

## **Total's Reaction to FIDH and FHRI Report: Way Forward for a Constructive Dialogue**

Total thanks FIDH and FHRI for the opportunity to provide comments on the FIDH-FHRI report entitled "Community-Based Human Rights Impact Assessment of the Lake Albert Oil Extraction Project and Related Developments in the Albertine Graben, Uganda".

First, Total appreciates the dialogue initiated with FIDH and FHRI since mid-2019 in Uganda and France. This has included several meetings in Kampala and in Paris as well as numerous exchanges of written questions and answers. Total have also had the opportunity to comment on a draft report communicated to us on July 10, 2020.

Total recognizes the value of the Community-based approach taken in this assessment, which is complementary to the engagement and consultation with affected communities carried out by Total teams as part of the environmental and social impact assessment of our projects. Total is interested in pursuing the dialogue with FIDH and FHRI with a view to reinforcing our ambition on certain points and exchanging on best practice. Some recommendations are useful and will be taken as a basis to progress.

However, Total disagrees with some of the statements made in this report especially concerning the Tilenga oil exploration and production project, of which Total E&P Uganda is the operator.

Total reminds that there are several projects in the lake Albert Region:

Tilenga operated by Total EP Uganda , EACOP led by Total , Kingfisher operated by CNOOC , in which Total EP Uganda is partner. And other projects where Total is neither operator nor shareholder (the Refinery, the airport , the roads) and which are led by the Ugandan Authorities.

Total regrets that the report refers to a single project (so called in the report "the Lake Albert Oil Project") which creates an amalgamation of responsibilities.

It would also have been preferable if the report had distinguished on the one hand the direct responsibility of each of the parties (e.g Total E&P Uganda as Operator of the Tilenga Project or UNOC operator of the Refinery) and on the other the expectation that parties will use their leverage to influence business relationships as per *UN Guiding Principles on Business and Human Rights*, which Total adheres to. Finally and as a result of the amalgamation mentioned above, the report leads to unfounded insinuations that Total may have taken part in human rights violations, which is not substantiated and which Total denies.

The attached document provides a non-exhaustive list of Total's comments. The following points are of particular concern:

### ***Stakeholder consultations***

The report does not fully reflect the structured approach and the scale of the means deployed by Total E&P Uganda to identify the potential impacts of the Tilenga project and define the measures to be implemented to respond to them.

The social and environmental impact study of the Tilenga project is the result of four years of iterative work bringing together different expertise. The consultation stage involved the participation of 10,000 people and an approval process by the Ugandan authorities. On the field, 35 locally recruited Community

Liaison Officers were deployed to maintain a permanent dialogue with the local communities, collect their concerns and keep them informed. This ESIA report has been elaborated by independent National Environment Management Authority (NEMA) registered Environmental Practitioners from AECOM Uganda Limited (AECOM) and Eco & Partner Consult, based on numerous studies. NEMA mandated an independent review by the internationally recognized Netherlands Commission for Environmental Assessment (NCEA).

Some misunderstandings with the communities noted in the FIDH report had already been identified by the Total E&P Uganda teams and measures taken to resolve them. For example, Total E&P Uganda reinforced communications towards local communities around cut-off dates and the need to continue cultivation afterward, notably through radio broadcasted messages.

### ***Compensation framework***

The project was designed with the overarching concern of limiting the impacts on local communities and in particular the need to relocate households. For the acquisition of the necessary land, a framework of fair compensation and relocation has been established following International Finance Corporation (IFC – a world bank organization) standards, recognized to represent best practice, and validated by the Ugandan authorities. The first relocation action plan, known as RAP1 concerned 622 households affected by the project. More than 4000 meetings were held with the people concerned.

Compensation rates were defined based on local market studies and were set above market prices. Other livelihood restoration measures have been, and will continue to be, implemented such as training and activities related to agriculture.

At the end of the RAP 1, a follow-up report on a sample of 223 households affected by the project observed an overall improvement in their standard of living including in particular: securing of title deeds to property, better access to hospitals and clinics (1.7% to 37.2%) and the enrollment of children in secondary school which has doubled from 10.8% to 20.4%.

Livelihood and training programs have also been undertaken at household level through a third part Community Integrated Development Initiatives (CIDI)<sup>1</sup>.

