ANNEXURE: Q & A

What are the conditions on which the loan was granted and has Eskom breached any of those conditions? If so, what are the consequences of that breach?

Response: In the Loan Agreement, Eskom (as Borrower) undertook to:

a) *Implement and operate the Project in accordance with the provisions of the agreed construction and operation Environmental and Social Management Plan/Environmental Management Plan (ESMPs/EMPs), <u>in compliance with the national system</u>;*

b) *Provide to the Bank, the Air quality permit granted by the Department of Environmental Affairs (DEA);*

c) *Submit to the Bank the Borrower's strategic endorsement and timing on Flue Gas Desulphurization (FGD) retrofit;*

d) *Submit to the Bank the water permit from the Department of Water Affairs (DWA) for Mokolo Dam phase one and the integrated water permit for Crocodile water transfer scheme; and*

e) *Provide to the Bank evidence of adequately compensating the affected people residing in the servitude of the phase one transmission line".*

Eskom was required in accordance with the Loan Agreement conditions and undertakings, to ensure the implementation of Environmental and Social Management Plan (ESMP) developed to address adverse impacts, while monitoring the project impacts and results. Eskom complied and continues to comply with all the undertakings as prescribed in the Loan Agreement, including compliance with the ESMP prepared in accordance with the applicable national system in South Africa.

What are the duties of the AfDB's Board of Directors in relation to any failure by the AfDB to ensure compliance by Eskom with the AfDB's policies?

Response: In line with its powers set out in Article 32 of the Agreement establishing the Bank, the Board of Directors provides oversight and strategic direction concerning the conduct of the Bank's general operations, including approval of policies, approval of direct loans, and supervision of implementation of Bank financed Projects. IRM Monitoring Reports are approved by the Board of Directors. The Board has broad discretion to direct that appropriate remedial action be taken by management, to ensure successful implementation of Projects in compliance with applicable Bank Policies, and attainment of the desired development impact. In addition, the Board of Director oversees the work of the Office of the Auditor General, Integrity and Anti-Corruption, Operations Evaluation, Compliance Review and Mediation Unit and Administrative Tribunal to ensure corporate restraint and responsibility.

Do you think that the IRM monitoring process has been effective in holding Eskom accountable for delays in implementing the project's Management Action Plan and assessing any non-compliance with the AfDB's policies?

Response: The IRM in its Fourth Monitoring Report of June 2020 concluded that 12 of the 14 Action Plan items had been completed, leaving only two pending actions requiring compliance. This attests to IRM effectiveness in ensuring implementation of the project's Management Action Plan. It should be noted that the IRM does not have the mandate to hold Eskom accountable for delays in implementing the Bank's Management Action Plan. It is the Bank Management that should hold Eskom accountable for the delays, and this was done through supervision missions (often with other co-financiers). Bank Management will continue to collaborate with IRM to address the two remaining items.

What other steps, if any, will the AfDB take in order to hold Eskom accountable for delays in implementation or for non-compliance with the AfDB's policies?

Response: It should be noted that waiver/postponement of compliance with SO2 MES is done by relevant authorities in line with the law applicable in South Africa. While the analysis and statistics of other jurisdictions like China, India, Europe and/or USA is good for benchmarking and informing government policy, the relevant indicators in terms of ESKOM's compliance under the Bank financed Medupi Project are those provided under the law in South Africa, which allows waiver/postponement of compliance. Where a waiver/postponement has been granted by the relevant authorities like in this case, ESKOM is regarded as complying until the period allowed lapses *(the current deadline is 31st March 2025)*. The Bank is continuing to engage in dialogue with Eskom concerning the installation of SO2 abatement technology by 31 March 2025. If this is not done, Medupi Power Plant will not comply with the 1,000mg/Nm3 minimum SO2 emissions limit. The Bank continues to encourage Eskom to investigate other options including technical alternatives (i.e., the remedial and contingency plans referred to in your letter) for ensuring compliance with regulations from 1 April 2025 until SO2 abatement technology is installed and operational. The decision to investigate other technical alternatives to wet-FGD technology, which was initially deemed to be the only technology capable of reducing SO2 emissions to the original minimum emissions limit of 500mg/Nm3 was made after the minimum emissions limit in the standards was increased to 1,000mg/Nm3. Eskom's strategy includes: (i) application for the postponement of the compliance timeframes from 1 April 2025 to 2030. This was not granted but Eskom is appealing the decision; (ii) technology agnostic Engineering Procurement Contract (EPC) procurement strategy for SO2 abatement technology that could be implemented quicker; and (iii) Coal Sulphur reduction research project. Notwithstanding the fact that the Bank no longer finances new coal-based investments, the Bank will consider financing the installation of Medupi FGD retrofit in order to mitigate subsisting environmental and social obligations in operations to which the Bank is/was a lender.

