkuti, Director of the Institute of Archaeology, Tirana; The Director of the Institute of Cultural Monuments, Tirana.

³⁹³ Apostol Kotani, researcher and author of the only full-size book on the history of Jewish communities in Albania titled: “*Shqiptarët dhe Hebrenjtë Në Shekuj*” (Albanians and Jews Along Centuries), published in Tirana in 2007.

³⁹⁴ Gilles Veinstein, ‘Une communauté ottomane: les Juifs d’Avlonya (Valona) dans la deuxième moitié du XVI^e siècle.’ Published in G. Veinstein, Ed., *Etat et Société dans l’Empire ottoman, XVI^e-XVIII^e siècles*, Paris: Variorum, 1994, p.784.

³⁹⁵ Gilles Veinstein, ‘Une communauté ottomane: les Juifs d’Avlonya (Valona) dans la deuxième moitié du XVI^e siècle.’ Published in G. Veinstein, Ed., *Etat et Société dans l’Empire ottoman, XVI^e-XVIII^e siècles*, Paris: Variorum, 1994, p.784.

Inquisition, from as early as the 13th or the 14th centuries³⁹⁶. Two Jewish gravestones found in Vlora date from the 14th century, before the Inquisition³⁹⁷.

12. Numerous other historical documents mention the presence of Jewish inhabitants in the Vlora settlement during the 14th century, i.e. before the Inquisition, as well as during the 15th century.³⁹⁸ There is also historical evidence of Jewish families being involved in the trade of the “white salt” produced in the Narta Lagoon area, near Treport. The presence of a Jewish community in Vlora cannot be ascribed solely to the arrival of refugees from the Iberian Peninsula
13. However, the arrival of Sephardic refugees from the Iberian peninsula in the territory of today’s Albania, and specifically through the Vlora port, is reported by an eminent French historian, Gilles Veinstein, which confirms the oral tradition of Vlora as a port of entry for these refugees at the end of the 15th century. He writes:

*“There is no doubt, in any case, that the Albanian port (Vlora-IP note) was benefiting, at least starting from the very end of the XVth century, from a new influx of Iberian and Italian Jewish emigrants, be it that they came to join a pre-existent base-group or that they reconstituted ex nihilo a community that had entirely disappeared...The Iberian emigrants arrived shortly before or shortly after the official acts of expulsion from Spain (1492) or of forced religious conversion in Portugal (1497)...”*³⁹⁹

14. A detailed Ottoman cadastral document dated 1520, discovered, published and analyzed by Veinstein in 1987⁴⁰⁰, brings another confirmation. It explicitly documents, with a registry composed at that time, the presence in Vlora in 1520 of 528 Jewish families out of the total population of 1558 Vlora families. This large number suggests that at least some of the 528 families was the result of new arrivals through Vlora port between 1492 and 1520, as part of the Sephardic Diaspora.
15. Based on the above, the Panel’s documentary findings confirm the Requesters’ assertion that Vlora was one of the destinations for refugees from Iberian persecution. That they were integrated into the local Vlora community is attested by scholarly historic and demographic research.

D. Memorializing Historical Events

16. The Panel also considered the Requesters’ concern that the location of the TPP on the Vlora shore would impede memorialization of the victims of genocide in Europe.

³⁹⁶ Cf. A. Komnena, quoted by Pellumb Xhufi, about a certain David who was ambassador of the governor of Vlora

³⁹⁷ Research information about the gravestones was provided by the Center of Jewish Art, Hebrew University, Jerusalem. The two Vlora gravestones are preserved in Albania today.

³⁹⁸ Gilles Veinstein, ‘Une communaute ottomane: les Juifs d’Avlonya (Valona) dans la deuxieme moitie du XVI siecle.’ Published in G. Veinstein, Ed., *Etat et Societe dans l’Empire ottoman, XVIe-XVIIIe siecles*, Paris: Variorum, 1994, p.784.

³⁹⁹ Gilles Veinstein, op.cit, pp. 784.

⁴⁰⁰ Gilles Veinstein, *Une communaute ottomane: les Juifs d’Avlonya (Valona) dans la deuxieme moitie du XVI siecle*. Published initially in *Gli Ebrei e Venezia, secoli XIV-XVII, Edizioni di Comunita. Milano, 1987.Pp.784-785*

17. The current approaches to memorializing events range on a broad spectrum: establishment of sculptural monuments; setting plaques; the creation of memorial gardens, parks or museums; compiling photographic, architectural or virtual documentation; restoration and protection of still-existing and known sites (such as cemeteries, prayer houses, etc.). These efforts seek to create an enduring, non-perishable, record of past historical and cultural monuments and presence⁴⁰¹.
18. In sum, memorializing is regarded as a historic and moral duty and the practice of respectfully memorializing significant events, particularly of major historic injustices, is expanding as a legitimate way to prevent the repetition of such calamities in the present or the future. As indicated, the nature, placement and uses of such memorial reminders are subject to a variety of possible approaches, and memorializing does not necessarily depend on pinpointing the exact physical “footprint” of a specific event in order to express the ideas and respect embedded in a memorializing event.
19. It should be noted that, while there is merit in the Requesters’ desire to preserve the historical memory of past events relevant to the Vlora area, it is not in the competence of the Panel to make a judgment regarding the appropriate place and form to be used, nor is the memorializing of specific historic events in various countries an activity undertaken by the World Bank.

