

**INDEPENDENT REVIEW MECHANISM
COMPLIANCE REVIEW AND MEDIATION UNIT**

PROBLEM SOLVING REPORT

Request No.: RQ2011/01

**Request for Problem Solving
Project: Dakar-Diamniadio Highway Project**

Senegal

November 30, 2011

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ACKNOWLEDGEMENTS

CRMU would like to express its gratitude for the support it has received from the Requestors, l'Agence Nationale de Promotion de l'Investissement des Grands Travaux (APIX), Lead Afrique Francophone, the Management of the African Development Bank, and the Bank' Regional Office in Senegal. The technical assistance provided by these parties has immensely facilitated the assessment of the request about the Dakar-Diamniadio Highway project in Senegal, and the handling of the complaint through a problem-solving exercise which is the subject matter of this report.

ACRONYMS

ADB	African Development Bank Group
APIX	l'Agence Nationale de Promotion de l'Investissement des Grands Travaux
CRMU	Compliance Review and Mediation Unit
ESIA	Environmental and Social Impact Assessment
IRM	Independent Review Mechanism
SNFO	Bank's Regional office in Senegal

EXECUTIVE SUMMARY

The Compliance Review and Mediation Unit (CRMU) received two requests, on 15 June, 2011 and 22 June, 2011 respectively, regarding the Dakar-Diamniadio Highway Project in Senegal. The first request was submitted by Mr. Mamadou Mbaye, the principal of the Francophone Arab School Imam Moussa Mbaye C.A. Guinaw Rails Sud, Senegal also representing the staff of the school and the parents of the students. The second request was submitted by Mr. Mohamed Aïdara, the president of the Affected Tenants Association (CLAP) in Guinaw-Rails Sud, Senegal.

CRMU decided to combine the two complaints and treat them as one Request since they relate to the same project, raise similar resettlement and compensation issues and ask for problem-solving. In deference to the demand of the requestors, CRMU registered the request, on 22 July, 2011, for problem solving.

The project's total cost is estimated at UA 335.60 million. The Board of Directors of the African Development Bank Group (AfDB) approved respectively on 15 July, 2009¹ and 19 July, 2010,² through its public and private sector lending windows, two loans of UA 45 million and 12 million euro for financing the Dakar-Diamniadio Highway Project. L'Agence Nationale de Promotion de l'Investissement des Grands Travaux (APIX) is the project executing agency.

The appraisal report provides that the project will contribute to: the improvement in the overall operation of the transport system; strengthening regional integration; creating a rapid link between the heart of Dakar and Diamniadio; improving the living conditions of project affected people; and the negative impacts of the existing refuse tip at Mbeubeuss on the air and groundwater will be eliminated.³

Due to its potential negative impact, the project is classified as category 1 which requires a full scale social and environmental impact assessment (ESIA). The major negative impacts mentioned by the appraisal report *inter alia* include: displacement of families and commercial activities; nuisances during the works phase; and environmental impacts related to the crossing of the Mbao classified forest.⁴ The project mitigation measures comprise: cash compensation; the development of the resettlement area; the development of the refuse dump and sanitation network in the floodable area of Pikini Irrégulier Sud (PIS); capacity building in monitoring; and the company will build a noise protection wall, replant green spaces, and improve sanitation and protection of the Mbao classified forest; and most of the people affected by the project will be rehoused in the new resettlement area and the remaining 30% will receive cash compensation, as they have requested.⁵

The Requestors raise several issues indicating the direct harm allegedly inflicted on them by the project. They claim that the relocation of the school will deprive students from primary education and teachers from their income as well as will cause the loss of the social mission of the school.

¹ Resolution of the Board of Directors, N° F/SN 2009/46.

² Resolution of the Board of Directors N° P/SN 2010/19.

³ Appraisal Report of Dakar-Diamniadio Highway, July 2009, p iv and p.14, [hereinafter, "Appraisal Report, 2009"].

⁴ *Ibid.*, p.12.

⁵ *Ibid.*

The affected tenants allege that the allocated compensation is insufficient, and they cannot find affordable housing due to the high market prices compounded to the high demand. The Requestors asked CRMU to intervene to facilitate dialogue with the Bank in order to help them resettle the school and for the tenants to be relocated on equitable basis.⁶ The Director of CRMU reviewed and registered the complaints as one request for problem-solving exercise. In accordance with paragraph 31 of the IRM Rules, the Bank's Management provided its response to the Request to CRMU on 25 August 2011; in addition, to its other subsequent clarifications as requested by CRMU.

CRMU conducted a facilitation mission whereby the requestors, APIX and the Bank met to discuss the complaints on 13 October, 2011 in Senegal. The main outcome of this meeting was that APIX and the complainant tenant association agreed that the requestors benefit from the social support offered by the project, and it will support them to establish their own cooperatives to have access to social housing. However, during this meeting, APIX could not reach an agreement with the principal of the affected school. After several subsequent correspondences intermediated by the Bank Office in Senegal (SNFO), APIX and the principal met and signed an agreement, on November 28, 2011, whereof a compensation will be paid to the requestor to mitigate the problems resulting from the relocation of the school.