What does the "remedial and contingency plan" prepared by Eskom entail, and would there be any consideration of compensation to communities for negative health impacts in this plan, given the concerns that the IRM has shown regarding public health?

Response: The remedial and contingency plan was in reference to other technical or non-technical options or alternatives that will ensure that the Medupi Power Project remains compliant to minimum national emissions standards up to and beyond 31 March 2025. The Bank is not aware of any compensation plans.

What effect, if any, does the NAQO's latest decision on Eskom's application for postponement have on the monitoring process by the AfDB? Will the suspension of the monitoring be lifted?

Response: The IRM decided to suspend monitoring the two pending action items until 2026 because Eskom indicated that the activities relating to the two actions would be implemented between 2022 and 2026. That is, the retrofitting of the six generating units with FGD systems had been postponed until 2026-2027, and the construction of the Mokolo-Crocodile Water Augmentation Project Phase 2A (MCWAP-2A) was scheduled to begin in March 2022 and to deliver water to Medupi Project by October 2026. As such, the IRM (which makes decisions independent of Bank management) decided it would be unproductive for IRM to continue to monitor a situation which was not likely to change until 2026. As such, the decision by the National Air Quality Officer not to approve Eskom's application to have the compliance timeframes postponed from 1 April 2025 to 1 April 2030 is not the basis of IRM's decision. It should be noted that IRM's monitoring mandate focuses on monitoring implementation of AfDB's management action plan and does not extend to monitoring Eskom's on-going compliance with national laws or regulations.

Does the AfDB regard its financing of the Medupi project as meeting the broader objectives of the Bank, in the context of the urgent need for financial institutions to divest from fossil fuels in order to avoid climate related financial and other risks, as well as given the AfDB's view regarding the project's limited financial benefit?

Response: The broader objective of the Bank is to contribute to sustainable economic development and social progress of its member countries in Africa, individually and jointly, in line with the provisions of Articles 1 and 2 of the Agreement establishing the Bank. At approval of the Medupi Power Station financing in November 2009, and way ahead of the Paris Agreement in December 2015, the priority of the South African Government was to catapult the country into a higher and sustainable growth trajectory by 2014. However, the electricity supply and related infrastructure bottlenecks, during the time, posed significant constraints to private investment in the mining and manufacturing sectors. For example, in January 2008, the unprecedented South Africa power crisis led to the world's three largest gold mining companies and two biggest platinum mining companies (which together accounted for more than half the global platinum supply), to shut down and cease production for five days. The losses during the closure were estimated at ZAR200 million per day. The design of Medupi Power Station was based on supercritical technology, which is allowed for financing under the 2015 Paris Agreement due to very high efficiencies compared to subcritical coal fired plants, which comprise the majority of Eskom's power generation fleet. The significant implementation delays, cost overruns, and non-cost reflective tariffs, have negatively impacted the Medupi Power Project's financial viability but economically, the project is still highly beneficial to the country by enhancing security of supplies. The Project was approved under the Bank's Energy Sector Policy (2012), which was forward looking in its emphasis on energy for all and promotion of cleaner energy technologies – a good foundation for the initial years of Africa's energy transition. However, there have since been several important developments in the energy sector that influence the Bank's current approach in the development of the African energy sector. These include the Paris Agreement and the increasing cost competitiveness of solar and wind energy along with emerging developments in energy storage technology. The Bank has not financed a new coal operation project since 2009 and through the Energy Sector Policy Addendum of October 2021, the Bank will no longer finance new coal projects. However, the Bank will support Regional Member Countries dependent on coal for energy production, in developing just energy transition plans, and in financing operations that mitigate subsisting environmental and social obligations in operating projects to which the Bank is/was a lender. The Bank will therefore consider financing the Medupi Project FGD retrofit in the future. In addition, the Bank is providing support to the South African Government to implement its Just Energy Transition Plan (JETP).

The role of AfDB in ensuring proper, ongoing, and rigorous oversight and monitoring of the installation of the FGD technology for which a massive amount of financing by all the banks has been provided. It is urgent that we understand how your banks plan to take responsibility for ensuring that Eskom complies with terms of the Medupi project which the AfDB has financed.

Response: This has been addressed in response to questions No. 4 and 6 above. Appropriate conditions and undertakings concerning the Bank's financing, oversight, and monitoring of the installation of FGD technology will be presented after ESKOM's preferred approach has been fully evaluated. These will include updated conditions concerning compliance with environmental and social safeguards in line with the Bank's Integrated Safeguards System (ISS) and the applicable laws of the Republic of South Africa, and conditions concerning streamlining and enhancing of implementation arrangements, and resolution of any outstanding issues which have arisen since the initial Loan Agreement was signed on 11th December 2009.