
LOAN NUMBER 3056-KGZ (SF)

GRANT NUMBER 0366-KGZ (SF)

FINANCING AGREEMENT
(Special Operations)

(CAREC Corridor 3 [Bishkek-Osh Road] Improvement Project, Phase 4)

between

KYRGYZ REPUBLIC

and

ASIAN DEVELOPMENT BANK

DATED 17 JANUARY 2014

KGZ 45169

**FINANCING AGREEMENT
(Special Operations)**

FINANCING AGREEMENT dated 17 January 2014 between the KYRGYZ REPUBLIC ("Beneficiary") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Beneficiary has applied to ADB for a loan and a grant for the purposes of the Project described in Schedule 1 to this Financing Agreement; and

(B) ADB has agreed to provide financing by making a loan and a grant to the Beneficiary from ADB's Special Funds resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations and Grant Regulations; Definitions

Section 1.01. All provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("Loan Regulations"), are hereby made applicable to the Loan made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) The term "Loan Agreement", wherever it appears in the Loan Regulations, shall be substituted by the term "Financing Agreement".

(b) The term "Borrower", wherever it appears in the Loan Regulations, shall be substituted by the term "Beneficiary" as defined in the opening paragraph of this Financing Agreement.

Section 1.02. All provisions of the Special Operations Grant Regulations of ADB, dated 7 February 2005 ("Grant Regulations"), are hereby made applicable to the Grant made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein subject, however, to the following modifications:

(a) The term "Grant Agreement", wherever it appears in the Grant Regulations, shall be substituted by the term "Financing Agreement".

(b) The term "Recipient", wherever it appears in the Grant Regulations, shall be substituted by the term "Beneficiary" as defined in the opening paragraph of this Financing Agreement.

Section 1.03. Wherever used in this Financing Agreement, the several terms defined in the Loan Regulations and the Grant Regulations have the

respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Financing Agreement have the following meanings:

- (a) "CAREC" means Central Asia Regional Economic Cooperation;
- (b) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (c) "Consulting Services" means the services to be financed out of the proceeds of the Loan or the Grant as described in subparagraph 2(b) of Schedule 1 to this Financing Agreement;
- (d) "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;
- (e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (f) "Environmental Safeguards Monitoring Report" means each report prepared and submitted by the Beneficiary to ADB that describes progress with implementation of and compliance with the EMP, including any corrective and preventative actions;
- (g) "Goods" means equipment and materials to be financed out of the proceeds of the Loan or the Grant, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;
- (h) "HIV/AIDS" means human immunodeficiency virus/acquired immunodeficiency syndrome;
- (i) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Beneficiary and cleared by ADB;
- (j) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (k) "Involuntary Resettlement Safeguards Monitoring Report" means each report prepared and submitted by the Recipient to ADB that describes progress with implementation of and compliance with the LARP, including any corrective and preventative actions;
- (l) "IPIG" means the Investment Projects Implementation Group within MOTC;
- (m) "Km" means a place indicated by a particular kilometer number marker of the Bishkek-Osh Road and "km" means kilometers;

(n) "LARP" means the land acquisition and resettlement plan for the Project, including any update thereto, prepared and submitted by the Beneficiary and cleared by ADB;

(o) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2012, as amended from time to time);

(p) "MOTC" means the Ministry of Transport and Communications of the Beneficiary;

(q) "PAM" means the project administration manual for the Project dated 19 September 2013 and agreed between the Beneficiary and ADB, as updated from time to time in accordance with the respective administrative procedures of the Beneficiary and ADB;

(r) "Procurement Guidelines" means ADB's Procurement Guidelines (2013, as amended from time to time);

(s) "Procurement Plan" means the procurement plan for the Project dated 19 September 2013 and agreed between the Beneficiary and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(t) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations and the Grant Regulations means MOTC or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Project;

(u) "Project facilities" means the Project Road, and Works and Goods financed out of the proceeds of the Loan and Grant;

(v) "Project Road" means the road section described in subparagraph 2(a) of Schedule 1 to this Grant Agreement;

(w) "SPS" means ADB's Safeguard Policy Statement (2009); and

(x) "Works" means construction or civil works to be financed out of the proceeds of the Loan or the Grant, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding Consulting Services.