Accordingly, the Director of CRMU's findings, decision and recommendations are as follow:

- The Director of CRMU considers the resolution of the two complaints underlined in the request in a timely fashion are largely due to the Bank's follow up with APIX and the parties' commitment towards finding an agreeable solution based on the principle of equitable treatment of the project affected people. However, the Director of CRMU points out the need for the Bank to strengthen the supervision of public consultations and the selection of intermediary players involved in the resettlement process to ensure that the voices of the affected people will not be compromised in the preparations and implementation of the project's resettlement plan. In the case of delegation of monitoring of resettlement issue, the Director also points out the need for the Bank to be fully involved to ensure that the project team takes into consideration the Bank's involuntary resettlement policy and procedures. In the case of this request, the CRMU problem-solving exercise facilitated the constructive dialogue between the parties which resulted in the resolutions of the two complaints.
- The Director of CRMU has confirmed that the requestors are satisfied with the agreements reached upon with APIX. Since APIX remedial actions will be implemented over a period of time, CRMU will monitor the implementation of these agreed upon actions within 12 months.
- The Director of CRMU declares that the problem solving exercise is successful, and the request about Dakar -Diamniadio Highway project is closed.

⁶ Request 1 and Request 2 received by CRMU in June, 2011 and registered by CRMU on 26 July, 2011.

I. INTRODUCTION

The Compliance Review and Mediation Unit (CRMU) received two requests, on 15 June, 2011 and 22 June, 2011 respectively, regarding the Dakar-Diamniadio Highway Project in Senegal. The first request was submitted by Mr. Mamadou Mbaye, the principal of the Francophone Arab School Imam Moussa Mbaye C.A. Guinaw Rails Sud, Senegal also representing the staff of the school and the parents of the students. The second request is submitted by Mr. Mohamed Aïdara, the president of the Affected Tenants Association (CLAP) in Guinaw-Rails Sud, Senegal.

The Board of Directors of the African Development Bank Group (AfDB) approved, on 15 July, 2009, through its public sector lending window, an ADF loan of UA 45 million for financing the Dakar-Diamniadio Highway Project with respect to the construction of the highway, the development of the resettlement area and other components.⁷ L'Agence Nationale de Promotion de l'Investissement des Grands Travaux (APIX), a public limited company with majority public capital is designated to monitor the implementation of the project. On 19 of July, 2010, the Boards of Directors also approved, through its private sector lending window, an ADB senior loan of 12 million euro and a standby debt facility of 1.5 million euro for the financing of the Dakar Toll Highway Project.⁸ This to complement and support the construction of the 20.4 km section of the Dakar- Diamniadio highway from Pikine to Diamniadio and the tolling and operation of the toll highway from Patte d'Oie to Diamniadio (including the 4.2 km section between Patte d'Oie and Pikine which was constructed under a separate contract). La Société Effage de la Nouvelle Autoroute Concédée (SENAC), an administered limited company in Senegal, will be the beneficiary of the ADB senior loan and responsible for the operation and maintenance of the toll highway.⁹ The project's total cost is estimated at UA 335.60 million. It consists of four components: Component A "highway construction"; Component B development of the "TIVOUEANE Peul Resettlement Site"; Component C "Urban Restructuring of Pikine Irrégulier Sud"; and Component D "management and monitoring of project implementation". The project will be implemented during July 2009 to May 2014. According to the project appraisal report, the length of the Dakar-Diamniadio Highway is about 31.60 km.¹⁰ The Government has financed the Malick Sy-Patte d'Oie-Pikine section (12 km) to be completed by December 2009. For the construction of the last 20.4 km between Pikine and Diamniadio and operation of the 24.6 km toll highway from Patte d'Oie to Diamniadio, the Government initiated a Public Private Partnership (among a private concessionary company, the Government and donors) on the basis of a 30-year concession with the installation of toll stations. The route of the highway runs across irregular, unserviced and flood-prone districts. The appraisal report provides that the project will: (i) restructure these districts, build houses, public utilities and commercial infrastructure over a 165 ha new resettlement area; and (ii) close the uncontrolled refuse tip at Mbeubeuss in the Dakar region after identifying an interim refuse disposal site and conducting studies on the construction of a waste burial centre.¹¹ The appraisal report also mentions that the project will contribute to: (i) improvement in the overall operation of the transport system to support the accelerated growth

⁷ The Board of Directors Resolution 2009, *supra* note 1.

⁸ The Board of Directors Resolution 2010, *supra* note 2.

⁹ Appraisal Report of Dakar Toll Highway Senegal, July 2010, p. 1 [hereinafter, "Appraisal Report 2010"].

¹⁰ Appraisal Report, *supra* note 3, p.iv.

¹¹ Appraisal Report 2010, *supra* note 9, p. 1.

strategy put in place by Senegal; (ii) strengthening regional integration through better competitiveness of Dakar Port and implementation of the sub-regional rules concerning facilitation of transport; (iii) create a rapid link between the heart of Dakar and Diamniadio, which is the gateway to the new economic development pole; and (iv) improve the living conditions of people located near the road as well as others affected by the project.¹²

With respect to the benefits of the project, the appraisal report mentions that the direct beneficiaries will be the transport users of the Dakar region and the inhabitants (300,000) of the Pikine Irrégulier Sud (PIS) district. Moreover, the project will improve the living environment of the inhabitants of PIS by protecting their district from flooding, by facilitating access to transport and security services and by carrying out land regularization. Similarly, the negative impacts of the existing refuse tip at Mbeubeuss on pollution of the air, groundwater and market gardening will be eliminated.¹³

