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Summary of Problem Solving Completion Report of
the Special Project Facilitator
Independent State of Samoa: Promoting Economic
Use of Customary Land, Phase II and III and Samoa
AgriBusiness Support Project
(Complaint Received: 9 September 2014)

This document is being disclosed to the public in accordance with ADB's Public Communications Policy 2011.

I. INTRODUCTION

1. The Independent State of Samoa: Promoting Economic Use of Customary Land, Phase I TA was approved by the President of ADB on 5 December 2005. Phase II of the TA was approved on 23 November 2009 and Phase III on 10 October 2013. The purpose of the successive phases of the TA has been to assist the Government's efforts to encourage growth and jobs in Samoa by supporting greater investment through the use of leased customary land as collateral for financing. The AgriBusiness Support Project Grant¹ intends to increase agriculture and agribusiness contributions to the economy by providing financing and business support services to agribusinesses, their employees, suppliers, and contractors. The Ministry of Finance is the executing agency, while the implementing agencies are the Ministry of Natural Resources and Environment (MNRE) and the Ministry of Justice and Courts Administration.

2. The Special Project Facilitator received a complaint from four *matais*² in Samoa (the complainants) on 9 September 2014 and declared it eligible on 29 September 2014. The complainants were concerned that reforms proposed by the TAs had been carried out without meaningful consultation with the Samoan people. This could have the effect of individualizing control and commercializing large tracts of customary land without appropriate mechanisms to ensure that benefits flow to the landowners.

3. A review and assessment was conducted from 17 November to 1 December 2014 and included (i) a review of relevant documents; (ii) one-on-one and group interviews of stakeholders; (iii) workshops in the two main islands of Samoa; and (iv) a roundtable discussion with the complainants, the Government, and ADB to look into options for resolving concerns.

4. Based on conversations with stakeholders, most specifically with the complainants, OSPF concluded that the complaint could be resolved through the problem-solving process involving more consultations among stakeholders. There was broad acknowledgement that the complaint issues were legitimate and should be addressed. All stakeholders interviewed for the review and assessment were willing to participate in meetings or other forums with the complainants to address issues and solve problems.

5. OSPF made recommendations for the improvement of the project, which have largely been taken into account and implemented by the Government and ADB:

- a. **Meaningful Consultations.** ADB has allocated resources to engage an expert to design and implement a consultation/communication strategy. The strategy will be based on the principle that the consultation process is an opportunity to provide information about key issues and their implications to foster better understanding and to allow those affected by the decision to have meaningful and substantive opportunities to influence the final decisions.
- b. **Legal Framework.** The Government has established a legal working group to draft legislative reforms required. Four issue papers have been drafted. Consultations with the complainants will also feedback issues that need to be considered in giving clarity to concerns raised in the complaint.

¹ ADB. 2014. *Samoa AgriBusiness Support Project*. Manila (Grant 0392-SAM, approved in June).

² The *matais* are the chiefs of the Samoans. The *matais* are responsible for maintaining the respect, traditions, and administration of the village. www.pasifeka.com

- c. **Community.** MNRE is exploring measures to ensure participation of the wider community in the preparation of future leases to ensure broader agreement on the details of the lease, and transparency regarding the flow of rents and benefits to the people.
- d. **Customary Land Advisory Commission (CLAC).** The CLAC has been established as a secretariat with staff and budget for its functioning. The CLAC is coordinating its consultation plans with the project's communications and consultation strategy to avoid duplication.
- e. **Pilots.** The project has not yet had the opportunity to explore the possibility of pilot testing the reforms.
- f. **Awareness.** The AgriBusiness Support Project has organized awareness-raising events with business communities, banks, and chambers of commerce to help alleviate fears and provide design options for businesses to consider. A launch of the Project was also held, and to date four participating banks have provided financing to nine businesses. A project website is being developed to showcase the businesses in the future.
- g. **Types of Projects.** The nine businesses covered by the AgriBusiness Support Project to date do not involve the use of customary land. If leases in the future are to be included as collateral, the Project will develop and include consultative processes and procedures to ensure free and prior consent of landowners as stipulated in the ESMS.

II. IMPLEMENTATION OF THE COURSE OF ACTION

- 6. Aside from the recommendations made by OSPF for the project, a specific course of action was agreed to by all stakeholders, listing three activities with specific objectives:
 - a. **Communication and Consultation Strategy.** This will be developed to ensure meaningful consultations with the Samoan public on the reforms required for the Project. ADB made resources available in May 2015 for the engagement of a consultant to develop the strategy. The terms of reference for the consultation strategy specialist were prepared and commented on by all stakeholders in June 2015. Stakeholders were also involved in the interview process for the selection of the consultant, which was guided by a selection criteria and process document developed in August 2015 by the stakeholders with facilitation from OSPF. Interviews with candidates took place in November 2015, and the engagement of the consultant began in December 2015.
 - b. **Multistakeholder Workshop.** A multistakeholder workshop was suggested to discuss and agree on a plan of action after the review and assessment. Due to delays in the Project and engagement of the consultant, a meeting was held only on 27 January 2016 to reconfirm the activities to be carried out in relation to the recommendations. At the meeting, agreements were made on the scope of the consultations required, and the time frame for developing the strategy, consulting on the strategy, and finalizing it. Once the strategy is approved, consultations should take place by June 2016.

- c. **Consultation and Communication Strategy Workshop/Meeting.** A workshop or meeting including the Government, ADB, the complainants, and other stakeholders should be held to discuss the draft communication and consultation strategy by the end of March 2016. The workshop or meeting will confirm the overall strategy, methodology, persons to be involved, and time frame for implementation. Once the strategy is finalized and approved, the Project will proceed to implement it.
7. As all stakeholders are now focused on developing and implementing the consultation strategy. It was agreed that the stakeholders are collaborating to ensure meaningful consultations and will continue independently, with OSPF monitoring from a distance.