⁴⁰¹ The Center for Jewish Art at the Hebrew University in Jerusalem is among the strongest proponents of historic research and documentation for creating a virtual record, as complete as possible, of past historic and cultural monuments. The Center is currently engaged in a multi-year, long-term program of research in many countries of Central and Eastern Europe, including Albania, for creating such documentation. A research team of this Center, lead by Dr. Ivan Ceresnjes and guided by Prof. Aliza Cohen-Mushlin, has worked in Albania and created the documentation for the ancient synagogue discovered in Albania in the town of Saranda, which is now available in the Center. The Center has developed the conceptual framework and rationale for this memorializing approach based on the idea that cultural buildings and physical remains, even when such exist, cannot all be preserved forever. It is instead possible to preserve indefinitely the historical and virtual documentation about them. More importantly, the Center argues, memorializing through virtual documentation creates a “mobile” body of information that can be used widely anywhere for disseminating the knowledge about valuable cultural heritage and memorable historic events. (See also the article: Aliza Cohen-Mushlin “Before vanishing forever: the rescue operation of the Centre for Jewish Art”, in which the concepts and approaches to memorializing are outlined. In *Museum International*, UNESCO 2003 pp. 78-83)

Annex D: Economic Analysis- EIRR, Sensitivity Analysis, and Project Risks⁴⁰²

In the PAD, the economic internal rate of return (EIRR) on the TPP sited at Vlore B is reported as 37% [page 52—rounded from the 36.5% in table on page 53]. As discussed below, this is a relatively high EIRR in comparison to the cut-off discount rate of 12%, and there are predictable reasons for the EIRR being so high, including:

- **Shortage of capital.** If the project is enjoying privileged access to capital in a capital-short economy (such as Albania), then the project should be chosen from the upper regions of the “marginal efficiency of capital” schedule for the country. In Albania a project supported by the Bank would be expected to have a relatively high EIRR—assuming that the analysts did not pick a project from the bottom of the schedule instead of from the upper ranges of what is still available. Therefore, the high EIRR could simply indicate that the analysts chose from the upper range of a large number of options that remain available simply because the economy is severely capital-constrained.
- **Cost structures.** A predominance of variable costs compared to investment costs can lead to an EIRR that is sensitive to the gross margin between revenues and variable costs. In projects with such cost structures, a small error in raw material costs or in output values can have an exaggerated impact on the EIRR—loosely defined as a return on “capital” (the item in the denominator), which is relatively small in such projects. Thus, as project alternatives move from the all-investment-costs end of the cost structure spectrum towards the all-variable-cost end of that spectrum (discussed below), the EIRR becomes mathematically more sensitive to the gross margin between revenues (benefits) and variable costs. It then becomes easy to “jack up” the EIRR with small reductions in variable costs or with small increases in annual benefits. Sensitivity and risk, however, will tend to be negatively related to each other in the presence of these kinds of cost structures, as also is discussed below.
- **Structure-increment issues.** A badly-managed organization or a badly-managed economic environment will be filled with apparently-high-return opportunities for increasing efficiency. Judged in isolation from the risks posed by the bad “structure” within which the project must operate, the “increment” of an efficiency-enhancing project typically will look extraordinarily good.⁴⁰³ Because of the difficulty of implementing a “good project” in a “bad environment”, however, one must take great care that the reported EIRR is not a mirage. [This is where the “Sustainability and Risks” section (pages 42-43) of the PAD comes into play.]

Project costs in the EIRR calculation are derived from the site selection comparisons, whereas

⁴⁰² This Annex was prepared by the Panel’s expert consultant, Prof. William Ward, economist.

⁴⁰³ Identified and formally described from Bank research in China (organized by Robert P. Taylor) before major restructuring of industry began in the mid-1990s. See William A. Ward, Li Junfeng, James B. London, Dai Yande, Gary J. Wells and Liu Jingru. “Energy Efficiency in China: Case Studies and Economic Analysis”. SUBREPORT NUMBER 4 of *CHINA: Issues and Options in Greenhouse Gas Emissions Control*. Washington: The World Bank, December 1994.

“The quantified benefits comprise: (i) reductions in energy not served due to outages on the existing distribution system valued at an estimated cost of energy not served of US\$ 0.25 per kWh; (ii) reductions in transmission and distribution losses valued at the estimated consumer's willingness to pay of US\$0.09 per kWh (equal to the weighted average of the actual retail price for households in 2003 of US\$ 0.05kwh and the cost of supplying electricity from diesel generators located at consumers' premises to industrial and small industrial and commercial consumers with the weights being the relative increases in demand by these consumer groups); and (iii) the amount of new demand projected to be transmitted through the expanded facilities valued at the willingness to pay for electricity by final consumers less the sum of the future import price (assumed to be US\$ 0.048), and the long-run marginal cost of transmission of US\$ 0.009, adjusted for transmission and distribution losses. The costs and benefits were valued in year 2002 prices. Indirect taxes were excluded.” [PAD, page 55]

The PAD presents the following percentage “Share in increase in demand, (2003-2008)”:

- Industry 20
- Small industry and commercial 48
- Households 32

The cost of captive supply is given in the PAD (page 54) as US\$ 0.1134/kWh for Commercial and Small Industrial and US\$0.0986 for Industrial. The overall weighted average value for all categories of estimated willingness-to-pay⁴⁰⁴ used in the EIRR calculation works out to be US\$0.1090 per kWh. This is an important value in both the EIRR and the sensitivity analysis, for reasons discussed further below.