### ***Listening to the possible dissatisfaction of the communities***

The project has established a grievance mechanism for collecting and dealing with dissatisfaction and complaints from all stakeholders and this mechanism is being effectively used by the communities. As part of the RAP1, Total E&P Uganda collected 170 complaints between January 2018 and the end of 2019. 87% of them have been resolved to date. This mechanism provides for different levels of resolution,

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<sup>1</sup> The programs include establishment of high yielding cassava gardens for 100 households who started to and are continuing to harvest this enhanced variety in 2020 allowing subsistence for their families as well as being able to sell off some cassava as well as cuttings. Many have also replanted the same cuttings in their additional gardens. Value addition and better storage practices are ongoing. 42 Vegetable gardens were established, and 10 households benefited from 10 apiaries and some have started harvesting honey. A tree nursery has been established to give out up to 8000 seedlings to the community.

Trainings have also been undertaken for project affected persons (PAPs) to enhance their livelihoods in Agriculture through 9 farmer groups that are operational. Financial Literacy programs were undertaken and PAPs and other Household members especially Women and Youth were encouraged to attend these. In addition, driving lessons were offered to PAPs and 5 have since received their driving permits (one of them got a job ferrying sugarcane at one of the many plantations in Hoima).

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notably the intervention of third parties for an impartial resolution if the solution proposed by Total E&P Uganda does not satisfy the complainant.

***Protection of human rights defenders***

Total cannot accept the allegation, which is totally unsubstantiated, that some of its employees and contractors played a role in an act of intimidation against a stakeholder.

Total recognizes the importance of protecting human rights defenders and has initiated discussions with FIDH in order to better understand the difficulties that human rights defenders may encounter and better engage with them. Earlier this year, the representatives of Total E&P Uganda also had the opportunity to reiterate during meetings with various Ugandan authorities in Kampala, that all actions undertaken within the framework of the Tilenga project must ensure the strictest respect for human rights.

To reiterate, Total does not tolerate or contribute to attacks, or physical or legal threats, against those who exercise their human right to freedom of expression, peaceful protest or assembly, including where they are acting as human rights defenders.

To illustrate Total's action on the ground in terms of HR and security, it can be underlined that every quarter, Total E&P Uganda provides trainings on Voluntary Principles on Security and Human Rights (VPSHR) to employees of private security companies but also police forces working in the area of the Tilenga project. The most recent training was extended to contractors.

***Net gain commitment on biodiversity***

Regarding environmental issues, Total is well aware of the sensitivity of the project given the proximity of both the Murchinson Falls Park and Lake Albert. Total E&P Uganda has not only shown a great level of caution in the avoidance and mitigation measures proposed and approved through the Environmental and Social Impact Assessment process, but it has also made a public commitment to achieve a biodiversity net gain, contributing to an overall better biodiversity in the Murchison Falls Conservation Area than before work started.

Concrete actions are put in place. As an example, a *Biodiversity Stakeholder Engagement* (BSE) was concluded with several environmental NGOs in 2016. Quarterly consultations are implemented with said organizations. These exchanges have improved the relationships with these groups on the ground. Another example, the *Biodiversity Ecosystems Services Plan* incorporates *Community Environment Conservation Program* and further consultation on these were held August 2020 in order to ensure the best possible level of environmental protection of communities' areas. This resulted in an Environment *No Net Loss Program*.

Despite certain key points of disagreement, Total acknowledges the value of FIDH report and wishes to maintain a constructive dialogue in relation to the Tilenga Project. Total welcomes and agrees with many of FIDH's suggestions and recommendations, on issues like the protection of human rights defenders by all stakeholders, or the need to ensure that for RAP 2 to 5 affected communities have access to updated financial compensation and regular information particularly when delays may occur or have occurred.

Total would welcome the opportunity to pursue a constructive dialogue with FIDH to address the recommendations made in the FIDH report in a detailed manner and to consider possible improvements, building on the initiatives already put in place by Total E&P Uganda and their planned updated Human Rights Impact Assessment on its operation in Tilenga.

## Annex

### **Comments on FIDH-FHRI Community-Based Human Rights Impact Assessment of the Lake Albert Oil Extraction Project and Related Developments in the Albertine Graben, Uganda**

The following comments refer to certain issues on which Total wishes to provide additional clarity. This list is not intended to be exhaustive. Total regrets that many of the comments communicated by Total to FIDH directly on the draft version of the report prior to its official publication by FIDH, have not been included nor reflected in the final report.