ARTICLE II

The Loan and the Grant

Section 2.01. ADB agrees to provide to the Beneficiary from ADB's Special Funds resources, on terms and conditions set forth in this Financing Agreement:

- (a) a loan in various currencies equivalent to forty-two million nine hundred seventy-five thousand Special Drawing Rights (SDR 42,975,000) (“Loan”); and
- (b) a grant in the amount of thirty five million Dollars (\$35,000,000) (“Grant”).

Section 2.02. (a) The Beneficiary shall pay to ADB an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term “grace period” as used in paragraph (a) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Financing Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 February and 15 August in each year.

Section 2.04. The Beneficiary shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Financing Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Section 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

ARTICLE III

Use of Proceeds of the Loan and the Grant

Section 3.01. The Beneficiary shall cause the proceeds of the Loan and the Grant to be applied to the financing of expenditures on the Project in accordance with the provisions of this Financing Agreement.

Section 3.02. The proceeds of the Loan and the Grant shall be allocated and withdrawn in accordance with the provisions of Schedule 3 to this Financing Agreement, as such Schedule 3 may be amended from time to time by agreement between the Beneficiary and ADB.

Section 3.03. Except as ADB may otherwise agree, the Beneficiary shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan and the Grant in accordance with the provisions of Schedule 4 to this Financing Agreement.

Section 3.04. Withdrawals from the Loan Account and the Grant Account in respect of Goods, Works, and Consulting Services shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and supplied from and Works and Consulting Services which are supplied from such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement, and
- (b) Goods, Works and Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations and the Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 April 2020 or, in each case, such other date as may from time to time be agreed between the Beneficiary and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Beneficiary shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Financing Agreement.

Section 4.02. (a) The Beneficiary shall (i) maintain separate accounts and records for the Project, including separate accounts and records for the Loan and Grant; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest fund(s) and statement of expenditures) and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

(c) The Beneficiary shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Beneficiary's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such

discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Beneficiary, unless the Beneficiary shall otherwise agree.

Section 4.03. The Beneficiary shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Financing Agreement is specified for the effectiveness of the Financing Agreement for the purposes of Section 9.04 of the Loan Regulations and Section 9.04 of the Grant Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Minister of Finance of the Beneficiary is designated as representative of the Beneficiary for the purposes of Section 11.02 of the Loan Regulations and Section 11.02 of the Grant Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations and Section 11.01 of the Grant Regulations:

For the Beneficiary

The Ministry of Finance
58, Erkindik Boulevard
Bishkek, 720040
Kyrgyz Republic

Facsimile Number:

(996) 312 661645

For ADB

Asian Development Bank
6, ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2428.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Financing Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

KYRGYZ REPUBLIC

By  _____
OLGA LAVROVA
Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By  _____
RIE HIRAOKA
Country Director
Kyrgyz Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to improve the efficiency and sustainability of transport operations on the Bishkek–Osh Road.
2. The Project shall comprise:
 - (a) reconstruction of a 52.5 km road section from Bishkek to Kara Balta (Km 8.5-Km 61), incorporating specific features for preserving the road structure and reducing vehicle crashes; and
 - (b) institutional capacity strengthening, including:
 - (i) piloting a performance-based maintenance contract on the 100 km road section from Kara-Balta to Km 161;
 - (ii) conducting road safety enhancement and awareness program and audit; and
 - (iii) provision of support for detailed engineering and construction supervision of the road section referred to in subparagraph (a) of this paragraph and for project management.
3. The Project is expected to be completed by 30 October 2019.

