



INDEPENDENT REVIEW MECHANISM

Compliance Review and Mediation Unit

CLOSURE OF PROBLEM-SOLVING EXERCISE REPORT

REQUEST NO.: RQ2012/01

PROJECT: Road Sector Support Project II

COUNTRY: Tanzania

NOVEMBER 2017

ACKNOWLEDGMENTS

The Director of the Compliance Review and Mediation Unit (BCRM) would like to acknowledge the valuable support of the Requestors, the Project Promoter, the Tanzania National Roads Agency (TANROADS), the Management and staff of the African Development Bank Group (AfDB), and the AfDB Country Office in Tanzania (TZFO). This support facilitated the successful resolution of the Request and the closure of the relevant problem solving exercise relating to the Tanzania Road Sector Support Project II, which is the subject of this report.

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ACRONYMS

AfDB	African Development Bank Group
BCRM	Compliance Review and Mediation Unit
GRMs	Grievance Redress Mechanisms
IACD	AfDB Integrity and Anti-Corruption Department
IRM	Independent Review Mechanism
JICA	Japan International Cooperation Agency
MAP	Mediation Action Plan
PAPs	Project-Affected Persons
RAP	Resettlement Action Plan
RSSP II	Road Sector Support Project II
TANROADS	Tanzania National Roads Agency
TZFO	AfDB Tanzania Field Office

EXECUTIVE SUMMARY

In accordance with the Operating Rules and Procedures of the Independent Review Mechanism (the IRM Rules; 2010). The BCRM registered the Request relating to the Road Sector Support Project II (RSSP II) in Tanzania on 25 June 2012. The central issue was the notices of demolition served by TANROADS to the Requestors and other project-affected persons (PAPs) without prior notice and/or compensation. This was done on the basis that the PAPs' properties were considered as illegally built on the Road Reserve. The BCRM registered the Request for a problem-solving exercise (mediation) to intervene promptly.

The total cost of the RSSP II is UA 212.78 million and it is co-financed by the AfDB (UA 140 million), the Japan International Cooperation Agency (JICA) (UA 62.14 million) and the Government of Tanzania (UA 10.64 million). The government-sourced contribution covers the compensation of PAPs who live along the three sections of the road to be upgraded as per the RSSP II, i.e. the Babati-Dodoma, Tunduru-Mangaka, and Mangaka-Mtambaswala road sections.

The BCRM problem-solving exercise culminated in the signing of a Mediation Action Plan (MAP) by the Requestors, the AfDB, and TANROADS in October 2012. The BCRM monitored the implementation of the MAP between January 2013 to April 2016. It facilitated the payment of compensation to all 3,618 PAPs (2,989 PAPs (83%) live along the Tunduru-Mangaka and Mangaka-Mtambaswala road sections and 629 PAPs (17%) live along the Babati-Dodoma road section).

In view of the satisfaction of all parties with the successful outcome of the problem-solving exercise and the commitment of both TANROADS and the AfDB to supervise the project, the Director of the BCRM closed the Request in July 2016. In addition, the Director referred the RSSP II to a Spot-Check Advisory Review of Project Compliance for institutional learning purposes. The recommendations of the Spot-Check Report were approved by the Board of Directors on 23 November 2016.

Since the RSSP II construction activities are still ongoing, the Director recommends the following actions to the AfDB:

- (a) Monitor the resolution of pending cases brought by the PAPs before the GRMs;
- (b) Supervise any further valuation and/or revaluation of affected properties on the three road sections to ensure that PAPs are adequately compensated; and
- (c) Review the contractors' land purchase agreements already signed with the PAPs, and ensure that TANROADS resolves the disputes associated with these agreements.

In line with the IRM Rules (2010), this report on the Closure of Problem-Solving Exercise on the RSSP II project in Tanzania is submitted to the President of the AfDB and the Board of Directors **for information.**

I. INTRODUCTION

1. The total cost of the RSSP II is UA 212.78 million¹ and it is cofinanced by the AfDB (UA 140 million), the Japan International Cooperation Agency (JICA) (UA 62.14 million) and the Government of Tanzania (UA 10.64 million).² The government-sourced contribution covers the compensation of PAPs who live along the three sections of the road to be upgraded as per the RSSP II, i.e. the Babati-Dodoma, Tunduru-Mangaka, and Mangaka-Mtambaswala road sections.³ Due to its potential negative impact on people and the environment, the RSSP II is classified as a high-risk ‘Category 1’ project.

2. On 5 June 2012, through the AfDB Integrity and Anti-Corruption Department (IACD), the BCRM received the complaint from the Requestors relating to the RSSP II within two months from the Board of Directors’ approval. Considering the imminent risk of further harm to be inflicted on the Requestors and the PAPs due to the demolition of their houses prior notice and/or without compensation, the BCRM officer-in-charge at the time registered the Request for a problem-solving exercise on 25 June 2012. The officer further facilitated the signature of the MAP by the Requestors, the AfDB, and TANROADS in October 2012 that effectively stopped the demolition of properties and expedited the payment of compensation to PAPs.

3. Paragraphs 39 and 40 of the IRM Rules (2010) call for the BCRM to monitor the implementation of the solution agreed upon during the problem-solving exercise, and for the Director of the BCRM to prepare the Closure of Problem-Solving Exercise report for submission to the President of the AfDB and the Board of Directors **for information**. Accordingly, the report is submitted to the President and the Board. The report describes the complaint-handling steps and the solutions agreed upon by the problem-solving parties, namely the Requestors, the AfDB, and TANROADS; the BCRM Director’s decision and recommendations; and key lessons learned from this problem-solving exercise.

II. THE STEPS IN HANDLING THE REQUEST

4. On 5 June 2012, the BCRM received a letter of Request (Appendix 1). The complaint originated from the Babati-Dodoma road section, one of the three sections to be upgraded by the RSSP II. The Requestors, who hold formal land titles, complained about receiving consecutive notices in December 2011 and April 2012 from TANROADS, requiring them to demolish their houses at their own cost and without compensation. TANROADS argued that their properties were illegally built on the Road Reserve.

¹ UA is the official currency measurement for all AfDB projects; UA 1 = SDR 1 (International Monetary Fund Special Drawing Rights).

² See Paragraph 2.5 in “Project: Road Sector Support Project II - Project Appraisal Report,” *African Development Fund*, September 2011, pp. 5-6.