The numbering in this Annex follows the numbering in the report (and therefore is not complete).

#### **1 Introduction**

##### *Project definition*

A clear distinction should be made between the various oil and gas development projects in Uganda. Clarity in this respect would facilitate the identification of best practices and promotion of such practices in projects with a less well developed social and environmental background.

##### *Definition of Parties*

In relation to Total an unhelpful amalgamation is made between various distinct legal entities. Total E&P Uganda and Total East Africa Midstream BV are wholly owned subsidiaries of Total SE. However it is not correct to state that “Accordingly, all references to “Total” or to “Total E&P Uganda,” in the context of its Ugandan operations, should be understood to refer to the same entity, as the France-based Corporation is entirely responsible for the activities of its subsidiary”.

##### *French Vigilance Law*

With respect to the reports references to the French Vigilance Law, this Law requires large French companies to establish and effectively implement an internal vigilance plan (hereafter “Vigilance Plan”), with reasonable measures to identify and prevent risks that can have serious impacts on human rights and the environment resulting from its activities, those of the companies it controls, and those of subcontractors and suppliers with whom it has an established business relationship. The Vigilance Plan and a report of its implementation must be included in companies’ annual management report. Total S.E.’s Vigilance Plan is updated on a yearly basis, most recently in its 2019 Annual Report dated 20 March 2020. Its implementing report for 2019 includes a section dedicated to the implementation of the plan in the EACOP and Tilenga Projects.

#### **2 The Lake Albert Oil Extraction Project**

##### **2.2 Companies involved**

The description of Total does not fully reflect the reality of the commitment and resources that Total and its subsidiaries devoted to Human Rights.

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As early as 2002 Total adhered to the United Nations Global Compact. In 2012, it became an official member of the Voluntary Principles on Security and Human Rights Initiative, which promotes guiding principles from companies on providing operational security while respecting Human Rights. As from 2011, Total committed to the United Nations Guiding Principles on Business and Human Rights (UNGPs). Also in 2011, the first Total Human Rights guide was published, and this has since been regularly updated. Total is also a member of the multi stakeholders “Extractive Industries Transparency Initiative (EITI)” aiming to promote the transparent and responsible management of natural resources. More details of Total’s approach to Human Rights and fundamental freedoms can be found on our website.

It is particularly disappointing to note the report’s reference to the controversy in Myanmar which relates to allegations of forced labour during the construction some 25 years ago of a major gas pipeline jointly owned by Total and the state-owned oil and gas company. In 2008 the case against Total for alleged violations in Myanmar was definitively dismissed by the Belgian *Cour de Cassation*, ending the proceedings. Today, Total is a key player in local development in Myanmar. It has an extensive social policy for its employees as well as a far-reaching societal program targeting education, public health, local job creation, micro-finance and access to energy. A report conducted by independent NGO CDA following field visits in Myanmar is publicly available. The World Economic Forum has also recognized Total for its “responsible investment in fragile contexts” in a study published in May 2016<sup>6</sup>.

#### **2.4 Legal Actions Initiated Against the Project**

Total S.E. and its subsidiaries in Uganda are committed to respecting the rule of law in all countries in which they are present, and this is a key tenant of the Group’s Code of Conduct.

##### **GPFG & AFIEGO vs. NEMA & PAU**

In relation to the legal action on Tilenga’s Environmental and Social Impact Assessment (ESIA) in Uganda, two applications for Judicial Review were filed in the Civil Division of the High Court at Kampala on 15 May 2019 by Guild Presidents’ Forum on Governance and Africa Institute for Energy Governance (AFIEGO) respectively, against Petroleum Authority of Uganda (PAU) and the National Environment Management Authority (NEMA). Total E&P Uganda is not a party to this case.

Total understands that the applications are based on alleged procedural irregularities relating notably to the eligibility of the presiding officer of public hearings.

The application was scheduled for hearing on 20 November 2019, 16 December 2019 and 3 February 2020. On all three occasions it was adjourned, once to allow PAU to file TEPU affidavits and twice because the applicants asked to cross examine a NEMA official on his affidavit, but the official was not present in court. The hearing was scheduled to proceed on 15 April 2020. However, due to the suspension of court hearings as a preventative measure against the spread of COVID-19, the hearing did not proceed. Total understands the next hearing is now scheduled for November 17th, 2020.

