

RSS COMMENTS AND TT RESPONSE**Palau-FSM P130592 Safeguards Documents for Appraisal Package**

The RSS reviewed the appraisal package, including the safeguard instruments such as the Initial Environmental Examination Report and Due Diligence Reports.

The RSS notes the following concerns/issues that need to be addressed prior to appraisal.

1. Incomplete IEE Report. The report is not complete and is not in line with the policy requirements. The RSS notes that the project will cover Palau, Federated States of Micronesia (FSM) and Guam, but only FSM is covered in the IEE specifically Yap and Chuuk. The following key elements are missing in the report:

(i) Palau and Guam, which are part of the project and the project's area of influence, are not included in the assessment/IEE.

A separate IEE including an ESMP has been prepared and submitted for review.

(ii) Environmental Code of Practice (ECOP) is mentioned in the IEE but there is only a paragraph on ECOP in page 63 of the IEE report.

An ECOP has been prepared and incorporated into the ESMP.

2. Social Assessment. The ISDS and the PAD refer to the preparation of a Social Assessment to be submitted as a companion to the IEE. The SA, however, was not submitted to the RSS for review.

The ISDS and PAD have been amended to reflect that the Social Assessment was included in the IEE and is not a stand alone document

3. Consultation and disclosure of the IEE were only done in FSM (Yap and Chuuk) but not in Palau and Guam.

Consultation activities in Palau are detailed in the Guam-Palau IEE. It is noted that no construction activities will be required in Guam. Accordingly the IEE/ESMP do not apply there and consultation was not carried out.

Below are more specific comments.

IEE Report

4. Generic Statements and ESMP. The mitigation measures provided in Annex 1 of the IEE (ESMP) provide some general statements where formulation/development of detailed measures are "kicked down" to the consultants/contractors, instead of providing/laying out the detailed

measures in the ESMP for adoption/application by the contractors. Statements such as "In bid documentation, require bidders to provide specifications of fuel and lubricant management equipment, etc."; "contract specifications instruct cable survey team to survey cable alignment around coral reefs"; "define in contract specifications that the cable's placement must be confined in a narrow path" - question is who will define all these specifications and what's the timing? At the minimum, the IEE should be able to provide these specifications and guidelines that the contractors can adopt in preparing their ESMP based on the IEE.

The ESMP is arguably not as generic as indicated above. In the three examples above, the part-sentence continues by adding requirements as outlined below. These may be able to be strengthened prior to bidding but the statements are not as generic or open as perhaps indicated from the partial sentences above:

..and certify that the installations in in compliance with national regulations and-or MARPOL specifications for fuel management

...avoiding all coral outcrops, and following defined shipping channels

...to avoid this, the cable`s placement will be confined to a narrow path (less than 0.4m (15") wide and 0.75m (29.5") deep, and these specifications will be included in contract documents, and seagrass meadows will be avoided.

5. The ESMP also uses highly technical terms that contractors and consultants have difficulty understanding, e.g., autochthonous materials, inert/stable materials.

Autochthonous is really the only highly technical term used; and it is appropriately applied.

Social Issues

6. Due Diligence report - Outstanding land issues for Chuuk airport runway. According to the due diligence report concerning involuntary resettlement for the project sites in Yap and Chuuk States in FSM the project infrastructure investments (both involving cable landing sites and sites for cable station – in both locations there are existing access roads) will take place on government land and will not involve any land acquisition or loss of property for individual households. The cable landing station for Chuuk will be on the airport runway site which has been acquired by the State Government prior to the project and not for the direct purpose of the project. Part of the airport land is still to be fully paid by the State Government. However, this part of the land is not in the area where the cable will be laid; the cable landing site will be on the portion of the airport land that is fully owned by the Government. This is confirmed in a letter from the Governor of Chuuk State, Hon. Johnson Elimo, to the Chairperson of the FSM Fiber Optic Cable Taskforce. The Due Diligence Report does not mention any consultation with the traditional landowners to confirm that there will be no disputes concerning the land to be

used for the cable landing station. It is recommended that the TT continues to monitor this situation and facilitates consultations with the traditional land owners to avoid any future complaints.

Due diligence reports and correspondence confirm that no land acquisition is required

It is proposed not to trigger OP 4.12

7. Social Assessment is not included in the submission.

Integrated Safeguard Data Sheet

8. Scope. Only FSM is covered/described. What about Palau and Guam?

Clarified and amended in ISDS

9. OP 4.01 (EA). The explanation refers to "plus other documents to be submitted funded by the ADB". What are these other documents? The same explanation also refers to the preparation of an ECoP but there is no ECoP either as part of the IEE or as a separate document. There is also a confusion on whether Grievance Redress Mechanism is part of the IEE or ECoP? In some parts of the ISDS GRM is mentioned to be part of the IEE, whereas in many parts GRM is referred to as part of the ECoP.

The ISDS has been substantially changed in this regard to explain that the ECOP forms part of the ESMP. Wording clarified so that GRM is clearly part of the IEE and not the ECOP.

10. OP 4.04 (NH). What are the impacts on NH based on the IEE? The explanation only has a line about the "IEE has assessed the impacts on marine life and the coastal ecosystems and has proposed mitigating measures".

The ISDS has been changed to better explain the potential impacts.

11. OP 4.11 (PCR). There is reference to Chance Find Procedures in the ESMP, but upon checking of the ESMP the procedures are not there.

Chance find procedures are in the ESMP (Ecop)

12. OP 4.10 (IP): The policy is not triggered as the local population does not meet the characteristics of indigenous peoples. This is appropriate and consistent with the PIC Guidelines.

Agree

13. OP 4.12 (IR). The policy is triggered and the ISDS refers to both a Land Acquisition and Resettlement Plan (LARP) and a Compensation Policy Framework (CPF). However, it is not clear why the policy is triggered since the Yap and Chuuk sites do not require land acquisition according to the IEE, ADB support documents and the involuntary resettlement due diligence report. There CPF and LARP are not submitted. The said reports make no reference to the LARP and CPF. Clarification is requested from the TT.

Given the confirmation received via due diligence, it is proposed to NOT trigger OP 4.12

14. The ISDS does not reflect the recent information collected, including the undertaken of the social assessment, due diligence report for resettlement etc. The ISDS should be updated to reflect appraisal stage information and status. The ISDS should also be updated regarding the cable landing site in Chuuk. There is reference to a social assessment, but it is not clear if this was part of IEE or a separate process and document.

The ISDS has been updated to reflect all of the current information.

15. Text on disclosure updated.

16. Section II.A.1 should be revised to clarify a number of points such as: (i) there is reference to restriction or loss of access to sites or natural resources - this is not tackled in the IEE and if this indeed an issue, how will this be addressed? Will there be a Process Framework?; (ii) preparation of an SA - has this been undertaken?; (iii) ECoP has been prepared - but there is no ECoP; (iv) ECoP to include GRM - but there is no ECoP and GRM is part of the IEE Report.

The ISDS has been substantially amended to represent the issues and the document.

17. Update Section II.B: OP 4.11 to indicate that a PCR management plan will be developed.

Updated

18. Section II.A.4. Include social measures and instruments.

Updated to identify that the IEE and ESMP include a number of social management aspects including protecting coastal fisheries, ensuring full consultation, safety and promoting local employment opportunities.

19. Section II.A.5. There is reference to Consultation Plan, Participation Plan, Community Consultation Framework - where are these documents?

Consultation arrangements have been explained in more detail in the updated ISDS