³ “Project Appraisal Report,” p. iii.

5. The Management Response to the Request (Appendix 2) was submitted to the BCRM on 23 July 2012. The Response confirmed the consent of the AfDB and TANROADS to engage in a problem-solving exercise by the BCRM, and also included an action plan prepared by the AfDB and TANROADS to resolve the problems of compensation to the PAPs of the RSSP II. According to the action plan, TANROADS agreed to:

- (i) Immediately withdraw the demolition notices and inform PAPs by 20 July 2012;
- (ii) Submit an updated Resettlement Action Plan (RAP) and a list of PAPs' properties located within the 45 m road corridor to the Bank by 30 August 2012;
- (iii) Disclose information on the compensation to PAPs by 30 August 2012;
- (iv) Submit the works and compensation schedules as well as the list of PAPs who are eligible for compensation to the AfDB by 15 September 2012; and
- (v) Submit proof of compensation to PAPs to the AfDB prior to the commencement of the construction works for each section of the road.

6. Prior to the field mission, the BCRM reviewed the Management Response and additional documents (RAP, Property Valuation Report, and compensation schedules) provided by the AfDB and TANROADS. It found that:

- (i) There was no evidence to prove that TANROADS effectively notified PAPs of its withdrawal of demolition notices, despite its withholding of the removal of properties;
- (ii) The properties of the Requestors were excluded from the valuation reports;
- (iii) TANROADS did not establish independent monitoring of the project's RAP and GRMs to settle grievances in line with the applicable AfDB's Involuntary Resettlement Policy (2003);⁴ and
- (iv) TANROADS did not adhere to Section 5.01 (c) of the Loan Agreement which requires PAPs to be compensated prior to the start of construction works.⁵

III. THE PROBLEM-SOLVING EXERCISE

7. The BCRM conducted a fact-finding mission together with AfDB staff responsible for the project, the Requestors, and TANROADS, from 15 to 20 October 2012. The mission visited the affected properties in the Babati-Dodoma section, particularly in Masawi and Bukulu villages, and the Requestors' houses in Bereko Township. The mission established that:

⁴ The AfDB's Involuntary Resettlement Policy (2003), paragraph 4.1.11, states that "*An independent third party should monitor large resettlement plan implementation with regular feedback from the affected people.*" Furthermore, it requires that the "*monitoring activities should include a review of the grievance mechanism, to ensure both that there is an adequate channel for affected people to express their concerns and grievance, and that those grievances are being addressed in a timely manner.*"

⁵ Section 5.01 (c) of the Loan Agreement requires the "*Borrower to fully compensate and/or resettle all PAPs with respect to the first section of each lot of civil works in accordance with the Resettlement Action Plan and the Works and Compensation Schedules prior to the commencement of the construction work.*"

- (i) The houses of the Requestors were marked for demolition. TANROADS informed the mission that according to the National Law of 2007, it had realigned the Road Reserve to 30 m to avoid affecting the properties of the Requestors. The mission noted the AfDB's view that, since the RAP was approved on the basis of the alignment of the Road Reserve at 45 m, the realignment under such circumstances was not permissible;
- (ii) The PAPs had not yet received the letters of withdrawal of the demolition notices from TANROADS; and
- (iii) Several houses were already demolished at the PAPs' own costs, while some were partially demolished. Some PAPs had refused to demolish.

8. The BCRM mission organized the 1st Mediation Meeting on 18 October 2012. The meeting culminated in a Settlement Agreement and an Auxiliary MAP (Appendix 3), signed by the Requestors, the AfDB, and TANROADS. The MAP covers the compensation schedules for payments to the Requestors and other PAPs living along the three sections of the road to be upgraded by the RSSP II (i.e., Babati-Dodoma, Tunduru-Mangaka, and Mangaka-Mtambaswala sections).

9. In conjunction with the original Action Plan prepared by TANROADS and the AfDB, TANROADS under the MAP agreed to:

- (i) Immediately send letters of withdrawal of demolition notices to PAPs by 30 November 2012;
- (ii) Undertake information-sharing campaigns to sensitize PAPs on the compensation dates and amounts by 30 December 2012;
- (iii) Update the RAP by 31 January 2013; and
- (iv) Establish and operationalize the GRMs, as well as inform PAPs of the existence of these mechanisms during sensitization campaigns, by 31 January 2013.

10. The BCRM recruited a consultant on 28 February 2013 to monitor the implementation of the MAP.

11. The 1st Monitoring Report issued in May 2013 concluded that only one of the four actions agreed upon under the MAP had been implemented by TANROADS, i.e., the company had sent letters to the PAPs withdrawing its demolition notices.

12. Consequently, the BCRM conducted a 2nd Mediation Meeting on 18 June 2013, which effectively updated the timelines of the MAP. On the sidelines of the same meeting, TANROADS disclosed to the Requestors the amounts of compensation for their properties as determined by a land surveyor. The Requestors agreed but had some reservation with regard to the valuation of the crops structure within their plots and outside 22.5 m of the Road Reserve. TANROADS agreed to submit the title deeds for these structures to the land surveyor for revaluation.

13. The 2nd Monitoring Report of the MAP was issued in May 2014 and covered two of the sections to be upgraded by the RSSP II (i.e., Tunduru-Mangaka and Mangaka-Mtambaswala). The report raised five issues:

- (i) TANROADS's partial disclosure of compensation information to PAPs;

- (ii) Inconsistent valuation of PAPs' properties (particularly the arbitrary depreciation of affected properties, and the non-compensation of informal businesses for loss of their income due to their lack of formal audited accounts);
- (iii) Numerous pending cases before the GRMs;
- (iv) Lack of support for vulnerable PAPs; and
- (v) The signing of PAPs' land purchase agreements by contractors, without the PAPs' full understanding of their rights or contractors' obligations under these agreements.

14. The BCRM met with TANROADS and the AfDB on 14 July 2016. Since the project construction was underway, TANROADS agreed to take the necessary actions to address the issues raised by the 2nd Monitoring Report, while the AfDB agreed to monitor the execution of these actions as part of its routine supervision of the implementation of the RAP.