Unlike the hydroelectric plants that comprise 98% of Albania’s installed electricity capacity, the TPP does not involve huge fixed costs that are susceptible to becoming ex-post “sunk” costs should a “wrong” planning decision be made. Rather, the variable costs dominate in the TPP cost structure, while TPP investment costs are less significant. This has implications for the meaningfulness of the EIRR calculation, for the expected results from sensitivity analysis calculations, and for the actual risks that might be related to project failure.

Over the project’s full life-cycle, the TPP’s \$104 million of investment costs is overshadowed by its fuel costs, which alone amount to more than \$31 million per year at full development (\$620 million in undiscounted terms over the 20-year project life). In the levelized cost calculation, the investment cost is responsible for less than 30% of the cost per kWh, while fuel costs are responsible for more than 60%. The technology used in the TPP is near the opposite end of the cost-structure spectrum from the hydroelectric facilities that make up a large part of Albania’s electricity supply system, where fixed investment (sunk) costs tend to dominate in the hydropower cost structures (often constituting 90% or more of levelized costs). The cost structure for the combined cycle technology chosen for the TPP has the effect of making the project comparable to a “margin business” in which economic viability is driven by the direct inter-play of three factors: (1) raw materials cost (distillate oil or diesel fuel, in this particular simile), (2) value of the output (electricity, in this simile), and (3) efficiency of the project versus other “processors” in the same business.⁴⁰⁵

⁴⁰⁴ The alternative costs of captive generation for industrial and commercial is a proxy and presumed minimum estimate of willingness to pay, since it is a cost they would bear to maintain comparable access to electricity.

⁴⁰⁵ Commonly encountered margin businesses include cooking oil manufacturing in which oilseeds are “crushed” to produce the oils along with several by-products, biodiesel manufacturing using soybean or soy oil

In the way the EIRR and the sensitivity analysis is conducted, the economic viability of the project is driven by the greater efficiency in converting diesel fuel to delivered electricity by the TPP in comparison to the captive generators used by industry and commercial clients in the “no-project” counterfactual that is used in valuing TPP benefits (ignoring for the moment the losses to households and for energy-not-served). In margin businesses, the company’s conversion rate (for feedstock-to-finished-product) tends to be fixed and defined by technical factors, while the prices of their inputs and outputs vary according to changes in supply and demand in each respective market. Thus, the varying margin between the input and the output values becomes the risk that these firms must manage. However, in the way the TPP EIRR is conducted, the input and the output prices are both related to the same international distillate price rather than varying quasi-independently of each other. And the conversion rate of diesel-to-electricity is fixed by technical factors in the case of the commercial and industrial users.⁴⁰⁶ Thus, neither the input-output margin (the “crush margin”, in oilseed parlance) nor the technical conversion margin varies. As a result, the PAD states that

“An increase in fuel costs would increase the economic rate of return since it would increase the benefits (avoided cost of generation at consumers’ premises) by more than the increase in the cost of production at the Vlore plant.” [PAD, page 54]

In the cost-benefit analysis formulations used in the Final Feasibility Study and in the PAD, the fuel price matters little, so long as it does not rise so high that the downstream effect on the cost of electricity causes the demand for electricity to decrease significantly. While no sensitivity analysis of electricity demand to high levels of pass-through prices was conducted, that is not necessarily a glaring omission since the project provides only a small percentage of total electricity supply in Albania, a country that already is under-supplied even at unsubsidized prices. These factors make it reasonable to assume that demand for electricity from KESH, even at fairly high prices, would be fairly inelastic. Nevertheless, it would have been appropriate for the sensitivity analysis to have tested a range of assumptions about conversion rates between diesel fuel and electricity for the commercial and industry clients who together constitute 62% of the “Share in increase in demand” for the TPP’s electricity output.

Given the TPP cost structure and the related reciprocal relationship between potential mathematical sensitivity of the EIRR versus actual risks associated with the project, per se, the remaining sensitivity tests are standard and are judged adequate.

It would have been appropriate however to point out in the PAD narrative that, because of the TPP cost structure, the bulk of the project’s life-time costs would be avoidable by simply ceasing operations. This result is vastly different from the sunk-cost risks associated with investment-cost-intensive generation facilities such as the hydroelectric plants that dominate Albania’s domestic electricity supply system. In the case of Albania’s already-built

as feedstock, and ethanol manufactured from maize feedstock (though ethanol made from sugar cane tends not to be a margin business, since the stages of production cannot be easily de-integrated). In these businesses, variations on the “crush margin” play such a prominent and predictable role in the economics of the business that commodity exchanges provide crush margin products for hedging some of the related risks. Following sections of the text relate these economic concepts to the economic analysis of the TPP.