From the environmental standpoint, the appraisal report provides that the project is classified in Category 1 because of its potential direct and indirect negative impacts. Between 2005 and 2007, the environmental and social impact assessment (ESIA) was conducted, and the Resettlement Action Plans (RAP) and Environmental and Social Management Plans (ESMP) were prepared. The major negative impacts of the project mentioned by the appraisal report include: (i) the displacement of 3,350 families and economic and commercial activities to a new fully serviced and built up resettlement area; (ii) nuisances during the works phase; and (iii) environmental impacts related to the crossing of the Mbao classified forest and the possibility of worsening flooding in the marshlands located in some sectors of Thiaroye. The project mitigation measures comprise: (i) cash expropriation compensation; (ii) the development of the resettlement area; (iii) the development of the refuse dump and sanitation network in the floodable area of PIS including the required studies and works for the closure of the Mbeubeuss refuse tip; (iv) the implementation of the ESMP in terms of sensitization and capacity building in monitoring; and (v) under the concessionary company's contract, the company will build a noise protection wall, replant green spaces, and improve sanitation and protection of the Mbao classified forest; and (vii) most of the people affected by the project (3,350 families) will be rehoused in the new resettlement area and the remaining 30% will receive cash compensation, as they have requested.¹⁴

The Requestors raise several issues indicating the direct harm allegedly inflicted on them by the project which are summarized by the following sections.

The first requestor complains that the project will negatively affect the Imam Moussa Mbaye Franco-Arabic School located along the corridor, in Zone 1 in the Mousdalifa 3 neighborhood of Guinaw Rails Sud. The school has eleven (11) staff members, electricity, running water and a water well and pump. Furthermore, the neighboring population holds meetings in the school and the students use it as dormitories at night. According to the request, the school represents a window of opportunity for the children, the teachers, and the population as it provides different educational materials and services (health booklets, training in pedagogy, hygiene and management). The request mentions that owing to the project and the implementation of the RAP,

¹² Appraisal Report 2009, *supra* note 3, p. iv.

¹³ *Ibid.*, p.12.

¹⁴ *Ibid.*

the teachers and the riparian population are about to lose these benefits, and the school has to close its doors forcing regular and free enrolled students to change schools -which is also a challenge since the majority of their parents are poor. The request also states that closing the school will undermine the choice of some parents who desire to have their children attend a local Franco-Arabic school and not solely French education. Furthermore, it provides that the school helps to fight begging among children students. In addition, the staff will lose their jobs and free education for their children hence the project will have negative socio-economic effects on the breadwinning families. For all these reasons, the requestor hopes that the Bank will help them to resettle the school so that it can sustainably continue to ensure its social mission for the local population.¹⁵

The second request was submitted by the president of the association of tenants of houses adversely affected by the project. The request complains about the difficulty encountered by evacuated tenants to find affordable accommodation due to the high prices and demand. It also mentions that the resettlement of parents will deprive their children from benefiting from the continuity of the academic year. It also raises concerns about the insufficient amount allocated to affected small businesses and tenants, the dispersion of social safety networks (in particular supporting people with special needs, the widows and the elders), the high level of insecurity and criminality created by illegal inhabitants of deserted houses, and the difficulty for families who used to live together to rent divided and small houses.¹⁶

Under the IRM Rules, the Director of CRMU combined the two complaints and registered them as one request, on 22 July, 2011, for problem-solving.

II. THE COMPLAINT-HANDLING STEPS

Following the review of the Bank's Management Response to the request and the correspondences with the Requestors and the Bank, CRMU conducted a fact finding mission on 10–14 October, 2011, and facilitated a meeting between the Requestors, APIX and the Bank (the parties), on 13 October, 2011, to find an agreeable solution to the problems complained about.

1. Registration of the Request

Under the IRM Rules, the Director of CRMU assessed and registered, on 22 July, 2011, the Request for problem-solving. In accordance with the IRM Rules, the Bank's Management response to the request was submitted to CRMU on 25 August, 2011 along with subsequent other clarifications made by Management on 23 September, 2011 confirming its willingness to participate in the problem solving exercise.

2. The Request and the Management Response

The full texts of the Request and the Management Response are included in annex 1 and annex 2 of this report. However, it is worth mentioning that the Management Response to the request raised two issues that: APIX and other national authorities are in process of examining the

¹⁵ Request 1, *supra* note 6.

¹⁶ Request 2, *supra* note 6.

resettlement packages for both the complainant school and the relocated tenants, and CRMU should not handle the request until these ongoing processes are finalized. CRMU provided the Management with further elaborations on the independence of the IRM and the process of the preliminary review of requests before their registration.

3. The Problem-Solving Exercise

The key steps of the problem-solving exercise included: CRMU's mission to Senegal on 10–14 October, 2011, CRMU facilitated meeting between the Requestors, APIX and the Bank (the parties) on 13 October, 2011; in addition to CRMU follow up with the Bank to resolve the outstanding issues. These steps are described below.

3.1 CRMU Fact Finding Mission and Facilitation Meeting

CRMU began the problem exercise with conducting a fact finding mission, on 10-14 October, 2011 to Senegal. The mission team met with the requestors, APIX and visited the affected school and houses occupied by the complaining tenants, and separately discussed with the requestors and APIX a ground base for CRMU to facilitate a meeting for the parties to discuss the complaints. The parties agreed and the joint meeting between the Requestors, APIX and the Bank was held on 13 October, 2011 at APIX Public Office in Pikini. The main outcome of this meeting was that APIX and the affected tenants reached an agreement while the principal of the affected school disagreed. At the end of the facilitation meeting, APIX and SNFO agreed to meet again with the principal of the affected Franco-Arab school to find a suitable solution to the school problems due to its relocation.

The below tables consolidate the issues discussed and the outcome of the facilitation meeting of CRMU.