15. In a 3rd Mediation Meeting on 15 July 2016, the Director of the BCRM discussed with the Requestors, the AfDB, and TANROADS's Chief Executive and team on the following issues:

- (i) The principal Requestor's demands for payment of TZS 5,615,363.25 for the revaluation of the remaining structures of his house, and his request for a waiver of the applicable 30-50% depreciation rate to value his affected properties to enable the Requestor build an equal-standard house elsewhere;
- (ii) The progress of the implementation of the MAP; and
- (iii) The agreement by TANROADS and the Requestors to the proposal by the Director of the BCRM to close the problem-solving exercise.

16. The key outcomes of the 3rd Mediation Meeting were as follows:

- (i) TANROADS accepted to pay the principal Requestor the requested amount of TZS 5,615,363.25;
- (ii) The Requestors confirmed their satisfaction with the compensation received from TANROADS, and confirmed their consent to the formal closure of their Request and the problem-solving exercise;
- (iii) TANROADS and the AfDB reiterated their commitment to monitor the issues raised by the 2nd Monitoring Report and agreed with the Director's decision to close the problem-solving exercise; and
- (iv) The Requestors, the AfDB, and TANROADS signed the Closure of Problem-Solving Exercise document.

IV. THE DECISION AND RECOMMENDATIONS BY THE DIRECTOR OF THE BCRM

17. The Director of the BCRM commends the following:

- (i) TANROADS's actions resulting in the resolution of the Request;
- (ii) The AfDB Management, TZFO, and the consultant's monitoring which facilitated the implementation of the MAP; and
- (iii) The Requestors' cooperation which also led to the compensation of PAPs affected by the RSSP II.

18. The actions of these parties helped the problem-solving exercise to facilitate the payment of compensation to PAPs in the three sections to be upgraded by the RSSP II. TANROADS effectively paid compensation to all 3,618 PAPs, whose breakdown is as follows:

- (i) 2,989 PAPs (83%) live along the Tunduru-Mangaka and Mangaka-Mtambaswala road sections of the RSSP II.
- (ii) 629 PAPs (17%) live along the Babati-Dodoma road section of the RSSP II.

19. In view of the satisfaction of all parties with the outcome of the problem-solving exercise and the commitment from both TANROADS and the AfDB to supervise closely the pending cases of PAPs before the established GRMs, the Director of the BCRM concluded the problem-solving exercise as successful and decided to close the Request.

20. Since the RSSP II construction activities are still ongoing, the Director recommends the following actions to the AfDB:

- (i) Monitor the resolution of pending cases brought by the PAPs before the GRMs;
- (ii) Supervise any further valuation and/or revaluation of affected properties on the three road sections to ensure that PAPs are adequately compensated; and
- (iii) Review the contractors' land purchase agreements already signed with the PAPs, and ensure that TANROADS resolves the disputes associated with these agreements.

21. The Director of the BCRM had recommended that the RSSP II undergo a Spot-Check Advisory Review of Project Compliance for institutional learning purposes; and the relevant Spot-Check Report was approved by the Board of Directors in November 2016.

22. The Director of the BCRM submits this report on Closure of Problem-Solving Exercise on the RSSP II project in Tanzania to the President of the AfDB and the Board of Directors **for information.**

V. THE KEY LESSONS LEARNED FROM THE PROBLEM-SOLVING EXERCISE

23. The problem-solving exercise was instrumental in leading the AfDB and TANROADS to undertake immediate actions to redress the harm inflicted on PAPs. The exercise was successful in that it:

- (i) Stopped the further demolition of affected properties prior to compensation procedures for the entire project;
- (ii) Facilitated TANROADS's immediate disclosure of compensation dates and amounts, the payment of compensation to Requestors and other PAPs, and the establishment of GRMs.

24. The BCRM observed some procedural issues relating to project preparation, appraisal, and implementation. Under such circumstances, the BCRM considers a Spot-Check Advisory Review of Project Compliance useful to help draw the attention of the AfDB to systemic issues. Its direct attention and addressing of the situation avoids the risk of recurrence of similar complaints in the future.

25. The problems caused by serving demolition notices to PAPs could have been avoided if TANROADS had fully informed the PAPs before issuing these notices, and if the AfDB had paid closer attention to the issue of compensation.

26. The additional time and costs incurred by TANROADS for carrying out fresh sensitization campaigns on the compensation procedures for PAPs could have been mitigated if the AfDB had reviewed the RSSP II public consultation plans and relevant activity reports from the onset.

27. The PAPs' financial losses from the staggering devaluation of their properties could have been avoided if the AfDB had monitored this process to ensure that it was transparent and based on a standard formula as required by AfDB's Involuntary Resettlement Policy (2003).

28. The longstanding and unaddressed grievances of the PAPs due to the project could have been avoided if TANROADS had established the GRMs at an earlier stage of the project and received the proper guidance from the AfDB.

29. The reputational image of the AfDB associated with the unpaid compensation of the informal businesses and the PAP who had no formal titles to the land could have been mitigated if the project had paid compensation for the loss of income and the full replacement costs as required by AfDB's Involuntary Resettlement Policy (2003), and if the AfDB had ensured that TANROADS had established an independent instrument to monitor the compensation procedures.

30. The delays in payment of compensation to the PAPs could have been avoided if the AfDB had closely monitored the implementation of the MAP, which was meant to resolve this issue in a timely manner.

VI. APPENDICES

Appendix 1: Request Letter

Appendix 2: Management Action Plan

Appendix 3: Updated Mediation Action Plan

- 5.4. In considering the range of issues associated with this project, the Director of the CRMU recommends that RRSP II undergo a Spot-Check Advisory Review of Project Compliance, for institutional learning purposes.