⁴⁰⁶ This is particularly true of the analysis of the diesel generators in the hands of commerce and industry. Some variations in cost and utilization within the TPP facilities are included in the sensitivity tests.

hydroelectric plants, practically all of the costs have already been borne AND operations have practically ceased because of streamflow limitations. In that sense, they were much more risky investments than the TPP. Adding a technology and a cost structure like the TPP to the current structure of cost and supply in Albania makes infinitely good sense when viewed in abstract terms (see the TPP project objective quoted below).

The “Structure-increment” reason for a high reported EIRR suggests that the analysts should be conscious of the structural context in which the project was being placed. And they indeed were very conscious, as suggested by the section of the PAD dealing with “Critical Risks” (pages 42-43):

Risk (Risk Rating)

- Failure to reduce power losses. (Substantial Risk)
- Failure to improve bill collection. (Substantial Risk)
- Hydroelectric production could fall again to low levels because of drought, thereby making it more difficult to reduce load shedding. (Substantial Risk)
- Electricity demand could grow more rapidly than forecast, thereby making it more difficult to reduce load shedding. (Modest Risk)
- Failure by the Government and KESH to implement the sector reforms as a consequence of frequent changes in Governments and in the top management of KESH or for other reasons. (Substantial Risk)
- The price of imported electricity could sometimes be less than the levelized cost of electricity produced by the proposed project (Modest Risk)
- Delayed project completion. (Modest Risk)
- Cost overrun. (Modest Risk)
- Technology risks. (Negligible Risk)

Overall Risk Rating (Substantial Risk)

Six of the nine critical risks that are presented in the PAD deal with the project context as opposed to the project, per se. And the overall risk is accurately rated as “Substantial”⁴⁰⁷. As suggested in the discussion of the TPP cost structure above, the major risk is not that huge sunk costs would be incurred and wasted if the project were to “fail” in terms of the first of the project’s stated objectives:

“The development objective of the project is to achieve significant improvement in power system performance through (i) priority investments to increase domestic thermal generation, and (ii) measures to implement sector reforms and institutional strengthening.” [PAD, page 2]

Rather, in the larger scheme of things, failure in terms of the second of these objectives, broadly construed, carries far greater real risk for Albanian society.

⁴⁰⁷ Risk Rating scale: H (High Risk), S (Substantial Risk), M (Modest Risk), N (Negligible Risk)

Annex E: Biographies

Mr. Werner Kiene was appointed to the Panel in November 2004 and has been its Chairperson since September 2007. He holds a Masters of Science degree and a Ph.D. in Agricultural Economics from Michigan State University. He has held leadership positions with the Ford Foundation and German Development Assistance. In 1994, Mr. Kiene became the founding Director of the Office of Evaluation of the United Nations World Food Programme (UN WFP). He was the World Food Programme Country Director for Bangladesh from 1998 through 2000 and also served as UN Resident Coordinator during this period. From 2000 to 2004 he was a Representative of the UN WFP in Washington, D.C. Mr. Kiene's focus has been on the design, implementation and assessment of sustainable development initiatives. His professional writings have dealt with issues of rural poverty and social services delivery; food security, agricultural and regional development; emergency support and humanitarian assistance; international trade and international relations. Mr. Kiene is involved in professional organizations such as the European Evaluation Association; the Society for International Development; the American Association for the Advancement of Science; and the International Agriculture Economics Association.

Mr. Roberto Lenton was appointed to the Panel in September 2007. He is a citizen of Argentina with a Civil Engineering degree from the University of Buenos Aires and a Ph.D. from the Massachusetts Institute of Technology (MIT). A specialist in water resources and sustainable development with over 30 years of international experience in the field, he serves as Chair of the Water Supply and Sanitation Collaborative Council and Member of the Board of Directors of WaterAid America, and served until July 2009 as Chair of the Technical Committee of the Global Water Partnership. Mr. Lenton is a co-author of *Applied Water Resources Systems* and co-editor of "Integrated Water Resources Management in Practice", and a lead author of *Health, Dignity and Development: What will it take?*, the final report of the United Nations Millennium Project Task Force on Water and Sanitation, which he co-chaired. Mr. Lenton was earlier Director of the Sustainable Energy and Environment Division of the United Nations Development Programme in New York, Director General of the International Water Management Institute in Sri Lanka and Program Officer in the Rural Poverty and Resources program of the Ford Foundation in New Delhi and New York. He has served as Adjunct Professor in the School of International and Public Affairs at Columbia University and Assistant Professor of Civil and Environmental Engineering at MIT.