Request 1: Ecole Franco - arabe

Complaints	Requestor demands	APIX commitment	Requestor commitment	ADB follow up	Observations
Relocate the school in suitable area.	Benefit from project support of 16,000.000 Fcfa to construct classrooms and schools amenities.	1. Social support (prepare school plan, facilitate administrative contact and follow up with construction).		The Bank will follow up with APIX	The Bank will inform CRMU of the outcome of the proposed meeting.
Pay the staff for income loss	Since the school will not be operational this year, we demand the project promoter to pay staff for loss of income during October, 2011 – July, 2012.	2. We continue to discuss the possibility of finding a land in our next meeting to be held on Tuesday 18 October, 2011 at the project office in Pikini.	Agreed to attend the proposed meeting on Tuesday 18 October, 2011 at the project office in Pikini.		
Cover charges of students enrolled in affected school.	Once school built, the staff could resume their duties and the student their activities.				
Find partners like those who used to support the school.	We are going to lose our partners who support the school and based in Pikine Guinaw Rail therefore we ask project promoter to help us find other partners.				
Compensate for degradation of school					
Students had transport problem					

Request 2: Tenants Association

Complaints	Requestor demands	APIX commitment	Requestor commitment	ADB follow up	Observations
1. Difficulty to find housing and landlords prefer to rent to unmarried people.	1. Expedite payment for those who have not yet received their compensation.	1. Undertook to pay all outstanding payment by the end of October, 2011.	The representative of complainant tenants accepted this offer.	The Bank will engage with APIX in advocacy of tenants' rights to access land.	The Bank will prepare a report for CRMU on the progress of meeting these commitments.
2. High rent prices.	2. Help tenants to establish cooperative to access social housing.	2. Commit to help tenants to establish their cooperative with support of NGO. APIX support will include: help in accessing documents for establishing the cooperative, facilitate contact with service providers, help to open bank account in the name of cooperative with BHS, and enforce the capacity of cooperative's members.			
3. The compensation allocated to tenants is insufficient.	3. Facilitate tenants to access land in the resettlement area and to access developer to help them build houses to be payable under a long term facilitated plan.	3. Advocate the tenants' rights to access land.			

3.2 CRMU Follow-Up

CRMU has continued to follow up with the Bank to facilitate efforts to find an agreeable solution to the problems raised by principal of the affected school. SNFO informed CRMU that APIX and the Requestors had met as agreed on 18 October, 2011; however, they had not reached any solution. The offers made by APIX in that meeting included social support program and compensation of 1,500.000 FCFA for the disruption of school activities. CRMU corresponded with the requestor, and a third meeting was held on 28 November, 2011, between APIX and the complainant whereby the parties agreed on the following issues:

-APIX accepted to provide social support which will cover the Requestor's demanded aid to the students, provision of educational materials, modification of two rooms into class rooms in the house of the principal of the affected school, preparation of plan to build new classrooms, and supply and fixing of signs in the street to indicate the new location of the school.

-APIX accepted to pay an amount of 3,500,000 FCFA for the disruption of the school year and the school's income losses due to the relocation.

IV. FINDINGS, DECISION AND RECOMMENDATIONS OF DIRECTOR OF CRMU

In light of the agreements concluded by APIX and the Requestors, the Director of CRMU's findings, decision and recommendations are as follow:

- The Director of CRMU considers the resolution of the two complaints underlined in the request in a timely fashion are largely due to the Bank's follow up with APIX and the parties' commitment towards finding an agreeable solution based on the principle of equitable treatment of the project affected people. However, the Director of CRMU points out the need for the Bank to strengthen the supervision of public consultations and the selection of intermediary players involved in the resettlement process to ensure that the voices of the affected people will not be compromised in the preparations and implementation of the project's resettlement plan. In the case of delegation of monitoring of resettlement issue, the Director also points out the need for the Bank to be fully involved to ensure that the project team takes into consideration the Bank's involuntary resettlement policy and procedures. In the case of this request, the CRMU problem-solving exercise facilitated the constructive dialogue between the parties which resulted in the resolutions of the two complaints.
- The Director of CRMU has confirmed that the requestors are satisfied with the agreements reached upon with APIX. Since APIX remedial actions will be implemented over a period of time, CRMU will monitor the implementation of these agreed upon actions within 12 months.
- The Director of CRMU declares that the problem solving exercise is successful, and the request about Dakar -Diamniadio Highway project is closed.

ANNEX 1: THE REQUEST

Mamadou Mbaye

Head Teacher of the Imam Moussa Mbaye Franco-Arabic School

C.A. Guinaw Rails Sud. Reference : 01/8001

Email: m-mbaye@hotmail.fr

Tel: (00221) 76 698 23.23

The Director of the Compliance Review and Mediation Unit (CRMU) of the African Development Bank Group

Subject: Request for Resettlement of the Imam Moussa Mbaye Franco-Arabic School at the site provided for the Project Affected Persons (PAP)

Following the presentation of the Independent Review Mechanism, we, the School Head Teacher and the President of the Parent Teacher Association, wish to forward out request through your good offices.

After reading the document on the IRM, our misgivings since work on the Dakar-Diamnadio Toll Highway was announced, are now real. We are thus hereby forwarding this request owing to the loss suffered.

As a matter of fact, the Toll Highway project, which is the first of its kind in Senegal, aims to address the problem of urban mobility that has always been a major concern of the Senegalese authorities.

Along the corridor, in Zone 1, the Imam Moussa Mbaye Franco-Arabic School, located in the Mousdalifa 3 neighbourhood of Guinaw Rails Sud has been affected and is registered under Reference No. PA 01/8001 in the database.