6. THE KEY LESSONS LEARNED FROM THE PROBLEM SOLVING

- 6.1. The problem solving was instrumental in leading the Bank and TANROADS to undertake immediate actions to redress the harm inflicted on the PAPs. The problem solving was successful in that it: (i) stopped the further demolition of affected properties prior compensation procedures for the entire project; (ii) facilitated TANROADS' immediate disclosure of compensation dates and amounts, the payment of compensation to Requestors and other PAPs and its establishment of GRMs.
- 6.2. The CRMU also observed that there are broader procedural issues beyond the scope of the problem solving. Hence, the CRMU considers a spot check advisory review of project compliance as useful to draw the attention of the Bank to systemic issues causing the harm. It is also helpful for the Bank to understand how to avoid the risks from recurrence of complaints relating to similar projects to be financed by the Bank in future.
- 6.3. The problems caused by serving the demolition notices on the PAPs could have been avoided, had TANROADS fully informed the PAPs before issuing these notices and the Bank closely paid greater attention to previous compensation procedures applied by TANROADS to the first part road section in Babati-Dodoma which was only financed by the Government.
- 6.4. The additional time and costs incurred by TANROADS from carrying out fresh sensitization campaigns for PAPs on the compensation procedures could have been mitigated, had the Bank reviewed on the onset the RSSPII public consultations plans.
- 6.5. The PAPs financial losses from the staggering devaluation of their properties during valuation/revaluation to readjust the road reserve could have been avoided, had the Bank monitored the revaluation process resulting from such readjustment to ensure that the process is transparent and based on standard formulas as required by the Bank Policy on Involuntary Resettlement.
- 6.6. The longstanding unaddressed PAPs grievances by the project could have been avoided, had TANROADS established the GRMs at an earlier stage of the project, and done so with the proper guidance from the Bank.
- 6.7. The Bank reputational image associated with the unpaid compensation of the informal businesses and the PAP who had no formal title to land could have been mitigated, had

the project paid compensation for loss of income and full replacement costs as required by the Bank Policy on Involuntary Resettlement, and had the Bank ensured that TANROADS established an independent third party monitoring of the compensation procedures.

- 6.8. The delays in payment of compensation to PAPs could have been avoided, had the Bank closely monitored the implementation of the MAP which was meant to resolve the aforementioned issues in a timely manner.

7. ANNEXES

Annex 1 Letter of Request

P.O.Box 12351

Arusha

Tanzania.

June 5, 2012.

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Ms Adila Abusharaf
Officer in Charge
Compliance Review and Mediation Unit
African Development Bank
BP 323-1002 Beledredre, Tunisia.

Dear Madam,

**RE: BABATI – DODOMA ROAD PROJECT - COMPENSATION AND
RESETTLEMENT COMPLAINT.**

The above mentioned subject refers.

We, the undersigned, are project affected persons of the above mentioned road project financed by AfDB and would like to lodge a formal complaint with your organization regarding the notice to remove our residences immediately without payment of compensation and resettlement benefits as notified by the Tanzania Road Agency (TANROADS) via their letters of notices to us Ref. Nos.R.10/603/21 and R.10/603/22 both dated 10/4/2012 respectively.

We responded to an earlier notice served to us in December 2011 and attached photocopies of legal documents offered to us when we acquired the land plots legally at Bereko Township in Kondoa District, Dodoma Region from the Government Ministry of Lands and Human Development but the road agency (TANROADS) refused to consider them and insisted that the houses were built on the road reserve and we will not be compensated. In the circumstances, we were left with no other alternative except to seek your assistance so that we get paid our rightful compensations and resettlement benefits before we remove our houses and give way for the road project implementation. It is also important to note that despite the fact that we are two of us who are lodging this formal complaint but there are a number of other project affected persons along this road who are helpless, poor and have no access to communication facilities but nevertheless have the right for compensation and resettlement.

It is very disheartening to learn that while we are being denied of our rightful compensation and resettlement benefits by TANROADS, a total amount of TZS 13.27 Billion has been set aside for compensations and resettlement of 753 project affected persons along this road project according to the AfDB Project Appraisal Report on the Babati- Dodoma road project which was posted on the ADB website.

For this reason we would like to confirm that we would very much appreciate it if CRMU could intervene and ensure that TANROADS pays us our rightful compensations and resettlement benefits accordingly before we remove our residences and property to give way for the implementation of the Babati – Dodoma road project.

If you need further information just let us know and we will be pleased to give it to you.

Thank you very much for taking interest to assist us in our claim and we are looking forward for your positive response in due course.

Yours truly,



Abdul Ali Dello

and



Omari Saidi Fusa

AFRICAN DEVELOPMENT BANK GROUP



MANAGEMENT RESPONSE TO REQUESTORS' COMPLAINT ON COMPENSATION FOR ROAD SECTOR SUPPORT PROJECT II

TUNIS, JULY 2012

Quality Assurance and Results Department
Compliance and Safeguards Division, ORQR3

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ABBREVIATIONS

ADF	African Development Fund
AfDB	African Development Bank
CRMU	Compliance Review and Mediation Unit
ESMP	Environmental and Social Management Plan
PAP	Project Affected Persons
RAP	Resettlement Action Plan
ROW	Right of Way
RSSP II	Roads Sector Support Project II
TZFO	Tanzania Field Office, African Development Bank

A. INTRODUCTION AND BACKGROUND

A.1 The Request

1. The Compliance Review and Mediation Unit (CRMU) received an initial request from two Requestors (Mr. Abdul Ali Dello and Mr Omari Saidi Fusa) on 5th June 2012, seeking the Bank's intervention regarding a threat of forceful eviction from their properties without payment of compensation and resettlement benefits. This is in relation to the Babati-Dodoma road project in Tanzania that the Bank is financing. CRMU has registered the Request (No RQ2012/01) in the IRM Register of Requests, which is accessible on the Bank's Website (www.afdb.org/irm).

2. In their submission, the Requestors stated that they had received two notices dated 12th December 2011 and 10th April 2012 respectively from TANROADS (the Project Executing Agency) directing them to remove their properties located in Bereko Township, Kondoa District in Dodoma Region of Tanzania within 90 days of receipt of the notices. Such removal would be without payment of compensation and resettlement benefits.

3. The Requestors further stated that they had responded to TANROADS attaching copies of legal documents supporting their ownership of the land lots which they purchased from the Ministry of Lands, Settlement and Water Development. TANROADS did not consider the legal documents provided and insisted that their properties are within the Right of Way (ROW) of the Babati-Dodoma Road, those properties should be removed and they would not be compensated.

4. The Requestors alleged that a direct harm could be inflicted on them due to the construction of the Babati-Dodoma Road section. They also stated in their request that there are other Project Affected Persons (PAPs) along the road who are helpless and poor and have no access to communication facilities to claim their rights to compensation and resettlement.

5. Based on advice from CRMU, the Requestors took steps to resolve the problem with staff of the Bank in the Tanzania Field Office (TZFO). After several correspondences with TZFO and in seeking clear information on the actions or steps on how their problems would be resolved, the Requestors again resorted to CRMU requesting intervention to ensure that TANROADS pays them their rightful compensation and resettlement benefits before it removes their residences to pave way for the Babati-Dodoma Road Project.