Mr. Alf Jerve was appointed to the Panel in November 2008. He earned his Magister Degree in Social Anthropology and his Bachelor's degree in Environmental Science and Biology from the University of Bergen, Norway. As a Social Anthropologist with close to three decades of work in the field of development, he has been engaged in a wide range of development activities, including extensive field research in Africa and Asia. Among his assignments was a three year posting to Tanzania with the Norwegian Agency for Development Cooperation as Coordinator of a rural development program. From 1993-1995 he was responsible for resettlement and rehabilitation issues with projects in Bangladesh during an assignment with the World Bank. In 1995 he became Assistant Director, and served as Director in 2005 and 2006, at the Christian Michelsen Institute in Norway, an internationally recognized development research institution where he has also devoted his energies and expertise to the research and analysis of a wide variety of policy and program issues affecting people in developing countries. Mr. Jerve has also led and participated in numerous independent evaluations commissioned by bilateral and multilateral development agencies, and served as a Member of the Roster of Experts for the Asian Development

Bank's Inspection Function. His publications have focused on rural development, decentralization and poverty reduction and most recently on issues of ownership in development aid cooperation.

Consultants

Michael Cernea is Research Professor of Anthropology and International Affairs, George Washington University, Washington, D.C., and Honorary Professor of Resettlement and Social Development at Hohai University, Nanjing, China. He joined the World Bank as its first sociologist in 1974 and has held senior positions in the Operational Policy Vice-Presidency, and in the ESSD Vice-Presidency, until 1997. In his capacity as the World Bank's Senior Sociologist and Senior Advisor for Social Policies, he has contributed to defining the social content of several World Bank policies, including the Resettlement Policy, and of numerous Bank programs. Professor Cernea has also served or is currently serving as Advisor to other international organizations such as OECD, UN, UNDP, ADB, CGIAR, FAO, and GEF on social policy, poverty reduction, population resettlement, and cultural issues in development.

Richard Fuggle is Emeritus Professor of Environmental Studies at the University of Cape Town. Prof. Fuggle is a Member of the Academy of Science of South Africa, a Registered Natural Scientist, a Certified Environmental Practitioner in South Africa and a Professional Member of the South African Institute of Ecologists and Environmental Scientists. He has edited two books on environmental management in South Africa and has published over 100 academic papers on environmental topics. He led the team which developed the South African Guidelines for Integrated Environmental Management. Prof. Fuggle has served on numerous Commissions of Enquiry related to Environmental Assessments. He has received awards and distinctions for his contributions to the advancement of Environmental Impact Assessment both nationally and internationally. Prof. Fuggle earned his Ph.D from McGill University in Montreal.

William Ward has served as Director of the Center for International Trade at Clemson University since its start-up in May 2000 and has been Professor in the Department of Applied Economics and Statistics and in the cross-disciplinary faculties of Policy Studies and Economic Development. He started his professional career as an economist in the Young Professionals Program at the World Bank and later served as President of the Institute for Development Programs, an international development technical assistance organization. Dr. Ward has provided his expertise on economic development to international organizations and governments and has written on development investment analysis, including the World Bank book *The Economics of Project Analysis* and the forthcoming *The Rise of Market-Based Society*. He received the BA and MS degrees from Clemson University and the Ph. D. degree from Michigan State University.

Annex F: 2009 Letters from the Second Requesters*

*Electronic file attached separately.

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NEW REQUEST FOR INSPECTION

Albania: Integrated Coastal Zone Management and Clean-Up Project
[IDA Credit No. 4083-ALB]

THE INSPECTION PANEL

March 26, 2009

To: The Executive Secretary, The Inspection Panel
1818 H Street, Washington, DC 20433, USA
Fax No: 202-522-0916

1. I, Petrit Levendi, on behalf of the Association of Tourist Operators {ATO} in Vlorë, Albania and other affected individuals who are also local residents living in Vlorë and in the area covering the northern part of the Bay of Vlora, known as Treport Beach, Narta Lagoon Coastal Strip and Pishë Poro (up to the mouth of River Vjosë) as well as the village of Dukat in the Southern Part of the Bay present this New Request for Inspection as a follow up to our original Request for Inspection of August 5, 2007, duly received by your office on August 13, 2007 at 2:49 PM, [IPN Request RQ 07/05] related to Integrated Coastal Zone Management and Clean-Up Project, IDA Credit No. 4083-ALB. [Hereinafter Project].
2. We note that the Panel has already made a recommendation to not proceed with an investigation into the matters alleged in our original Request].
3. Our New Request is based upon Section F. 74 of the related Inspection Panel's Report and Recommendation, which states that:

"in the event of new evidence or circumstances not known previously, the Second Requesters would be able to submit a new request to the Panel."
4. We note that our original Request was denied by the Panel because:
 - a. Our claim relates to the development of the Vlora Thermal Power Plant and other oil based investments, which is "being investigated under the ongoing investigation of the Power Sector Generation and

Restructuring Project approved by the Board of Executive Directors on July 18, 2007", and that