The School was set up in 1994 and currently accommodates one (1) office and five (5) classrooms for preschool and elementary education with sixty (60) pupils including thirty-five (35) boys and twenty-five (25) girls.

It has eleven (11) staff members, an electric network, running water and a water pump for its well.

In addition to teaching, neighbouring pupils and students use the premises for revisions. Furthermore, the neighbouring population holds meetings in the school and the students use it as dormitories at night. Besides, the School enjoys support from partners, representing a window of opportunity for the children, the teachers, the population and the institution especially by providing health booklets, foodstuffs, tents and mats, water pump, teaching materials, training in pedagogy, hygiene and management. Owing to the highway project, we the teachers and riparian

population are about to lose all these benefits following the implementation of the Resettlement Action Plan (RAP). The school will close its doors, disrupting in the process schooling for pupils who are regularly enrolled and who may be forced to change schools, which is not easy. These pupils will lose their education given that it was free and the majority of parents are poor.

Closing the school will also undermine the choice of some parents who desire to have their children attend a local Franco-Arabic school and not solely French education.

The school helps to fight begging among children students. In addition, the staff will lose their jobs and free education for their children. The situation will have socio-economic consequences for these family breadwinners.

You can understand our concerns that go beyond the pedagogic usefulness of the school to the said community, its social dimension as well as the loss suffered by the community since 2006 when the road rehabilitation and expansion work stopped.

For all these reasons, we hope your Institution will take the inconvenience caused into consideration and help to compensate for our loss by helping to resettle the school so that it can sustainably continue to ensure its social mission for the local population.

We hope this request will be given due attention and favourable consideration.

Attachments:

- Partners' attestations
- List of pupils/students using the premises for revision;
- Situation of the school for the (2009-2010) academic years.
- Photocopy of Head Teacher's professional certificate (CAP)

(Signed)

Head Teacher of the School

Mamadou Moussa

(Signed)

**The President of the Parent/Teacher
Association**

Moyhamed Aïdara

Monday 30 May 2011

Group of Tenants Affected
By the Toll Highway Project (CLAP)
Guinaw-Rails Sud
Tel: 77 605 19 89

[stamped and signed as received by African
Development Bank Senegal Office on
01.06.2011]

To: The Compliance Review and Mediation Unit (CRMU) of the African Development Bank
(ADB) Group

Subject: Request for Assistance in Finding Solutions to Problems

We, tenants affected by the Toll Highway Project (CLAP), hereby submit this request concerning the losses we have suffered as a result of the said project.

The basis of our request is as follows:

I. Losses suffered:

- 1 It is practically impossible to find housing to rent.
2. What we do find is mostly reserved for single persons.
- 3 Rents are doubling owing to the increasing demand.
- 4 Effect on schooling: children are obliged to stop classes as a result of families moving. School programmes are thus interrupted -e.g case of Franco-arabic schools; not enough time to organize transfers and ensure continuity of the school year.
- 5 Inadequate compensation awarded for places of business/shops and stalls).
- 6 Insufficient compensation to tenants (e.g. a tenant who has rented for at least ten years).
- 7 Dispersion of the “*Solidarités intrafamiliales*” (intra-family support systems for the handicapped, widows, the elderly).
- 8 Problems of insecurity posed by houses vacated by owners.
- 9 Difficulty in moving to and from houses cut off or hemmed in by the road structures.

II. Proposed Solutions:

- 1 Hire purchase schemes, e.g., “Plan Jaxaay”.
- 2 10% increase in tenant compensation in some cases.
- 3 Increase in compensation for places of business/shops and stalls or provision of appropriate sites.
- 4 Cases of major increase in tenant compensation (100%); since rent has doubled, advance payment of 2 to 3 months’ rent is required.
- 5 Aid to vulnerable segments (e.g. handicapped, elderly and widows);
- 6 Schooling assistance to maintain children at preferred schools (Franco –Arabic) and cover the cost of transport, school canteens. There are forty- nine (49) children concerned, attending the following schools:

Imam Moussa Mbaye Franco-Arabic School

Jappo Private School
Barack Public School
Thiaroye CEM
Lycée Limamoulaye
Atepa Goudiby Private School
Lycée Clemenceau
Mohammed Habib Tidiani CEM
Pikine No. 11 Public Primary School
A nursery school
Ibou Ndour Private school
Amadou Diatta Private School

- 7 Introducing night rounds or setting up a mobile unit to patrol vacant concessions

Mr. Director, we look forward to a favorable response.

Yours sincerely,

The President on behalf of the Group
[Signed].

Mr. Mohamed Aidara

(Stamp of Group of Tenants Affected by the *Guinaw Rails* Toll Highway)

ANNEX 2
AFRICAN DEVELOPMENT BANK GROUP



GROUPE DE LA BANQUE AFRICAINE DE DEVELOPPEMENT

Management Response to Request for Solutions to Problems Arising from Dakar–Diamniadio Road Project, Senegal

1.1 Project Information

1. The Dakar-Diamniadio Highway Construction Project covers a 32-km stretch of road. The Government of Senegal has completed a first portion of 12 km and envisages the construction of the remaining 20 km under Private-Public Partnership (PPP). The Government plans to transfer the management of about 24 km of the total length to a private operator, on the basis of a 30-year lease and including the installation of toll bridges. The road layout runs through precarious, unserved and flood-prone areas. The project will involve: (i) restructuring these areas, developing a fully serviced resettlement zone including construction of public utilities and commercial facilities over an area of 165 ha; and (ii) closing the Dakar region unregulated refuse tip located at Mbeubeuss, after identifying a temporary dumping site and conducting studies for construction of a technical waste burial site. The Resettlement Action Plan (RAP) sets out the terms of compensation for the 3350 families making up the population affected by the project (PAP).