6. CRMU registered the request for a problem-solving exercise on 25 June 2012. Management was given the statutory 21-working days' notice to respond to the request with written evidence as to whether it has or intends to comply with the Bank Group's relevant policies and procedures.

A2. Initial Actions Taken by the Tanzania Field Office

7. Mr. Abdul Dello had contacted TZFO to lodge a complaint on the notices he had received from TANROADS. He was requested to forward the notices from TANROADS to the Bank for review, to which he complied. After the review, the Project Task Manager forwarded the documents to TANROADS detailing the Requestor's concerns. The Task Manager thereafter informed the Requestor that the laid down process to address such grievances would be followed. Meanwhile, TANROADS was requested to respond promptly to the Bank on its intended course of action to resolve the issue in line with the approved Resettlement Action Plan (RAP) for the project. After a number of telephone communications over a period of five days, the Requestor informed the Task Manager that he was forwarding a Request to CRMU in order to receive a clear direction on the matter.

B. PROJECT DESCRIPTION

8. The Bakti-Dodoma Road Project comprises the following elements:

- Civil works for Dodoma-Babati Road (188.1km) and Tunduru-Mangaka-Mtambaswala Road (202.5km). This component involves upgrading the existing gravel roads to bitumen standards of 6.5m carriageways and 1.5m sealed shoulders on either side. The civil works are to be implemented in five contracts: Lot A: Mayamaya-Mela (99.3km); Lot B: Mela-Bonga (88.8km) for the Dodoma-Iringa road and Lot 1: Mangaka-Nakapanya (70.5km); Lot 2: Nakapanya-Tunduru (66.5km); and Lot 3: Mangaka-Mtambaswala (65.5km) for the Tunduru-Mangaka-Mtambaswala road.
- Consulting Services for (i) the design review and supervision of the civil works; (ii) road safety; (iii) sensitization on HIV/AIDS, STI and mainstreaming gender equality; (iv) baseline data collection and monitoring of the implementation of the associated Environmental and Social Management Plans (ESMP); (v) Studies; widening of the road user charging system and two road sub-sector studies, one each for the mainland and Zanzibar; and (vi) audit.
- Capacity Building: Technical assistance to TANROADS and the MOIC in Zanzibar, road safety pilot project; training for female contractors, short-term training of staff and procurement of support equipment.
- Compensation and Resettlement: Provision for compensation and resettlement of the PAPs in accordance with the RAPs.

C. STATUS OF IMPLEMENTATION

9. The Road Sector Support Project II was approved by the ADF Board of Directors on 5th of April 2012 for an amount of UA140 million. The Loan Agreement was signed on 23rd of May 2012. The Loan Agreement is not yet declared effective but has provisionally taken effect in accordance with the General Conditions Applicable to Loan and Guarantee Agreements of the ADF.

10. The processes leading to the procurement for the civil works and consulting services utilizing advance contracting are at an advanced stage. According to the agreed implementation schedule, the contractors for the civil works are expected on site during the first quarter of 2013.

D. LEGAL INTERPRETATION

D.1 Stipulations of the Loan Agreement

11. It is a pre-disbursement condition in the Loan Agreement signed between the ADF and the Government of Tanzania (the Borrower) that the Borrower should have developed, provided and submitted to the Fund a RAP detailing among others, sections into which the works will be divided and a timeframe for the compensation of PAPs with respect to all sections of the works. The Borrower has already submitted to the ADF and ADF has accepted the RAP giving details of the compensation anticipated to be paid as a result of the project. Any variation to the details of the RAP would normally be subject to approval by the ADF.

12. The Loan Agreement also provides that prior to the commencement of the construction of any section of the Project works, the Borrower must provide to the ADF evidence showing that PAPs in that section have been compensated and/or resettled. The Government of Tanzania committed to the loan conditions as stipulated in the Loan Agreement to compensate all PAPs in relation to the Project.

D.2 Bank Policy

13. The Bank Group's Involuntary Resettlement Policy (2003) was developed and adopted by the Bank with the goal of ensuring that when people must be displaced as a result of Bank-Group-financed projects, they are treated equitably, and that they share in the benefits of the project which involves resettlement. The policy provides that "displaced persons should be compensated for their losses at full replacement cost prior to their actual move or before the acquisition of land and related assets for the project or commencement of project activities, whichever occurs first."

14. The policy goes further to recognize the entitlement to compensation by displaced persons who may have no formal legal rights to land or other assets but can prove that they have a claim to such land or assets. Other displaced persons who have no recognizable legal right or claim to the land they occupy but falling in no clear category are still recognized by the policy as being entitled, at the very least (without contradiction to the Borrower's legislation), to land, housing and infrastructure for resettlement.

E. BANK SAFEGUARDS POLICIES COMPLIANCE

15. By the fact that TANROADS had written to the Requestors, who are PAPs, directing them to remove their properties from the ROW without compensation was a violation of the Bank's Policy on Involuntary Resettlement. This is tantamount to non-compliance with the Bank's Policy. Since project implementation and construction works have not yet commenced, the PAPs ought not to be displaced until they have been compensated or resettled.

16. The Bank has established that the majority of the PAPs have not moved from their premises and their assets have not been demolished. In the exceptional cases where this has been done by a few affected persons, TANROADS has assured the Bank that all details and valuation of all assets have been carried out during the census and property valuation exercises. The compensation schedules are being reviewed by the Chief Government Valuer. Furthermore, TANROADS has assured the Bank that all PAPs, regardless of whether they moved their assets or not, shall be adequately compensated and supported in the resettlement process according to the Bank's policies and procedures.

17. From the Bank's review of the submission by the Requestors and the feedback received from the consultations in the country, it is evident that TANROADS could have improved on their consultations with the PAPs. The fact that TANROADS did not give any clear response to either the Requestors' letters or provided full information to the PAPs in general is a violation of the Bank's policy regarding stakeholder engagement and public consultations.

18. That the Requestors were not aware of or used the grievance redress mechanism established by the project is an example of lack of proper information dissemination and communication by TANROADS. In this respect, the Bank has discussed and agreed with TANROADS that fresh information will be sent out to all PAPs reversing the wrong messages that were sent out earlier. TANROADS has accepted to extend the period of disclosure of the compensation packages and final list of PAPs who are affected so as to remove all anxiety and eliminate speculation among the PAPs.