- b. "The extension of the Project at a future date to those areas identified by Second Requesters would depend on the success of the pilot program and the Government's interest in applying the Project to a broader area".
5. We request to have grandfathered all items 3-6 in our original Request, as well as Inspection Panel's conclusions regarding our Request's compliance with eligibility criteria as set out in the 1993 Resolution and 1999 Clarifications.
 6. We have suffered, or likely to suffer, harm as a result of the World's Bank failures or omissions in the Albanian Coastal Zone Management and Cleanup Project because of the reasons laid out below:
 7. In accordance with 1993 Resolution para 14.d and 1999 Clarifications para 9.d, we present these "new evidence or circumstances not known previously to us":
 - a. First we recognize Management's response acknowledging "the historical, cultural, natural and touristic/economic value of the Vlorë region" but also noting "that [the Bay of Vlora] falls outside of the southern coastal zone as defined by the government..." [Management Response, p. 24].
 - b. We bring herewith to the attention of the Inspection Panel the Decision No. 88, dated March 1, 1993 on the Approval of the priority areas for the development of tourism, whereas as priority areas are declared "the territories from Pishë Poro to Zvërnec in the borderline of the Bay of Vlora" and "all the Karaburun Peninsula".
 - c. Furthermore, we refer to Decision No. 680, dated October 22, 2004 of the Government of Albania declaring as a protected area the Vlora-Narta lagoon system, which includes the coastal area from the Vjosa River mouth to Treport Beach (currently the energy-industrial park).
 - d. Management states in several instances that "the Albanian coastline is divided into three areas: the northern, the central and the southern area" a delineation "based on the administrative division..." We note that this delineation is un-natural and artificial and, in our view, not supported by any legal acts. Indeed, we have not found any laws or acts of the Albanian Parliament or Government that slices

into three pieces the Albanian coastline. Instead, the common and consistent reference has been "Adriatic and Ionian coast" [See, for example, Strategy for the Development of Tourism in Albania until 2012, Decision No. 517, dt. July 3, 2003 of GoA; Decision No, 88, dated March 1, 1993 of GoA on the Approval of Priority Areas for the Development of Tourism" etc). Moreover, the Vlora District and the Vlora Bay is one single territorial, marine and coastal unit, and even management recognizes that (see Footnote 1, page 2 of the Management Response). In a rather curious way Management accepts that the delineation is based on the administrative division (which logically and normally should take Vlora Bay and District as a whole) but then slices the Bay and District of Vlora into two, one to go to the Central Coastal Region and the other to go to the Southern Coastal Region?

- e. We also note that in Annex 12 of the Project's PAD, Management refers to Decision No. 242, dated April 21, 2005 of the GoA on the Approval of the Document of the Development Policies on the Integrated Coastal Management and Clean Up Program [PAD, p. 73-74]. WE have been unable to find this government document as duly published in Albania's Official Gazette or at the Official Archive of Normative Acts at www.gpz.gov.al.
 - f. Considering that publication of legal acts is obligatory under Albanian law, we are doubtful of the effectiveness and legal validity of such document.
8. As a result of Management's lack of inclusion of the Northern Part of the Bay of Vlora into the Project, several extremely harmful industrial activities are being developed or planned to be developed there:
- a. We also note with regret For example, in August 2007 the Italian company La Petrolifera Italo-Rumena started construction of large storage facilities in the coastal area between the city of Vlora and Treport Beach. The territory in question was used during the communist regime as a chemical plant. In late 1990s early 2000, efforts to clean up the site of the former plant were undertaken through a grant of the Czech government and through other sources. Unfortunately, all these efforts were wasted as the Italian company took over the area and started building its facility.
 - b. We note that the Petrolifera project contains significant shortcomings regarding environmental standards and legal framework (see www.bankwatch.org). It has sparked collective criticism and opposition by the people of Vlora and the local government. The

Vlora City Council commenced referendum proceedings against La Petrolifera project in 2007, which were however rejected by the government controlled Central Electoral Commission. We understand that the Vlora City Council has reserved the option to refer the matter to the Constitutional Court, and if necessary, to the European Court of Human Rights in Strasbourg.

- c. Project's PAD noted the danger that pollution from ships currently brings to the Bay of Vlora. It stressed that "The Vlora regional administration ranks oil spills from passing ships among the major concerns. This is magnified by the proximity of the ship routes to the shore and by unfavorable current patterns that transport pollution to the shores of the southern region..."
 - d. We also note that, as a result of the popular opposition to the project, the EBRD refused to extend to the Italian company a credit for the completion of the project.
9. Most recently, the government of Albania is considering granting a concession to a Swiss-British design group to build a very large container harbor in the protected area of the Treport Beach and Treport Forest, between the City of Vlora in the South and the Narta Lagoon in the North. [<http://zumaxag.com/vlore.htm>, also <http://zumaxag.com/news.html>]. The Swiss-British idea is based on the wrong perception that "The Port of Vlorë is a natural deepwater port situated in a large bay...located in the Bay of Gjiri i Vlorës". In fact, the very delicate Bay of Vlora is naturally deep, but not the harbor itself. Regrettably, the Swiss-British group confuses the depth of the Bay with the illusory depth of the harbor using it as a premise to design plans that are seriously harmful to the environment.
10. Another Italian company, Moncada of Sicily, is planning to build a large windmill park close to the village of Dukat, in near or within the protected area of Karaburun, which will serve the Italian market... [<http://www.rinascitabalkanica.com/?read=18479>]. [GoA Decision No. 28, January 9, 2008, on the Construction and Use of a Commercial Electricity Line, Vlorë, Albania - Brindisi, Italy]. If Management suggests that the projected developments in the Northern Part of the Bay of Vlora are outside of the Project's "pilot program" area, it is difficult to make a similar argument for the Moncada project.