2. The project is expected to contribute to: (i) improved overall functioning of the transport system in support of the strategy of accelerated growth adopted by Senegal; and (ii) greater regional integration. As part of the Dakar-Bamako-Ouagadougou-Niamey trans-West African highway, the Dakar-Diamniadio road provides access to Dakar Port for purposes of trade with Mali and the other landlocked countries and with Guinea. Specifically, the project will provide a rapid link between the heart of Dakar and Diamniadio, which is the gateway to the new economic development pole, especially with the new Blaise Diagne International airport under construction, and improve living conditions for the local populations and those affected by the project.

3. The project has the following components:

- Component A “Construction of Highway”: construction of a 2x3- lane road between Pikine and Thiaroye (and 2x2 –lane road between Keur Massar and Diamniadio);
- Component B “Clearing of Right-of-way and Development of Tivaouane Peulh Resettlement site”: development of resettlement area (earthworks, parceling, complete servicing, construction of places of worship, social services, wastewater treatment stations and operation consisting in moving people to the site; construction of primary roads connecting this site to the network)
- Component C “Urban Restructuring of Pikine Irregulier Sud (PIS)”: clearing of PIS right-of-way, development of road network and network for drainage and disposal of storm and waste water; establishment of development poles (Camp Thiaroye, marché Waranka)
- Component D “Management and Monitoring of Project Implementation”: Operating costs (staffing, supplies, external services), assistance to delegated contracting agencies – APIX (AGETIP, consulting firm), monitoring-evaluation, accounting, financial and technical audits and sensitization on STD/AIDS, road safety and environmental protection measures.

The total cost of highway construction works based on Private-Public partnership is estimated at UA 328.14 million, of which UA 231.40 million in foreign currency and UA 96.75 million in local currency. **The ADB contribution to the project, in the amount of UA 45 million, is entirely assigned to the financing of the toll highway works (component A).** Component A is co-financed by the Government of Senegal (GdS) and AFD. The other components, B, C and D, are financed by the World Bank and AFD, in addition to GdS.

The appraisal report gives the project implementation time span as 52 months (from July 2009 to December 2013). In February 2009, the works procurement process culminated in the selection of the concession holder, the French group EIFFAGE, which the Bank deemed acceptable.

1.2 Information on request recorded

The Bank's Conformity, Review and Mediation Unit (CRMU) on 26 July 2011 registered the request concerning the Dakar - Diamniadio Highway project, having received two petitions on 15 June 2011 and 22 June 2011, respectively from: i) Mr. Mohamed Aïdara, Leader of the group of tenants affected by the Toll Highway project (CLAP) at Guinaw-rails Sud; and ii) Mr. Mamadou MBAYE, Director of *Ecole franco-arabe Imam Moussa Mbaye*, also located at Guinaw-Rails Sud, on behalf of staff and parents of the said institution.

The first request highlighted the following aspects: i) the fact that it has become impossible to find housing/residences for rent; ii) the available accommodation is most often reserved for single people; iii) rental costs have doubled outright; iv) children's education, specifically the disruption of school programmes; v) inadequate compensation awarded for commercial units or premises; vi) inadequate compensation for tenants; vii) dispersion of the family support known as "*solidarités intrafamiliales*" (for the disabled, widows and elderly persons); viii) insecurity owing to the number of houses abandoned by owners and ix) movement rendered difficult.

The second request, for its part, points out that the locals and teaching corps will be adversely affected by the road project: i) the school will be obliged to close, bringing about disruption affecting the student body, which will then have to change schools; ii) the circumstances limit the choices of parents who want their children to attend a local Franco-Arab school rather than a French school; iii) loss of jobs for teaching staff; iv) the school also contributes to the efforts to curb mendicity among Talibé children, etc. For all these reasons, the Director, on behalf of the parents and teachers, requests that *Ecole Imam Mbaye* be relocated so as to continue its mission of social service to the local population.

1.3 Procedural Objection to registration of request by CRMU

1.3.1 The CRMU memorandum indicates that, before registering requests, CRMU is required to verify that the requestors have already contacted the Bank Management or the field office concerned.

CRMU states that it carried out the required verification, particularly upon receiving a fax from the representative of first group of petitioners on 13 July 2011 indicating that no reply had been received from the Dakar Field office (SNFO) to the letter he had sent it on 1 June 2011 (copy reportedly sent to CRMU). The second requestor apparently confirmed this same position in a telephone conversation on 13 July 2011.

SNFO has indicated that the only contacts that it has had with these parties were at the time the petitions were submitted in a sealed envelope addressed to CRMU. No other requests or submissions from the petitioners have been brought to the attention of the Office or the Bank's Management. SNFO received and

registered the petitions on 1 June 2011, stamping one copy of the letter addressed to the CRMU Director, to confirm receipt of the envelope.