F. MANAGERMENTS' ACTIONS TO ADDRESS REQUESTORS' CONCERNS

19. Following Management's receipt of CRMU's notice of registration of a Request for Problem Solving, Management expressed its commitment to resolve the problem and ensure that the RAP is fully implemented. Management immediately sent a team on mission to resolve the problem. The team reached out to the Requestors to express Management's commitment and the Requestors accepted the approach of problem solving and mediation.

20. At a meeting between the Bank's Team and the Requestors on 10th July 2012, the Requesters assured the Bank that they had no intentions of frustrating the project but were only keen on receiving their due compensation and assistance to resettle. They reiterated their support for the project in their letters written to TANROADS acknowledging the importance of the project for the development of the communities along the road. The Minutes are attached as Annex 1.

21. The Government of Tanzania (represented by the Permanent Secretary in the Ministry of Works and TANROADS Management) is in agreement with the problem solving approach and undertook to comply with all requirements of the Bank's Policy on Involuntary Resettlement. The Government also agreed to fulfill the requirements of the Loan Conditions pertaining to compensation and resettlement under which finances for RSSP II are underpinned. This is contained in the Aide Memoire signed between the Bank and the Government of Tanzania during the visit of the Bank's team (Annex II).

G. ACTION PLAN BY THE GOVERNMENT OF TANZANIA TO ADDRESS THE REQUESTORS' CONCERNS

22. In order to prudently remedy the situation, Government has committed itself to the following actions contained in Table 1 below. Management has committed to complying with its relevant policies and procedures. Management also commits to conducting follow-ups and regular monitoring of the laid out actions to ensure that TANROADS fulfills all its commitments. Management will further ensure that a social development expert participates in supervision missions and/or supervises the implementation of the RAP at least bi-annually. A progress report will be submitted to CRMU with updates of the progress achieved in resettling and compensating affected persons.

Table 1: Action Plan to Resolve Issues raised by Requestors

No.	Issue	Action	Responsibility	Due Date
1.	Contrary to the Bank's Policy on Involuntary Resettlements, TANROADS sent out inappropriate messages to PAPs regarding demolition of their properties within the 45 m road corridor without compensation or resettlement support.	Send notices to all PAPs to withdraw the previously-sent messages about demolition of properties within the 45m road corridor without compensation.	TANROADS: H/Q, Dodoma and Manyala	20 July, 2012
2.	TANROADS has yet to receive from the Chief Government Valuer the approved valuation report and compensation schedules to ascertain the list of PAPs eligible for compensation within the 45 m road corridor.	Submit to the Bank the final RAP together with the approved valuation and compensation schedules validating the list of PAPs that are due for compensation within the 45m road corridor.	TANROADS H/Q	30 August, 2012
3.	TANROADS' messages on demolitions have triggered anxiety and fear in PAPs, resulting in some PAPs already demolishing properties within 45m corridor.	Carry out a final disclosure to PAPs that are eligible for compensation and the levels of compensations they are entitled to so as to properly inform the PAPs.	TANROADS HQ, Dodoma and Manyala	30 August, 2012
4.	Road works will result in disturbance and resettlement to be conducted by sections and lots as works are carried out.	Submit to the Bank a works schedule and compensation schedule detailing the sections into which each lot of the civil works will be divided and the list of PAPs per each section and timeframe for compensation	TANROADS	September 15, 2012
5.	Before contractor is handed over the site, all PAPs will need to be compensated and assisted with resettlement.	Submit to the Bank evidence of having fully compensated and/or resettled all Project-Affected Persons with respect to the first sections of each lot of the civil works in accordance with the RAP and the Works and Compensation Schedules prior to the commencement of construction works.	TANROADS	Date of first hand over of site to contractor

H. CONCLUSION

23. The Bank is committed to complying with its relevant policies and procedures in the execution of the contract for the Babati-Dodoma road project. The Government of Tanzania is committed to the upgrading of the Dodoma-Babati road and has agreed to comply with Bank's Policy on Involuntary Resettlement. To address the issues raised by the Requestors, the Government of Tanzania has undertaken to:

- Withdraw the vacation notification to all PAPs and provide new information assuring fair and timely payment of compensation for affected properties;
- Submit the final RAP together with the approved valuation and compensation schedules stipulating the 45m ROW, and clearly indicating records of consultations carried out and final disclosure and compensation level by the end August, 2012;
- Submit to the Bank by mid-September 2012 a works schedule and compensation schedule detailing the sections into which each lot of the civil works will be divided and the list of PAPs per each section and timeframe for compensation;
- Submit to the Bank evidence of having fully compensated and/or resettled all PAPs with respect to the first sections of each lot of the civil works in accordance with the RAP and the Works and Compensation Schedules prior to the commencement of construction works.

ANNEX I: MINUTES OF FACT-FINDING AND PROBLEM RESOLUTION MISSION

TANZANIA: FACT FINDING MISSION TO PREPARE MANAGEMENT RESPONSE TO A REQUEST FILED WITH CRMU CONCERNING THE TANZANIA ROAD SUPPORT PROJECT II:

SUBJECT: Record of a Meeting Held with the Requestors

DATE: 10th July 2012

VENUE: New Arusha Hotel, Arusha, Tanzania

MEMBERS PRESENT:

Lawrence Kiggundu, -	Task Manager, AfDB, TZFO
Abdallah Alli Dello -	Principal Requestor
Omari Saidi Fusa -	Requestor 2
Noel Kulemeka -	ONEC.3, AfDB, Tunis
Steven Onen -	GECL/EARC, AfDB, EARC
Annah M. Rutebuka -	ORQR.3 AfDB, Tunis

MIN 1: COMMUNICATION FROM THE CHAIR

Mr. Kiggundu welcomed all present. He acknowledged to the requestors that the Bank had received their complaint and explained to them that this is a fact finding mission for problem solving as had been recommended by CRMU. He therefore requested the requestors to explain their complaint.