SCHEDULE 2**Amortization Schedule****(CAREC Corridor 3 [Bishkek-Osh Road] Improvement Project, Phase 4)**

<u>Payment Due</u>	<u>Installment Share</u> (Expressed in Special Drawing Rights)*
15 February 2022	895,313.00
15 August 2022	895,313.00
15 February 2023	895,313.00
15 August 2023	895,313.00
15 February 2024	895,313.00
15 August 2024	895,313.00
15 February 2025	895,313.00
15 August 2025	895,313.00
15 February 2026	895,313.00
15 August 2026	895,313.00
15 February 2027	895,313.00
15 August 2027	895,313.00
15 February 2028	895,313.00
15 August 2028	895,313.00
15 February 2029	895,313.00
15 August 2029	895,313.00
15 February 2030	895,313.00
15 August 2030	895,313.00
15 February 2031	895,313.00
15 August 2031	895,313.00
15 February 2032	895,313.00
15 August 2032	895,313.00
15 February 2033	895,313.00
15 August 2033	895,313.00
15 February 2034	895,313.00
15 August 2034	895,313.00
15 February 2035	895,313.00
15 August 2035	895,313.00
15 February 2036	895,313.00
15 August 2036	895,313.00
15 February 2037	895,313.00
15 August 2037	895,313.00
15 February 2038	895,313.00
15 August 2038	895,313.00
15 February 2039	895,313.00
15 August 2039	895,313.00
15 February 2040	895,313.00
15 August 2040	895,313.00
15 February 2041	895,313.00
15 August 2041	895,313.00
15 February 2042	895,313.00

<u>Payment Due</u>	<u>Installment Share</u> (Expressed in Special Drawing Rights)*
15 August 2042	895,313.00
15 February 2043	895,313.00
15 August 2043	895,313.00
15 February 2044	895,313.00
15 August 2044	895,313.00
15 February 2045	895,313.00
15 August 2045	895,289.00
TOTAL	42,975,000.00

* The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

SCHEDULE 3**Allocation and Withdrawal of Loan and Grant Proceeds**General

1. The tables attached to this Schedule set forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the Grant. Table 1 sets forth the allocation of the Loan proceeds to each such Category. Table 2 sets out the allocation of the Grant proceeds to each such Category (Reference to "Category" in this Schedule is to a Category or Subcategory of Table 1 and Table 2, respectively.)

Basis for Withdrawal from the Loan and Grant Account

2. Except as ADB may otherwise agree, the proceeds of the Loan and the Grant shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in Table 1 and Table 2, respectively.

Interest Charge

3. The amount allocated to Category 2 of Table 1 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

4. Notwithstanding the allocation of the Loan proceeds and the Grant proceeds and the withdrawal percentages set forth in Table 1 and Table 2, respectively,

(a) if the amount of the Loan or the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Beneficiary, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan or the Grant which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan or the Grant then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Beneficiary, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the proceeds of the Loan and the Grant shall be disbursed in accordance with the Loan Disbursement Handbook.

TABLE 1

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (CAREC Corridor 3 [Bishkek-Osh Road] Improvement Project, Phase 4)			
Number	Item	Total Amount Allocated for ADB Financing (SDR) Category	Basis for Withdrawal from the Loan Account
1	Works – Project Road	36,363,000	60 percent of total expenditure claimed
2	Interest Charge	661,000	100 percent of amount due
3	Unallocated	5,951,000	
	Total	42,975,000	

TABLE 2

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (CAREC Corridor 3 [Bishkek-Osh Road] Improvement Project, Phase 4)				
Number	Item	Total Amount Allocated for ADB Financing (\$)		Basis for Withdrawal from the Grant Account
		Category	Subcategory	
1	Works – Project Road	20,500,000		22 percent of total expenditure claimed
2	Institutional Strengthening	6,700,000		
2A	Pilot Performance-based Maintenance Contract		2,500,000	41 percent of total expenditure claimed
2B	Consulting Services		4,200,000	90 percent of total expenditure claimed
3	Recurrent Costs for Project Management	1,500,000		90 percent of total expenditure claimed
4	Land Acquisition and Resettlement	1,300,000		100 percent of total expenditure claimed
5	Unallocated	5,000,000		
	Total	35,000,000		

SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used in this Schedule and not otherwise defined in this Financing Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:
 - (a) International Competitive Bidding; and
 - (b) Shopping.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Beneficiary may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Conditions for Award of Contract

5. The Beneficiary shall not award any Works contract which involves environmental impacts until:
 - (a) the IEE has been approved by the appropriate authority of the Beneficiary; and
 - (b) the Beneficiary has incorporated the relevant provisions from the EMP into the Works contract.
6. The Beneficiary shall not award any Works contract which involves involuntary resettlement impacts until the Beneficiary has prepared and submitted to ADB the final LARP based on the Project's detailed design, and obtained ADB's clearance of such LARP.