##### **Les Amis de la Terre France, the National Association of Professional Environmentalists, AFIEGO & Others vs. Total S.E.**

On October 29, 2019, six NGOs filed two applications against Total S.E. before the *Tribunal Judiciaire* of Nanterre, for interim measures under Article L.226-102-4 of the French Code of Commerce. The underlying contention is two-fold : i) it is argued that Total’s Vigilance Plan fails to comply with the Law insofar as the Plan’s risk mapping and account of preventive measures published in the 2018 Total’s

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management report fail to specifically mention the Tilenga and EACOP Projects; ii) it is alleged that the Tilenga Project resulted in Human Rights violations and that such failings would constitute evidence that Total's Vigilance Plan is not effectively implemented. The NGOs have therefore requested that i) Total SE amends its Vigilance Plan; ii) Total SE orders Total E&P Uganda to effectively implement the principles laid out in the "Land Resettlement and Acquisition Framework" concluded with the Ugandan government.

Following the hearing that took place on December 12, 2019, the Nanterre *Tribunal Judiciaire* declined jurisdiction in favour of the commercial tribunal of Nanterre. The NGOs have appealed this decision. The next hearing is scheduled for October 28, 2020.

Total categorically objects to the allegation that the Duty of Vigilance Law has been breached. The risk mapping set out the Vigilance Plan has been conducted in accordance with the principles of both the OECD and the UN Guiding Principles Reporting Framework in relation to reporting on Human Rights risks. The Law does not require a detailed project by project risk mapping to be published; such a level of detail would require companies to publish a Vigilance Plan several thousand pages long which would manifestly be in contradiction with the spirit of the law.

Total S.E. has ensured that its subsidiaries implement the Vigilance Plan in a diligent manner notably through the adoption of rules, principles and internal process including internal audit. It is in application of these internal rules that Total E&P Uganda concluded the "Land Acquisition and Resettlement Framework" (LARF) with the Ugandan Government thereby ensuring that the project meets the highest international standards for the protection of Human Rights.

### **3.1 Human Rights Defenders: Violence, harassment and impunity in the Albertine Region.**

The report makes serious allegations in relation to Total's conduct, which Total wishes to strongly refute.

On December 26, 2019, Friends of the Earth France, Survie and the Observatory for the Protection of Human Rights Defenders published a press release reporting on alleged acts of intimidation and threatening behavior by "men unknown" which occurred on December 23 and 24, 2019 with regard to one of two Ugandan nationals who travelled to Paris with the aim of testifying at the hearing of the Nanterre *Tribunal Judiciaire* on December 12, 2019 in the *Les Amis de la Terre France, the National Association of Professional Environmentalists, AFIEGO & Others vs. Total S.A* case. The statement also suggested that a Total E&P Uganda employee had spread false information to local communities about one of the two witnesses, claiming that he had lied during his testimony in France.

Total E&P Uganda categorically states that it has played no part in acts of intimidation and threats. Following the press reports internal enquiries were immediately made and it was confirmed that neither Total E&P Uganda staff nor its contractors were active on project activities in Kampala or in the Tilenga project area between December 23, 2019 and January 2, 2020. Total regrets the false allegations of inappropriate behavior on the part of Total E&P Uganda employees which seriously damages their reputation and potentially puts them in serious danger. In particular, Total E&P Uganda is extremely concerned about the false accusations made against its Community Liaison Officer who was publicly named by the NGO Survie's December 26, 2019 press release. Not only do these unsubstantiated accusations pose a serious threat to his safety, but they undermine and jeopardize the important role played by CLOs in ensuring dialogue with local communities.

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More generally, Total does not tolerate or contribute to attacks, physical or legal threats, against those who safely and lawfully exercise their human right to freedom of expression, peaceful protest or assembly, including where they are acting as human rights defenders.

### **3.2 The right to land**

#### *Land Acquisition Process Generally*

Total E&P Uganda has taken considerable care to apply international best practice with respect to land issues and resettlement of people. Numerous impact studies have been conducted including but not limited to:

- Social and Health Baseline Study,
- Environmental and Social Impact Assessment (ESIA)<sup>7</sup>,
- Industrial Baseline Survey,
- Lake Albert Regional Social - Economic Baseline Assessment,
- Agricultural Value Chain Analysis in Buliisa, Market and Asset Valuation Assessment (MAVA),
- Resettlement Impact Scoping,
- Practical Guide to Resettlement Planning and Implementation.