11. GoA has undertaken to increase the size of protected areas in the Albania up to 14 % of the Albanian territory. Fully compatible with such ambitious but necessary and realistic goal, a group of Vlora citizens and NGO requested to the EU Commissioner S. Dimas on July 9, 2009 his office's support to have the entire Bay of Vlora protected as an Emerald - Natura 2000 site from Caesar's landing in Palasa in the South to the Vlora River Mouth in the North.
12. Noting GoA's indifference on the matter and World Bank's strong policy support for the environment, clean energy and sustainable development, we believe that all these developments will cause irreparable harm to the very delicate and environmentally sensitive Bay of Vlora, as they violate such principle and the rights of present and future generations for a safe and healthy environment.
13. We also note the latest Management Response and Press Release concerning the Project and the situation surrounding Jalë. We believe, however, that the Jalë case pales in comparison with the negative impact and massive consequences suffered or likely to be suffered by the Requesters as a result of Management's inaction and/or omission with respect to the Northern Part of the Vlora Bay as well as the Moncada Project in the Southern Part.
14. By excluding the Bay of Vlora as a whole from the Project, Management has indirectly cleared the path for the Petrolifera, Zumax and Moncada developments. Hence, we believe that the inaction and/or omission of the Management to apply a truly integrated and inclusive approach to the Coastal Zone Clean-Up Project, which would have comprised the Bay of Vlora as a whole, and to implement relevant bank's policies, has or is likely to have a material adverse effect upon us as Requesters.
15. Consequently, we urge the Inspection Panel to register our complaint, to carry out an Eligibility Assessment and to continue its investigation on the matter in order to ensure full Bank compliance with its goals and policies.

Signatures _____

Date 29-03-2009



Contact Address:

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Cel: +355 68 20 25 837

Fax: +355 33 230392

Email: admin@colomboalb.com petritlev@gmail.com

Association of Tourist Operators, c/o Petrit Levendi

The same list of signatures is applied to this New Request.

We do authorize you to disclose our identities.

To Serge Selwan
Inspection Panel, The World Bank
Washington, D.C.

Re: Albania Coastal Zone Clean Up and Management Project

Dear Mr. Selwan,

This is in reference to your message of April 17, 2009.

You are requesting additional information or explanation, "as to how the approach taken in the Coastal Zone project, including its decision to exclude other parts of the coast in the design of the project, creates harm in those other parts of the coast".

Please note the following additional explanations:

On 13 May 2009, the government approved a decision to authorize the Moncada Energy Group, Srl, based in Sicily, Italy, to build a wind energy park in the Karaburun Peninsula¹. The Karaburun Peninsula is a protected area, and is either within or adjacent to the Project's pilot area in the Ionian Sea.

Please note that we have nothing against wind energy. We are flagerbasted, however, that within the ecologically delicate Bay of Vlora, the sandy Treport Beach in its north is permanently destroyed by building an oil-based power plant for domestic consumption whereas in the Southern part of the Bay of Vlora the protected Karaburun Peninsula is permanently harmed through the granting of energy concession directed for Sicily².

The approach taken by the Coastal Zone project should have been inclusive of all the coastal area and uniform in its coverage.

¹ <http://www.keshilliministrave.al/?fq=brenda&m=news&lid=11020>

² For more information on wind parks in Sicily see, Financial Times at <http://www.ft.com/cms/s/0/f828472c-390c-11de-8cfe-00144feabdc0.html>

The limited amount of the financing planned and later approved through the loan should not have been a reason to not extend the Project to at least the entire Bay of Vlora. By focusing solely on the Ionian Sea coastline, the Coastal Zone project has indirectly allowed the mismanagement and destruction of the rest of the Albanian coastline and, including the Bay of Vlora.

We note also that Albania's Adriatic Coastline is unique in the Adriatic Sea because, contrary to the rocky coast of Upper Adriatic, such as in Croatia and Slovenia, the Albanian Coast from the Buna river in the North to the City of Vlora in the South is made of fine and very clean sand.

By focusing solely on the Ionian Coastline, the Coastal Zone Project has indirectly opened the way for the mismanagement of this section of the Adriatic Coastline. Indeed, it is in this section that the government is planning to build:

- (i) A huge container harbor in Vlora Bay;
- (ii) A massive LNG terminal in the Seman River mouth and beach to serve Italy;
- (iii) A giant coal-based power plant in Porto Romano, to supply with energy the Italian market and (iv) the several cement factories planned to be built in the hill chain immediately east of the Adriatic Sea;
- (v) A nuclear power plant, in conjunction with Croatia, reportedly to be built around the Buna river area, between the Adriatic Sea and the Shkodra Lake in the North.

Clearly, these massive industrial/energy developments will have an immense impact over the population of the entire Coastal area. Obviously the harm is difficult to quantify in monetary terms. In the immediate term and in the long run it will affect the environment in general, the air, sea, the quality of life of the current and future generations and so forth.