Consulting Services

7. Except as ADB may otherwise agree, and except as set forth in the paragraphs below, the Beneficiary shall apply quality- and cost-based selection for selecting and engaging Consulting Services.
8. The Beneficiary shall apply the following method for selecting and engaging the specified Consulting Services, in accordance with, among other things, the procedures

set forth in the Procurement Plan: Least-Cost Selection for external audit of the Project accounts.

9. The Beneficiary shall recruit individual consultants for project management, supervision of the performance-based maintenance contract, external safeguard monitoring and provision of road safety and climate change expertise in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

10. (a) The Beneficiary shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Beneficiary shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

11. The Beneficiary shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the Consulting Services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

ADB's Review of Procurement Decisions

12. Contracts procured under international competitive bidding procedures and contracts for Consulting Services shall be subject to prior review by ADB, unless otherwise agreed between the Beneficiary and ADB and set forth in the Procurement Plan.

13. In the case of a contract for Goods or Works, which is subject to ADB's prior review, the Beneficiary shall seek ADB's prior approval of any modification or waiver of the terms and conditions of the contract, including:

- (a) granting an extension of the stipulated time for completion of a contract for a period of 1 month or more, or which is likely to require an extension of the Loan Closing Date or the Grant Closing Date, and
- (b) increases in aggregate of the original price by more than 5% (for the avoidance of doubt, such increase shall take into account any previous change under such contract).

14. In the case of a contract for Goods or Works, which is subject to ADB's post review, ADB shall review the required contract modification or waiver and respond to the Beneficiary as soon as practicable, but not later than 1 month after the receipt of the required document.

15. The Beneficiary shall provide to ADB copies of all time extensions, modifications or waivers to the contracts (including change orders) within 1 month following amendment of the contract.

Procurement of Bitumen from Non-member Countries

16. Notwithstanding the provisions of Section 3.04(a) of this Financing Agreement, bitumen may be procured for Works under the Project from non-member countries of ADB.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Implementation Arrangements

1. The Beneficiary and MOTC shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Beneficiary and ADB. In the event of any discrepancy between the PAM and this Financing Agreement, the provisions of this Financing Agreement shall prevail.

Counterpart Funding

2. The Beneficiary shall make available all counterpart funds required for timely and effective implementation of the Project (including, without limitation, for the performance-based maintenance component of the Project discussed in paragraph 7 below) through annual budget allocations to MOTC, and ensure that such funds are released to MOTC in a timely manner. The Beneficiary shall cause MOTC to ensure that it includes the updated funding requirements for implementation of the Project in its annual development programs.

Construction Quality

3. The Beneficiary shall cause MOTC to ensure that the Project is carried out in accordance with the applicable design and technical specifications in accordance with national standards and satisfactory to ADB; and that the construction supervision, quality control, and contract management are in accordance with internationally accepted standards and practices.

Operation and Maintenance; Performance-Based Maintenance

4. The Beneficiary shall allocate and make available to MOTC sufficient funds for the operation and maintenance of roads under MOTC's jurisdiction, including the Project Road, on a timely basis.

5. Without limiting the generality of paragraph 4 above, the Beneficiary shall ensure that the feeder roads connecting to the Project Road are at all times maintained in adequate condition.

6. Without limiting the generality of Section 6.10 of the Loan Regulations and Section 6.09 of the Grant Regulations, after completion of Project implementation, the Beneficiary shall cause MOTC to (i) ensure that appropriate road safety measures on the Project Road, such as pavement markings, warning signs, traffic signs and signals, communication facilities, hazard barriers, and traffic monitoring facilities, are adequately maintained to ensure the ongoing safety of the Project Road, and (ii) closely monitor pavement performance of the Project Road and promptly engage in remedial works to strengthen the pavement when the first sign of failures occur, such remedial works to be financed from the resources of the Beneficiary.