#### *Resettlement Action Plan (RAP).*

A Land Acquisition and Resettlement Framework (LARF)<sup>8</sup> was entered into in November 2016 between the “Joint-Venture Partners” and the Ugandan government to set out the principles for land acquisition and resettlement of local communities affected by the Tilenga project. The document implemented IFC standards which is more protective of the rights of resettled people than Ugandan law.

Specific commitments include:

- i) considering feasible alternative project designs to avoid and minimize physical and economic displacement while balancing environmental, social, and financial costs and benefits, paying particular attention to impacts on the poor and vulnerable,
- ii) when displacement cannot be avoided, providing displaced communities compensation including where appropriate land for land compensation
- iii) engagement with affected communities
- iv) grievance mechanism
- v) resettlement and livelihood restoration planning and implementation.

These standards are detailed in the Resettlement Actions Plans (RAP) which constitute the framework of the resettlement process. A contractor Atacama was appointed by Total to implement the process.

Detailed socio-economic studies were done using information from surveys carried out with households on their current livelihoods, potential impacts on livelihood and recommendations on programs to be undertaken. Consultations involved whole households and formed the basis for monitoring and evaluation of the programs which is now ongoing from household to household.

The land acquisition and resettlement process was conducted by Atacama under the supervision of Total E&P Uganda and its Partners. Total E&P Uganda, its partners and the Ugandan government committed in the Land Acquisition and Resettlement Framework (LARF) to offer compensation for loss of assets at full replacement cost and other assistance to help affected person improve or restore their standards of living or livelihoods. A resettlement plan and a livelihood restoration program have been into place offering

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inter alia training courses to affected communities. The measures during the first phase of the resettlement plan were accounted for in the Resettlement Action Plan (RAP) 1 Report which was submitted to the Ugandan government for approval and published on Total E&P Uganda's website<sup>11</sup>.

The Tilenga Project is continuously monitored by way of regular reporting<sup>9</sup> from Atacama as well as internal and external audits of ground operations in order to ensure compliance with the LARF, IFC and international Human Rights standards.

Total notes that the FIDH report is both out of date and factually incorrect on a number of points. Examples include:

- Reference to outdated guidelines for compensation and assessment for land acquisition which have since been replaced
- Inaccurate descriptions of rates applicable for compensation, for example the compensation rates do take into account the maturity of plants (tree, crops).

#### *Land Acquisition Agreements*

With respect specifically to land acquisition agreements, these have been signed by affected persons (PAPs)<sup>12</sup>, their spouses, and a translator to confirm that the PAP understood what was being signed. Signatures took place in the presence of representatives of local community members in order to ensure true consent. Affected persons who objected to the valuation of compensation were given the opportunity to lodge a grievance and were given a copy of the grievance forms. Audits conducted by experts have not revealed any violations of Total's Code of conduct in the land acquisition and resettlement process.

#### *Access to information*

The report does not reflect the numerous actions undertaken to ensure dialogue with stakeholders of the Projects. As regards the Tilenga Project, dialogue with affected stakeholders including affected communities started in 2015 as part of the Economic and Social Impact Assessment (ESIA). In 2015, over 900 stakeholders participated in consultations at district, sub-county and community levels. During the project design process comments were logged in a register for feedback. Concerns regarding employment were addressed with a ballot system to select unskilled workers, and educational programs were set up. Between November and December 2016, 51 focus group discussions were held throughout villages for the ESIA. In January 2018, the preliminary findings of the ESIA were presented during village meetings with affected communities who provided comments. In total, 10,000 people were consulted to produce the ESIA. Before its approval, the Ugandan National Environment Management Authority (NEMA) conducted public hearings on the ESIA in November 2018.

Continuous dialogue with stakeholders is enshrined in the LARF and the Tilenga Stakeholder Engagement Plan which sets out key principles for consultations of affected communities. A specific Stakeholder Engagement Plan for the resettlement process was also implemented. Consultation of affected communities took place by way of village meetings, focus group discussions, posters in public places, information leaflets, Q&A sheets, radio and surveys. Project affected persons, communities, civil society, local and central government were all concerned. Targeted efforts were made for vulnerable groups, and feedback was recorded and integrated into plans for project implementation. A detailed account of the stakeholders' engagement actions can be found in RAP 1 Report.