Section 16 of the Independent Review Mechanism rules stipulate " ... *the Bank Group's Resident Representative shall, after issuing a receipt to the Requestors, promptly and without reviewing the content of the request, forward it to the Director of CRMU through the next pouch ...*". SNFO transmitted the requests received from the parties to CRMU two weeks after they were received. The delay was due to the project officer's absence on mission outside Senegal. **Proof of SNFO's transmission of the petitions to CRMU is provided in the annex (list of documents transmitted to the headquarters under Transmission Slip n° 974 7550 750).**

1.3.2 Moreover, as mentioned above, the Highway Project components relating to right-of-way clearance and PIS area restructuring are not financed by the Bank. The request could therefore be considered as not receivable by CRMU (see page 3, section b-(Limitations), point ix of the IRM operating rules and procedures). On the other hand, the clearing of right-of-way and compensation of the populations affected by the project make up a condition for the first disbursement of the ADF loan for the project. The Borrower is required to: *«provide the Fund with evidence of the payment or lodging in a separate account (Expropriation Account) acceptable to the Fund, of the resources to compensate the displaced persons affected by the works on the Malick-Sy-Pikine and Keur –Massar –Diamniadio sections, as well as on the Tivaouane Peulh resettlement area.* "The Bank found the evidence furnished by the Borrower in fulfillment of these conditions acceptable. The conditions precedent to the first disbursement of the ADF loan were thus met. Currently, the ADF loan disbursement rate is 74%.

1.3.3 The request of the tenants' association (CLAP) should be rejected by CRMU pursuant to subparagraph (iv) under b-Limitations- page 3 of the IRM rules and procedures, which states that "*CMRU is not authorized to receive requests relating to:....matters before other judicial review or similar bodies;...*". In this case, the CLAP request had also been submitted to the World Bank. By a letter dated 17 June 2011, the World Bank acknowledged the submission (copy of letter in the annex). The dossier was at the same time submitted to the project executing agency, APIX, which also acknowledged receipt of the requests and reaffirmed its preparedness to assist the tenants' association in seeking housing and to provide all necessary administrative support.

1.3.4 in the case of Imam Moussa Mbaye Franco-Arab School, the executing agency does not appear to be aware of the requests, even though it has been dealing with all the schools affected by right-of-way clearance operations, including this one. Reached by telephone, the Director of Moussa Mbaye School has confirmed that he has been in contact with APIX from the start of these operations. This school in fact recently (23 July 2011) organized a prize-giving ceremony in partnership with APIX, and the issue of its relocation is covered by the RAP provisions.

1.4. Technical content of requests

1.4.1 Strategy for clearance of the highway right-of-way

Right-of-way clearance under this highway (Malick Sy – Patte d'Oie – Keur Massar – Diamniadio) project is in accordance with the following plan:

- Malick Sy – Patte d'Oie section: the Government has compensated all the populations affected by the project (PAP) on this link. The road works for this section have been completed and were handed over in December 2008;
- Patte d'Oie – Pikine section: The PAP for this section have been compensated. The road works have also been accepted (in June 2010). This section of road was handed over to the concession holder on

31 August 2010, which is 4 months ahead of the contract date agreed with the concession holder. There is some possibility of this section being commissioned ahead of the scheduled date of 1 August 2011, which would strengthen the financial balance of the project.

- The right-of way on the Keur Massar - Diamniadio section has also been cleared in accordance with the contract schedule.
- The significant feature of the Pikine - Keur Massar section, for which right-of-way clearance is scheduled in November 2011, is that it runs through densely populated areas, and therefore entails the displacement of a great many people. Constraints relating to the configuration of this section and ensuing social issues have warranted extensive reflection and consultations between APIX and its partners, to define the best strategy to be implemented with the aim of optimally clearing the right-of-way on this section, in accordance with the project implementation schedule.

Surveys were conducted and censuses carried out in 2006-2007 as part of the Resettlement Action Plan for the Pikine - Keur Massar section (ref. TECSULT study). According to the results of these surveys, there would be three possibilities for PAP compensation, as indicated in the table following:

Compensation Mode	PAP Percentage (*)
Monetary compensation	37.9%
Allocation of replacement plot + cash compensation	31.5%
Resettlement in designated area	30.6%
Total	100%

(*) The percentages indicated in the table reflect the definitive choices made by each PAP.

The following strategy has thus been laid down:

1. **Construction of a resettlement site comprising 2000 lots** to house persons who have opted for mixed compensation (land and cash). The budget for construction of the resettlement site has been entirely mobilized, with financing by (i) the World Bank (**CFAF 29.2 billion**), AFD (**CFAF 12.5 billion**) and the State (**CFAF 9.5 billion comprising CFAF 5 billion** under the 2010 budget and **CFAF 4.5 billion** out of that for 2011)
2. **Compensation of PAP who opted for fully monetary compensation.** Compensation for this group of PAP is estimated at **CFAF 10 689 370 000**. The funds for this cash compensation are also available. Part of the World Bank loan has been earmarked for that purpose.

However, smooth implementation of this strategy in keeping with the Highway construction schedule greatly depends on the completed preparation, **before November 2011**, of the plots for PAP to be displaced from the highway corridor who have opted to move to the resettlement site.

Owing to the technical constraints (studies required, works sequencing, site organization) as well as administrative factors (obtaining donors' "no objection", procurement lead time), it turned out that AGETIP, to which APIX entrusted the establishment of the resettlement site in the capacity of executing agency, was unable to keep to the time table for delivery of the plots.

In early 2010, APIX and its different partners thus undertook extensive discussions and consultations with the aim of adapting the strategy for the clearing of the Pikine - Keur Massar section right-of-way, still toward the deadline of 24 November 2011.