7. The Beneficiary shall ensure that the implementation of the performance-based road maintenance (PBM) subcomponent of the Project is carried out by MOTC with the assistance of institutional advisors to be recruited under the Project and in close coordination with IPIG. The PBM contract shall require the contractor to initially rehabilitate the identified defects in the road, after which it will undertake periodic maintenance of the road for a period of three years. IPIG shall provide necessary coordination and support in carrying out procurement of the PBM contract and reporting on the implementation of the PBM contract.

Environment

8. The Beneficiary shall cause MOTC to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Beneficiary relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the IEE, the EMP, and any corrective or preventative actions set forth in a Environmental Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

9. The Beneficiary shall cause MOTC to ensure that all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract and all land acquisition and resettlement activities are implemented in compliance with (a) all applicable laws and regulations of the Beneficiary relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the LARP, and any corrective or preventative actions set forth in the Involuntary Resettlement Safeguards Monitoring Report.

10. Without limiting the application of the Involuntary Resettlement Safeguards or the LARP, the Beneficiary shall cause MOTC to ensure that no physical or economic displacement takes place in connection with the Project until:

- (a) compensation and other entitlements have been provided to affected people in accordance with the LARP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the LARP.

Indigenous Peoples

11. The Beneficiary shall cause MOTC to ensure that the Project does not cause any impact on indigenous people within the meaning of the SPS. If there is such an impact, the Beneficiary shall cause MOTC to prepare, disclose and implement an indigenous peoples plan in accordance with all applicable laws and regulations of the Beneficiary relating to indigenous peoples and the SPS.

Human and Financial Resources to Implement Safeguards Requirements

12. The Beneficiary shall make available or cause MOTC to make available necessary budgetary and human resources to fully implement the EMP and the LARP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

13. The Beneficiary shall ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP and the LARP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in an Environmental Safeguards Monitoring Report or an Involuntary Resettlement Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide MOTC with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the LARP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

14. The Beneficiary shall cause MOTC to do the following:

- (a) submit semi-annual Environmental Safeguards Monitoring Reports and Involuntary Resettlement Safeguards Monitoring Reports to ADB within one month after the reporting period at the end of each half of the calendar year, and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP and the LARP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;

- (c) no later than the date of award of Works contract, engage a qualified and experienced external expert under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process in relation to land acquisition and resettlement, and facilitate the carrying out of any verification activities by such external expert;
- (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the LARP promptly after becoming aware of the breach; and
- (e) prepare and submit to ADB a land acquisition and resettlement completion report once all activities, measures and requirements set forth in the LARP are duly accomplished.

Prohibited List of Investments

15. The Beneficiary shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor and Health Standards

16. The Beneficiary shall cause MOTC to ensure that specific provisions are included in the bidding documents to ensure that Works contractors: (a) comply with core labor standards, applicable laws and regulations of the Beneficiary and incorporate workplace occupational safety norms; (b) do not differentiate pay between men and women for work of equal value; (c) do not employ child labor in the construction and maintenance activities; (d) eliminate forced or compulsory labor; (e) eliminate employment discrimination; (f) allow for freedom of association; (g) to the extent possible, maximize employment of local people for project construction purposes provided that the requirements for job and efficiency are adequately met; and (h) disseminate information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of the contractors engaged under the Project and to members of the local communities surrounding the Project.

Gender and Development

17. The Beneficiary shall cause MOTC to ensure that the principles of ADB's *Policy on Gender and Development* (1998) are followed during implementation of the Project, including (a) equal pay to men and women for same type of work; (b) enabling working conditions for female workers; and (c) taking all necessary actions to encourage women living in the Project area to participate in planning and implementing Project activities. The Beneficiary shall cause MOTC, in coordination with the appropriate agencies, to ensure the effective implementation of measures aimed at increasing Project benefits and impacts on women in and around the Project area, including, without limitation, the construction of restrooms along the Project Road.

Illegal Trafficking

18. The Beneficiary shall undertake adequate measures to detect and prevent trafficking of humans, wildlife, endangered species, and illegal substances on the Project Road.

Governance and Anticorruption

19. The Beneficiary and MOTC shall (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

20. The Beneficiary and MOTC shall ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

21. The Beneficiary shall cause IPIG, throughout the period of Project implementation, to (a) maintain and regularly update its website with information on the Project, and (b) regularly consult with the public and civil society organizations in respect of each of the foregoing matters.