### *Inadequate Redress and its impacts on adequate standard of living*

Where it is necessary to physically displace households, the affected persons may opt for in kind compensation, in which case their main residence is rebuilt. In phase 1 (RAP 1) this concerned around 30 units (houses). In such cases, particular attention is paid to the choice of land on which the new residence will be constructed.

As part of livelihood restoration programs implemented by Total E&P Uganda, it is also important to refer to the construction of the Avogera Health Center in the sub-county of Ngwedo which contributes to the improvement of the network of community health centers in the region,

In addition, affected persons are monitored regularly to ensure that they have access to a standard of living at least equivalent to that which they had initially. On a sample of 223 affected persons, it was observed that: security of title deeds has been increased; the rate of access to health centers managed by the State decreased from 97.3% to 94.2% but increased from 1.7% to 37.2% for access to hospitals and private clinics; the number of children enrolled in secondary education increased from 10.8% to 20.4% and those in academia from 0.2% to 4.2%.

### **Gender Discrimination**

The Tilenga project has a specific Gender Management Framework which notably aims to address mitigation of gender related physical and economic displacement impacts. Measures taken include gender specific meetings and topics, gender mainstreaming in the contract's requirements, considerations with respect to resettlement and livelihood restorations such as seeking spousal consent for sale of land and compensation payments.

In relation in particular to land agreements, not only is spousal consent sought, but there are also clear provisions in the forms related to payment such as, the Land Survey Form, the property valuation assessment form, the Land Owner Verification and identity, the notice to hand over vacant possession, the socio economic household survey, and the Acknowledgement of Receipt of Payment of approved compensation.

### **Grievance Mechanisms**

A concerns and grievance mechanism was set up and communicated to all stakeholders at an early stage in the resettlement process. Concerns and grievances can be filed by numerous avenues including email, toll free number, postal address, suggestion boxes available in villages, submission during resettlement committees' meetings, grievance form with CLO. All concerns and grievances are logged in a database.

The procedure implemented within TEPU identifies and handles complaints in a very operational manner, to ensure its compliance with the "efficiency criteria" set forth in the United Nations Guidelines. It applies in various areas (land, economic loss, employment, social behavior and cultural heritage of the communities, environment and health, safety, security, logistics and transport).

The resolution of a grievance is a 4-step process. Grievances are received, acknowledged and registered within 24 hours. A response is given when available to close the grievance at the first level. When the resolution proposed to the complainant is not accepted at the first level, it is escalated to levels 2 (escalation of grievance for further investigation if level 1 solution is not accepted), 3 (solution requiring

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the intervention of a third party) and 4 (in the absence of the close out at level 3, potential escalation of the grievance to judicial system). The resolution process involves third parties such as members of the Resettlement Planning Committee (RPC) and District Resettlement Committee (DIRCO). If no solution is found through dialogue, the grievance may be brought before the Ugandan courts.

In order to improve the effectiveness of the grievance mechanism, Total E&P Uganda has also set up a monthly societal reporting system in its entities, in addition with key performance indicators (KPIs) to monitor the implementation and management of these mechanisms.

On the basis of the reporting document:

Within the framework of the first resettlement action plan (RAP1, TILenga project), Total E&P Uganda collected 170 complaints between January 15, 2018 and end of 2019. 82% of these complaints were fully processed within an average period of three months. 87% of the complaints transmitted through the grievance mechanism under RAP1 were resolved at either level 1 or level 2.

The grievance mechanisms did not receive any complaints related to pressure on persons affected by the project to accept compensation. The majority of complaints relate to challenges to compensation rates and asset valuation by people affected by the project.

In December 2019, only one complaint on the qualification of residences under RAP1 forwarded by the Chairman of the Resettlement Planning Committee (RPC) was not resolved and it was transferred to a compulsory land acquisition case.

### **3.3 The right to an adequate standard of living**

Total has committed to following IFC Performance Standard 5 to improve or restore the livelihoods and standards of displaced persons. The principle sets out the main objective which is to improve, or restore, the livelihoods and standards of living of displaced persons.<sup>15</sup>

Total finds it unfortunate that the quality of work done in this regard is not recognised in the report.

A number of factual errors should be corrected:

*Transitional support* Contrary to the impression given in the report, transitional support is not a Livelihood Restoration initiative but an interim intervention. Following consultations during the planning phase of the Tilenga project the key agricultural based livelihood restoration programs introduced were: enhanced Cassava variety with 100 beneficiaries so far, 42 vegetable garden established, beekeeping programs which have enabled 10 farmers to harvest 61 litres of honey so far and it is learnings from these success rates that the remaining and pending programs are to be adopted.