Their exchanges culminated in the two following proposals:

- i) Compensation in respect of commercial space as well as farms is paid in cash, depending on the losses suffered. These cases are therefore not concerned by the constraints relating to the resettlement site, and the compensation is based on the justification submitted.
- ii) Many tenants are also not affected by the constraints relating to the resettlement site. They receive (i) a housing allowance corresponding to 6 months' rent and (ii) a lump sum to cover their moving costs.
- iii) The group of 2243 tenants occupying 1414 dwellings belonging to absentee owners may not be directly concerned by the resettlement site issues.
- iv) As a result, only the 874 resident landlords are directly concerned by the resettlement site constraint.

In moving populations affected by the highway, it is understood that special treatment will be reserved for resident landlords who opt for resettlement. The current context and trends noted by the NGOs on the ground with regard to compensation options would indicate that most PAP will choose cash compensation. This brings a new situation where it is no longer a matter of 2000 PAP to be rehoused on the resettlement sites but a significantly lower number.

The following new principles of compensation have been agreed:

In the cases of the tenants, the commercial locations and farms, the initial strategy concerning PAP has not changed and these PAPs will still be fully compensated in cash. Their compensation budget has already been included in that of the initial RAP and can be updated.

The 1414 rented properties can thus be demolished immediately following compensation of (i) the tenants and (ii) absentee landlords.

The 1131 absentee landlords and the 699 resident landlords to be paid cash compensation as well as the tenants, the commercial units and the farms, were all expected to be fully compensated between October 2010 and May 2011.

II.2.2 Information dissemination policy/ steps taken by the Government

The RAP is published on the APIX internet site as well as that of the World Bank. Several sessions have been organized to sensitize PAP and brief them concerning information dissemination modalities. In addition, the Pikine Office, which functions as a single window, is a channel for communicating information to the local populations. Signposts have also been put up in Pikine to enable PAP locate the Office more easily.

II.2.3 Technical content of requests

II.2.3.1 Request of tenant group

APIX has already processed this dossier and the answer provided to the group representative underscored the fact that tenants are not eligible for resettlement in the designated resettlement area.

However various social support measures are envisaged, including assistance in finding rental accommodation and special assistance to tenants classified as vulnerable PAP.

II.2.3.2 Request of Imam Mbaye Franco-Arab School

As stated in the May 2011 brief concerning the Pikine Office (status assessed by sociologist): In the case of *école Franco arabe d'Imam Mbaye*: the management has worked out a partnership with a nearby Franco-Arab school that has accepted to receive students transferred owing to the project. To that end, it is proposed that temporary shelters (2) be erected in the yard of the receiving school. The school Director has indicated his agreement to use the resettlement aid to be allocated to him for implementation of works, and requests assistance from the project in the event that this amount does not cover works costs. He has also asked for assistance in covering the wage losses of the eight teachers who will be obliged to stop work, owing to the transfer of the entire student body to another establishment. These different requests have been met by APIX, in conjunction with the concession holder. Also, as part of the social support programme, this school, like those affected by the highway, has been enabled to organize a ceremony to award prizes to the most deserving students, held on 23 July 2011 to mark the end of the school year, and entirely funded by APIX.

II.2.3.3 APIX request management mechanism

For aspects that several PAP have in common, the strategy adopted consists in centralizing all requests of the same type with a view to resolving them in an equitable manner. Consultation sessions are organized under the aegis of the Governor, at whose level all the requests are centralized for consideration and appropriate response. Pending review of the claims, a provisional response is sent to the PAP conveying an undertaking to have the dossier examined by the most appropriate body.

A multi-entity mechanism has been put in place to manage the different situations. It mainly involves: i) the facilitating body, ii) the social mediation committee made up of leaders of the locality concerned, representatives of the PAP groups and government service representatives, the Mediator of the Republic, which is a State institution to which all conflicts with the administration can be referred by any means, even before being brought to the legal system; and iv) the Senegalese courts.

The facilitating body is the central unit of this mechanism. Its role is to provide social support to PAP and it sets up a mechanism for receiving and processing requests and grievances, as has been done to clear right-of-way for previous sections. The facilitating body gathers the various claims submitted to it and enters them in a special register. It handles these claims using all methods and resources at its disposal. It may: i) receive the PAP requestors individually or ii) verify, on the spot, the nature of the claims and the reality of the damage or losses occasioned. Next it should propose solutions to the case(s) or liaise with the competent authorities to resolve the problems posed. The steps taken and outcome of each case are noted in the register.

The facilitating body keeps the claims register and sums up its contents in its monthly progress report.

Matters can also be referred to the other entities (Mediation Committee, Mediator of the Republic and the national courts). Conciliation committees are set up as needed.

1.5 *Conclusion and recommendations*

We question the basis of this request, since there is a facilitating body that specifically supports PAP, and to which they can turn for assistance relating to complaints. The Bank Management therefore requests CMRU

to provide a detailed report on the different elements of the request, to demonstrate its eligibility. Failing that, the periodical evaluation reports on right-of-way clearance that are produced by the independent body and sent to the project and the Bank should stand as justification.

In addition, the right-of-way clearance strategy entails a complaint settlement procedure that the PAP are well aware of. All claims brought to the attention of APIX systematically receive favorable or unfavorable responses depending on the merits of the arguments put forward, and, judging from the high number of PAP having signed papers of unreserved acquiescence, this strategy has achieved success on account of the participatory approach adopted and regular provision of information to the PAP regarding their concerns and expectations.

The procedures governing right-of-way clearance (see figure in Annex) attest that the principles of just and equitable compensation are being applied to enable each PAP to defend their rights. Moreover the presence of the facilitating agencies, such as the NGOs, ensures them the required assistance at different stages of the process of evaluation of losses and payment of compensation.