MIN 2: PRESENTATION BY THE PRINCIPAL REQUESTOR

Abdallah Alli Dello explained the circumstances that led to the filing of a complaint with CRMU. He said he had submitted the request together with his colleague Mr. Omari Saidi Fusa, his neighbour. He said that himself and his colleague Mr. Omari Saidi Fusa are residents of Bereko along the Dodoma-Babati Road Section, to be upgraded to bitumen standards under Road Sector Support Project II in Tanzania and is co-financed by the African Development Bank. The main problem he explained is that they had received two notices from Tanzania National Roads Agency (TANROADS) in December 2011 and April 2012, respectively, requiring them to remove their residences immediately without payment of compensation and resettlement benefits.

He explained that together with Requestor 2, in an effort to have their problem resolved by TANROADS, wrote several letters explaining their status of occupancy and seeking redress from TANROADS. They also wrote to the Permanent Secretary of the Ministry of works but all of their letters were not acknowledged. It is after several correspondences without receiving any clear information as to their fate that they took steps to seek redress from the CRMU. He stated that their main objective was to be treated fairly and not to frustrate the project.

The Requestors indicated their support for the project because of the development potential it will have on the communities along the road.

MIN 3: DISCUSSION AND OUTCOME

The AfDB team assured the requestors that AfDB has policies in place that are designed to ensure protection of project affected people in areas where the Bank is financing projects. During the discussion, it was made clear by the AfDB team that the action taken by TANROADS of instructing potentially affected persons to demolish their properties and relocate without support is against the Bank's Policy on Involuntary Resettlement. The AfDB team proposed to the Requestors the following two remedies, which the two Requestors fully agreed with:

- TANROADS would write another letter to the Requestors withdrawing the notices previously sent on demolition of properties within the 45m road reserve;
- TANROADS would **Either -**

Limit the construction activities of the contractor to a construction corridor to be agreed upon in subsequent meetings with TANROADS and compensate only the PAPs within the construction corridor; This would eliminate demolition of most properties along the road, an outcome which is consistent with AfDB policy to minimize resettlement

Or compensate the PAPs within the 45m road reserve (22.5m either side of the road center line).

MIN 4: WAY FORWARD

It was agreed that;

Upon return to Dar es Salaam, the AfDB Team will meet with the Government officials and discuss the most optimal option in solving the problem without causing delays to project implementation. The agreed solutions will be accompanied by an action plan which will have to be implemented by TANROADS and Government and monitored by the Bank.

The description of the solution and action plan will be presented to CRMU for its review and further discussion with the Requestors at the earliest time possible. The CRMU will most probably pay a visit to the Requestors and Government to validate the solutions agreed upon and the accompanying action plan. Following an endorsement of the action plan, CRMU will present the solutions agreed upon and the action plan to the Bank's President and Board of Directors who will sanction implementation of the said steps. This will be the program to be implemented by TANROADS to ensure that the Bank Policy on Involuntary Resettlement has not been violated during implementation of the project

FOR THE AfDB

Name..... *George Kikwondo*

Signature..... *[Signature]*

Date..... *12/07/12*

FOR THE REQUESTORS

Name..... *A.A. Delu*

Signature..... *[Signature]*

Date..... *12/07/2012*

ANNEX II: AIDE MEMOIRE BETWEEN THE BANK AND THE GOVERNMENT OF TANZANIA

AFRICAN DEVELOPMENT BANK GROUP UNITED REPUBLIC OF TANZANIA ROAD SECTOR SUPPORT PROJECT II

09-15 JULY 2012

AIDE MEMOIRE

1. Introduction

A Bank mission comprising of L Kiggundu, Infrastructure Specialist, TZFO, N Kulemekwa, Socio-Economist, ONEC.3, A M Rutebuka, ORQR.3 and S. Onen, Legal Counsel, EARC undertook a fact-finding mission to Tanzania for a response to a request received by the Compliance Mediation Unit (CRMU) from two project-affected-persons (PAPs-herein referred to as Requestors) along the Babati-Dodoma road, one of the road sections forming part of Road Sector Support Project II (RSSP II).

On the first day, the mission held discussions with officials of the Executing Agency, the Tanzania National Roads Agency (TANROADS) to finalize the programme of the mission. The mission then had preliminary discussions with TANROADS and later on with the Permanent Secretary (PS) of the Ministry of Works to discuss the Request and the implications it has on the project. The mission travelled to Arusha on 10 July 2012 to hold discussions with the Requestors followed by a site visit on 11 July 2012 to assess the properties referred to in the Requestors' communication with the Bank. The mission then returned to Dar-es-Salaam on 12 July 2012 to brief TANROADS and the PS on its findings from the discussions held with the Requestors and the site visit and agree on the best way to solving the problem. The persons met and schedule of meetings are attached as Annex I and Annex II respectively.

This Aide-Memoire summarizes the mission's findings and outcome of the discussions with TANROADS, the Permanent Secretary of the Ministry of Works and the Requestors. The Aide Memoire concludes with the actions agreed to, to solve the problem.

2. The Project

Road Sector Support Project II was approved by the Board of Directors on 05 April 2012 for an amount of UA140 million. The loan agreement was signed on 23 May 2012. The project comprises of (a) civil works for the upgrading to bitumen standards the Dodoma-Babati road (188km) and the Tunduru-Mangaka-Mtambaswala (201km); (b) consulting services for; (i) supervision of the civil works; (ii) road safety; (iii) baseline data collection and ESMP monitoring; (iv) sensitization of HIV/AIDS, STI, TB and gender; (v) road sub-sector studies; (vi) audit; (c) capacity building; and (d) Compensation and resettlement.

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3. The Request

The Compliance Review and mediation Unit (CRMU) received a request on 05 June 2012 from Mr. Abdul Ali Dello (referred to as the Principal Requestor) and Mr Omari Saidi Fusa. The Request has been registered under No RQ2012/01 in the IRM Register of Requests and is accessible on the Bank's Website (www.afdb.org/irm).

The Requestors in their submission indicated that they had received two notices dated 12 December 2011 and 10 April 2012 from TANROADS to remove their properties within 90 days of receipt without payment of compensation and resettlement benefits. The Requestors had responded to TANROADS attaching copies of the legal documents supporting their land lots purchases from the Ministry of Lands, Settlement and Water Development. TANROADS however did not consider the legal documents and insisted that their properties are within the road reserve and therefore will not be compensated. After several correspondences with the Field Office (TZFO), and failure to get clear information on the actions or steps that the Bank intended to take to resolve the problem, the Principal Requestor registered a Request with CRMU on 13 June 2012.