*Households* The report also gives the impression that there was a requirement to undertake livelihood programs at community level. This is not the case, the focus of such programs is on individual households. Households are monitored closely to make sure that livelihoods are appropriately restored or are improved. The only households where the programs have not been deployed are the 30 primary residents on the land which has been acquired through the RAP 1 process and who opted for in-kind compensation for their houses (replacement house). These replacement houses are still under construction by Total E&P Uganda's contractor. Subject to the completion of the construction by the contractor and certification of these houses by local authorities (District), the objective is to enable the

primary residents to move into their new houses in the course of September or October 2020. The livelihood restoration measures will be deployed when the residents will move into the new houses.

*Community Approach* The Tilenga Social Management Plans cover the community approach as well as the notions of group and collective interventions to ensure access and right to services. Contrary to livelihood restoration measures which focus on specific households with an individual approach, the Social Management Plans is based on a “community approach” for example, working with groups of farmers, groups of women or groups of youths.

*Land for Relocation in Kigwera and Kisamere* The report suggests that land relocation and compensation given to the communities has been insufficient and that the population has been misinformed in this regard. This perception does not equate to Total’s understanding, considerable efforts were made to ensure that affected people were adequately informed during the entire process in line with Total E&P Uganda’s stakeholder engagement plan. It is also inaccurate to suggest that Total’s choice of replacement land for affected peoples was governed by economic concerns. Indeed, the alternative land was a further distance and therefore would have created additional different social concerns.

*Damage to House* Total E&P Uganda is concerned by the reference in the report to alleged damage to a house located in Kisomere, Ngwedo Subcounty, Buliisa which, it is suggested were caused by heavy explosions related to the project. In 2017 & 2018, Total E&P Uganda conducted some geotechnical and geophysical surveys in the Tilenga area to finalize the design of the facilities, however Total can confirm that no explosives were used.

### **3.3.3 Conclusion: allocation of responsibility**

The report amalgamates responsibility for various alleged violations of the rights to an adequate standard of living by the State, and “Joint Venture partners”. No distinction is made between activities carried out by the Government and those carried out under the responsibility of each of the Projects concerned. This amalgamation is incorrect and confusing, as it leads to insinuations that Total may have taken part in human rights violations, which Total strongly denies and which is not substantiated.

### **3.4 The rights to a healthy environment, water and health**

The report suggests that impacts on the health of community members have occurred as a result of decrease in air quality, limitations to clean drinking water and transformation of physical and ecological environment. This is not the case.

An Environmental and Social Impact Assessment <sup>46</sup>has been conducted in relation to the Tilenga Project. The Tilenga ESIA report has been prepared in accordance with national regulations (National Environment Act Cap 153 and Environmental Impact Assessment Regulations, 1998), following discussions with the key Ugandan Regulators including NEMA and Ministry of Energy and Mineral Development. In addition, in relation to environmental and social performance, Total E&P Uganda is committed to meeting best international practice (IFC Performance Standards).

This ESIA report has been elaborated by independent National Environment Management Authority (NEMA) registered Environmental Practitioners from AECOM Uganda Limited (AECOM) and Eco & Partner Consult, based on numerous studies.

Similarly, an ESIA has been carried out for the EACOP Project in consultation with relevant authorities and stakeholders. It has been approved by the Tanzanian National Environmental Management Council (NEMC). In Uganda, the EACOP ESIA is currently under review by the NEMA after an extensive public disclosure, hearing and engagement process across all the host districts. NEMA mandated an independent review by the internationally recognized Netherlands Commission for Environmental Assessment (NCEA). NCEA experts emphasized the quality of the study. They also highlighted a number of matters on which additional information should be included. As a result, the ESIA was updated to include:

- clarification of non-technical summary to facilitate understanding by decision-makers;
- detailed emissions and analysis including proposed mitigation measures;
- integration of the Environmental and Social Management Plan (ESMP);
- specific details of management of water resources;
- a detailed analysis of potential impacts on biodiversity including proposed mitigation measures and project commitments to ensure net positive gain compared to initial conditions.

This information together with comments raised by other key stakeholders throughout the review process have been incorporated into the revised ESIA report which was submitted in February 2019 for further consideration. This process is entirely aligned with the requirements set out in the relevant regulations.