The exclusion of the Bay of Vlora from the project is having immediate negative effects on the population. An area of more than 3 miles of sandy Adriatic coastline has been practically excluded from recreational functions because it is within the economic zone of the La Petrolifera oil/chemical storage concession.

While the Inspection Panel rightly raised the issue of the destruction of illegal buildings at Jalë in the other registered complaint, yet the harm at Jalë pales in comparison to the

permanent and irreversible destruction facing the beaches and coastline of the Adriatic Sea in the Bay of Vlora.

We can also report that the number of tourists visiting the Bay of Vlora in the past two years has remained steady, mainly due to the arrival of tourists from Macedonia, who could not go to Greece due to the unfavorable political situation between both countries. We can, therefore, deduce, that although the impact on tourism caused by the Coastal Zone project narrow approach appears to be minimal at present, in reality it is very negative and will potentially become significantly negative in the future.

Moreover, we can report a significant negative impact in the real estate market in the entire Bay of Vlora. The inventory of houses and condominiums from Orikum to the City of Vlora has remained stalled in the past two years, as the Coastal Zone project avoided the Bay of Vlora. As the people of Vlora are still investing in various forms of tourism and recreational developments and activities, their future return is seriously hampered by the industrial/energy projects in the coast of the Bay of Vlora.

Finally, the Coastal Zone project's exclusion of the Bay of Vlora is having a direct impact also on the Treport Beach Forest, which extends from the outskirts of the City of Vlora up to the village of Narta. It is precisely this forest that serves as carbon depository for our city and wider region. It is precisely in this forest where the government is planning to build the massive container port through Zumax consulting company, and where La Petrolifera project and other harmful ones are being build.

Had the Coastal Zone project been inclusive of this section of the Vlora Bay, we would not have been on the receiving end of environmental, health-related, economic and quality-of-life harm.

We thank you for your kind attention to this matter and remain at your disposal to provide further information and to answer all other questions that you might have.

Respectfully submitted,

Petrit Levendi

Vlora, Albania

14 May 2009.

"admin"
<admin@colomboalb.com>
05/18/2009 11:35 AM

To <plallas@worldbank.org>, "admin"
<admin@colomboalb.com>, <sselwan@worldbank.org>
cc
Subje ct RE: Additional Information for the Inspection Panel

Dear Mr. Selwan,

Thank you for your prompt response of 15 May 2009.

Please find attached additional information and maps related to Coastal Zone Project.

They refer to a very important study conducted by the University of Spit in Croatia, titled Orikum Area Inventory and Assessment.

As you can see, the study considers as one single entity the entire coastal area from Radhimë in the North to almost the village of Palasa in the South. It provides a detailed analysis of the rich elements and resources of the area and the related risks.

It is our understanding that the World Bank Coastal Zone Development Project dissects the very important Orikum entity and excludes its northern part from their focus. This reminds us of the famous Solomonic solution attempting to split the baby into two.

Furthermore, in the larger picture, the Orikum entity is an integral part of the entire Vlora Bay coastal zone theater, which would thus include the area up to the Vjosa River mouth in the North plus the Sazan Island.

As we stated in our previous submissions to you, by arbitrarily splitting the Orikum area and Vlora Bay into two parts, and by excluding their northern portions from their focus, the World bank Coastal Zone Project is harming our vital interests as a community and entrepreneurs by living the unclaimed area to the mercy of unscrupulous foreign and local developers and by the failure to develop protective coastal policies in close cooperation with the central and local government.

As a very important international financial institution, the World Bank should have included this area into the original Coastal Zone Management Project, or extend its coverage to this area as soon as possible in order to exercise its superior expertise and authority in concomitance to its sustainable development policies and preserving it for future generations to come.

The referred study can be accessed here:

<http://www.gradst.hr/~pavasic/albania/Orikum/Orikum%20DSA.pdf>

Please, consider this communication as an integral part of our earlier ones.

Thank you for your kind attention and understanding to this matter.

Sincerely,

Petrit Levendi,

Vlora, Albania



ALBANIA REQUEST FOR INSPECTION: POWER SECTOR GENERATION AND RESTRUCTURING PROJECT VLORE PROJECT AREA

- ◆ SELECTED PROJECT SITE 6B
- ◆ CANDIDATE PROJECT SITE 6A
- ◻ PLANNED BABICA 220/110 kV SUBSTATION
- PLANNED 220/110 kV TRANSMISSION LINE
- UNPAVED ROAD TO BE PAVED UNDER THE PROJECT
- ⬠ PLANNED FUEL STORAGE FACILITIES
- PLANNED INLET AND OUTLET OF THE COOLING WATER (approximate alignment)
- EXISTING UNDERSEA/UNDERGROUND FUEL PIPELINE (approximate alignment)
- ◻ OFFSHORE OIL TERMINAL
- HISTORIC MONUMENTS
- SELECTED CITIES AND TOWNS
- DISTRICT CAPITAL
- BUILT-UP AREAS
- RIVERS
- SELECTED CANALS
- MARSH
- SELECTED RAILROADS
- SELECTED UNPAVED ROADS
- SELECTED MAIN ROADS



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