4. Discussions with Government

During the meetings held with the Permanent Secretary (PS) of the Ministry of Works and TANROADS, it was observed that they had been informed of the complaint and noted Governments obligations to comply with the Rules and Policies of the Bank. The PS emphasized that there is a need to resolve this issue, noting that TANROADS had visited the site to see how the problem can be solved. TANROADS informed the mission that there is adequate corridor of about 30m for construction and therefore the houses of the complainants will not be demolished

5. Discussions with the Requestors

A meeting was held with the two Requestors, on 10 July 2012 to discuss the requests and solicit their views on solving the problem. In the letters written to TANROADS they indicated their support for the project because of the development potential it will have on the communities along the road.

The Complainants were informed that the mission has had discussions with TANROADS who were to take the following actions:

- Instructing the Regional Managers of the road sections of Road Sector Support Project II to withdraw the notices previously sent on demolition of properties within the 45m road reserve; and
- Either; limit the construction activities of the contractor to a construction corridor and compensate the PAPs within the affected width. This would eliminate demolition of most properties along the road.

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- Or compensate the PAPs within the 45m road reserve (22.5m either side of the road center line) as is stipulated in the RAP, which the loan agreement recognizes.

The complainants were agreeable to both alternatives but indicated that they need assurance in writing that in future if improvements require the demolition of their properties, they will be compensated.

However, after visiting the site the Bank Mission formed a strong view that the option of compensating only those in the construction corridor would not provide a long term solution and could breed further complaints as the Mission found out that some PAPs had already demolished their properties upon receipt of the TANROADS notices requiring them to do so;

The record of the meeting with the Requesters is attached as Annex III.

6. Compliance and Safeguards

The Bank's Policy on Involuntary Resettlement (2003) states that: any persons affected by the project must be compensated and also assisted with relocation, where necessary. The AfDB's Involuntary Resettlement Policy stipulates, among other things:

"a category of displaced persons who have no recognizable legal right or claim to the land they are occupying in the project area will be entitled to resettlement assistance in lieu of compensation for land. Nevertheless, at the minimum, under the Bank's policy (with no contradiction to the borrower's legislation), land, housing, and infrastructure will be provided to the adversely affected population, including indigenous groups, ethnic, religious and linguistic minorities, and pastoralists who may have usufruct rights to the land or other resources taken for the project."

The phrase **"with no contradiction to the borrower's legislation"** refers to legislation regarding provision of land, housing and infrastructure to PAPs who have no legal title to land. Bank Policy requires that all PAPs regardless of legality must be compensated for their assets and assisted with resettlement.

The Bank puts people at the center of development. Hence in all operations, the Bank pays close attention to projects that may result in the displacement and resettlement of people, particularly when they are the disadvantaged groups such as elderly and children, female headed households, the poorest and marginalized communities. The involuntary policy therefore helps to further reinforce the Bank's vision of which poverty reduction is an overarching objective.

7. Legal Considerations

All parties to the discussions (the Bank, the Government of Tanzania and TANROADS) acknowledged that under the loan agreement signed between the African Development Fund and the Government, it is a legal obligation of Government to comply

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with all relevant policies of the African Development Bank Group, including the Policy on Involuntary Resettlement. This includes the compensation and resettlement of PAPs.

8. Actions

Government (TANROADS) has already forwarded letters to the two Requestors withdrawing the notices to requesting them to demolish their properties.

The Government agreed with the Bank Mission that in executing the resettlement and compensation activities, it shall abide by the Bank's Involuntary Resettlement Policy. The Government also agreed to fulfill the requirements of the Loan Conditions pertaining to compensation and resettlement under which finances for RSSP II are underpinned. It was agreed that:

- Government (TANROADS) withdraws the vacation notification to all PAPs and provides new information assuring fair and timely compensation of properties;

9. Compensation Time Frame

It was also agreed that in accordance with the loan agreement Government (TANROADS) shall;

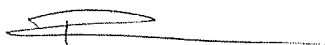
- Submit the final RAP together with the approved valuation and compensation schedules stipulating the 45m ROW clearly indicating records of consultations carried out and final disclosure and compensation level by the end August, 2012;
- Submit to the Bank by mid-September 2012 a works schedule and compensation schedule detailing the sections into which each lot of the civil works will be divided and the list of PAPs per each section and timeframe for compensation;
- Submit to the Bank evidence of having fully compensated and/or resettled all Project-Affected Persons with respect to the first sections of each lot of the civil works in accordance with the RAP and the Works and Compensation Schedules prior to the commencement of construction works;

10. Appreciation

The mission would like to express its gratitude to the Government of the Republic of Tanzania for the co-operation and assistance extended to the mission. The usual hospitality extended to the mission is highly appreciated.

16 July 2012

for ADB Mission



Tonia Kandiero
Resident Representative
Tanzania Field Office
African Development Bank

for Government of the Republic
of Tanzania


Ambassador H E Mrango
Permanent Secretary
Ministry of Works

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ANNEX I

PERSONS MET

TANZANIA NATIONAL ROADS AGENCY

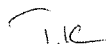
Mr PAL Mfugale	Chief Executive
Mr C Ako	Director, Projects
Mr L M E Chimagu	Regional Manager, Dodoma Region
Mr Y Kasani	Regional Manager, Manyara Region
Ms A Mwakanjuki	Environmentalist
Mr J Aumsuri	Maintenance Engineer
Mr T Mosso	Director Maintenance
Mr K Komba	Principal Legal Counsel
Ms A S Amour	Project Coordinator
Mr D L Chidowu	Principal State Attorney

MINISTRY OF WORKS

Ambassador H E Mrango	Permanent Secretary
Mr A Matei	Director, Trunk Roads

REQUESTERS

Mr A Dello	Principal Requester
Mr O S Fusa	Requester





ANNEX II

SCHEDULE OF MEETINGS

Monday 09.07.2012		Time
1	TANROADS	9h30-11h30
2	Ministry of Works	13h00-14h00
Tuesday 10.07.2012		
3	Travel to Arusha	-
4	Meeting with Requestors	16h00
Wednesday 11.07.2012		
5	Site Visit: Inspection of Properties	-
Thursday 12.07.2012		
6	Signature of Record with Requestors	10h00
7	Return to Dar-es-Salaam	-
Friday 13.07.2012		
8	TANROADS	14h00
Saturday 14.07.2012		
9	Ministry of Works	9h00

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