*Air pollution* Contrary to the suggestion in the report, there is no planned well testing associated with the Tilenga Project drilling campaign.

*Flaring* There will be no routine flaring, any flaring from operational facilities will be limited to non-routing or emergency.

*Emissions* The design of combustion facilities (power generation and flaring) complies with applicable Emission Limit Values as well as the Air Quality Standards for key pollutants as defined within IFC Environment, Health and Safety Guidelines as well as draft national legislative requirements.

*Noise* Noise modelling undertaken for the basic engineering design established that the noise limits are respected at the central processing facility as per IFC Guidelines.

*Dust control* A number of mitigation measures are outlined in the ESIA. An Emissions and Dust Control Management Plan (EDCP) includes detailed information on measures for the control of emissions and dust that will be adopted throughout each phase of execution (enabling infrastructure, construction, operations and decommissioning).

*Landscape Management* A Landscape Management Plan sets out the mitigation measures to ensure that visual impacts from the facilities are minimized. Further studies will be undertaken during detailed engineering to define the detailed requirements.

*Health* The report quotes statements from health professionals that “*the hospital records showed an increasing number of miscarriages from 6 in 2014 to 145 in 2019. The hospital also documented an increase in the amount of respiratory diseases in Buliisa, from 2188 cases in 2014 to 4401 in 2019*”. Total refutes the suggestion that exploration oil and gas activity has had deleterious health impacts of this nature on the community. Such allegations are unsubstantiated in fact. Moreover, no exploration operations (seismic data acquisition and/or drilling) have been conducted in the area since 2014.

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*Groundwater* A borehole drilling and pump testing campaign was carried out in 2018 for the project area. A Water Abstraction Feasibility study which is currently ongoing to consolidate existing information on the groundwater aquifer, update the existing water balance data for the area (taking into account other water users including communities) and to define the water abstraction methodology for the project. Preliminary findings suggest that there is sufficient groundwater available for the Tilenga Project development without causing stress on the aquifer and environment.

*Surface Water* With respect to the impact of lake water abstraction activities on the volume of water in Lake Albert, anticipated volumes of water to be abstracted is likely to have a negligible impact on Lake Albert and the ecosystem it sustains.

*Fisheries* A Cumulative Impact Assessment (CIA) has been conducted and has identified Lake Albert fisheries as a valued environmental and social component (VEC) in accordance with the definition outlined in the IFC. This shows that stressors on Lake Albert capture fisheries are attributed to the potential for overfishing in Lake Albert from project induced in-migration and population growth. This will be addressed through the Influx management strategy, Community Environmental Conservation Plan and the Biodiversity and Ecosystem Services Action Plan.

*Protected areas and sacred natural sites (wetlands, biodiversity) and displacement of animals from their natural habitats* Total fully recognizes the sensitive nature of the Murchison Falls National Park (MFNP) and the Murchison Falls-Albert Delta Ramsar site and is committed to applying international best practices (in accordance with IFC Performance Standards) in addition to national regulations to manage impacts to biodiversity and ecosystem services.

Not only is Total committed to ensuring that project activities are undertaken in accordance with the internationally recognized mitigation hierarchy of avoiding, minimizing, restoring and offsetting residual impacts, but clear commitments have been made to achieve a biodiversity net gain compared to initial conditions.

#### *Climate and Greenhouse Gases*

Total has set an ambition to achieve carbon neutrality across the entire value chain globally, from production to final use of the products Total sell to our customers (scopes 1, 2 and 3). As part of this ambition, Total has notably committed to achieving carbon neutrality in Europe<sup>26</sup>, in line with the objectives set by the European Union's Green Deal. The Group will make the same commitment, together with society, in regions that adopt similar objectives to those in Europe in the future. It is, in any event, Total's ambition to reduce by 60% or more the average carbon intensity of energy products used worldwide by its customers by 2050.

The Tilenga project has been designed to minimize operational greenhouse gas emissions and flaring will be minimized in line with the Global Flaring Reduction Initiative. Other such design measures include technology, such as nitrogen purge on flare stacks, vapor recovery on tanks and vessels as well as utilizing all produced gas to generate electricity to power the main facilities as well as the EACOP pipeline in Uganda. This ensures that GHG emission sources are kept to a minimum.

Additional detail on our climate ambition, which was enhanced and updated on 5 May 2020, can be found in the latest edition of our Climate report.

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