
LOAN NUMBER 3648-MON

LOAN AGREEMENT
(Ordinary Operations)

(Ulaanbaatar Air Quality Improvement Program)

between

MONGOLIA

and

ASIAN DEVELOPMENT BANK

DATED 4 April 2018

MON 51199

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 4 April 2018 between MONGOLIA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 23 February 2018 ("Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to develop the Borrower's urban development sector ("Program");

(B) the Borrower has applied to ADB for a loan for the purposes of the Program; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of ADB's Ordinary Operations Loan Regulations, dated 1 January 2017 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(tt) is deleted and the following is substituted therefor:

The term "Program" means the program for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower;

(b) The term "Project" wherever it appears in the Loan Regulations shall be substituted by the term "Program".

(c) Section 2.01(vv) is deleted and the following is substituted therefor:

The term "Program Executing Agency" means the entity or entities responsible for the carrying out of the Program as specified in the Loan Agreement.

- (d) The term "Project Executing Agency" wherever it appears in the Loan Regulations shall be substituted by the term "Program Executing Agency".
- (e) Section 6.01(b) is deleted.

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

- (a) "CGFM" means Credit Guarantee Fund of Mongolia, which is a state-owned enterprise aimed to support credit guarantee system within the territory of the Borrower;
- (b) "Counterpart Funds" means the local currency generated from the Loan proceeds under the Program and referred to in paragraph 5 of Schedule 4 to this Loan Agreement;
- (c) "Deposit Account" means the account referred to in paragraph 3 of Schedule 3 to this Loan Agreement;
- (d) "First Tranche" means the portion of the proceeds of the Loan in an amount of one hundred million Dollars (\$100,000,000) to be withdrawn pursuant to and subject to the provisions of paragraph 5 of Schedule 3 to this Loan Agreement;
- (e) "IAP" means Implementation Action Plan, which is the implementation documents of the Borrower's national program for reducing air and environmental pollution;
- (f) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (g) "MCUD" means the Ministry of Construction and Urban Development of the Borrower or any successor thereto;
- (h) "MET" means the Ministry of Environment and Tourism of the Borrower or any successor thereto;
- (i) "MMHI" means the Ministry of Mining and Heavy Industry of the Borrower or any successor thereto;
- (j) "MOE" means the Ministry of Energy of the Borrower or any successor thereto;
- (k) "MOF" means the Ministry of Finance of the Borrower or any successor thereto;
- (l) "MOH" means the Ministry of Health of the Borrower or any successor thereto;

- (m) "MRTD" means the Ministry of Road and Transport Development of the Borrower or any successor thereto;
- (n) "MUB" means the Municipality of Ulaanbaatar of the Borrower or any successor thereto;
- (o) "National Program" means the national program of the Borrower for air and environment pollution reduction within the period of 2017–2025;
- (p) "Policy Matrix" means the policy matrix as agreed between the Borrower and ADB, which sets forth actions accomplished or to be accomplished by the Borrower under the Program and is attached to the Policy Letter;
- (q) "Program Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means MOF or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Program;
- (r) "Second Tranche" means the balance of the proceeds of the Loan remaining in the Loan Account after the utilization of the First Tranche, to be withdrawn pursuant to and subject to the provisions of paragraph 6 of Schedule 3 to this Loan Agreement;
- (s) "SME" means small and medium enterprises; and
- (t) "SPS" means ADB's Safeguard Policy Statement (2009).

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred thirty million Dollars (\$130,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 12 years, and a grace period as defined in paragraph (c) of this Section.

(c) The term "grace period" as used in paragraph (b) 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 Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

- (a) LIBOR; and
- (b) 0.60% as determined by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 February and 15 August in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(f) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures for the Program in accordance with the provisions of this Loan Agreement.

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

Section 3.03. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 May 2019 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Program, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Loan Agreement.

Section 4.02. (a) As part of the information and reports referred to in Sections 7.01 and 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning (i) the Counterpart Funds and the use thereof; and (ii) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

(b) Without limiting the generality of the foregoing or Section 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB quarterly reports on the carrying out of the Program and on the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations

ARTICLE VI

Miscellaneous

Section 6.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
Government Building 2
S. Danzan Street 5/1
Ulaanbaatar – 15160
Mongolia

Facsimile Number:

(976) 11-320247.

For ADB

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2384.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan 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.

MONGOLIA

By 

KHURELBAATAR CHIMED
Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 

YOLANDA FERNANDEZ LOMMEN
Country Director
Mongolia Resident Mission

SCHEDULE 1**Description of the Program**

1. The principal objective of the Program is to enhance public health and living standards by improving air quality in Ulaanbaatar. The scope includes (a) improvement in IAP efficiency and in the air pollution regulatory framework; (b) implementation of key measures on air pollution reduction and health protection; and (c) establishment of mechanisms for environmentally sound and integrated urban, energy, and transport systems. The Program is described in more detail in the Policy Letter.
2. The Program is expected to be completed by 30 November 2018.

SCHEDULE 2

Amortization Schedule

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 August 2021	4.166667
15 February 2022	4.166667
15 August 2022	4.166667
15 February 2023	4.166667
15 August 2023	4.166667
15 February 2024	4.166667
15 August 2024	4.166667
15 February 2025	4.166667
15 August 2025	4.166667
15 February 2026	4.166667
15 August 2026	4.166667
15 February 2027	4.166667
15 August 2027	4.166667
15 February 2028	4.166667
15 August 2028	4.166667
15 February 2029	4.166667
15 August 2029	4.166667
15 February 2030	4.166667
15 August 2030	4.166667
15 February 2031	4.166667
15 August 2031	4.166667
15 February 2032	4.166667
15 August 2032	4.166667
15 February 2033	4.166659
Total	100.000000

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

- (a) to the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule; and
- (b) any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within 2 calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3**Withdrawal of Loan Proceeds**

1. Except as set out in this Schedule or as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.
2. An application for withdrawal from the Loan Account shall be submitted to ADB by the Borrower and shall be in a form satisfactory to ADB.
3. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall nominate an account (Deposit Account) at Bank of Mongolia into which all withdrawals from the Loan Account shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with the applicable regulations and procedures of the Borrower.

(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with accounting principles acceptable to ADB. Upon ADB's request, the Borrower shall have the financial statements for the Deposit Account audited 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. Promptly after their preparation but in any event not later than 6 months after the date of ADB's request, copies of such audited financial statements and the opinion of the auditors on the financial statements, in the English language, shall be furnished to ADB.
4. No Loan proceeds shall be withdrawn to finance any item specified in Attachment 1 to this Schedule.
5. The Borrower may withdraw the First Tranche upon effectiveness of this Loan Agreement.
6. Notwithstanding any other provisions of this Loan Agreement and except as ADB may otherwise agree, no withdrawal shall be made from the Loan Account for the Second Tranche unless ADB is satisfied, after consultation with the Borrower, that:
(a) sufficient progress has been achieved by the Borrower in the carrying out of the Program,
(b) the policy actions that were met for the release of the First Tranche continue to be complied with by the Borrower, and
(c) the Borrower has met the policy actions for the release of the tranche specified in Attachment 2 to this Schedule.

Negative List

No withdrawals of Loan proceeds will be made for the following:

- (i) expenditures for goods included in the following groups or sub-groups of the United Nations Standard International Trade Classification, Revision 3 (SITC, Rev. 3) or any successor groups or sub-groups under future revisions to the SITC, as designated by ADB by notice to the Borrower:

Table: Ineligible Items

Chapter	Heading	Description of Items
112		Alcoholic beverages
121		Tobacco, unmanufactured; tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitute)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof, fuel elements (cartridges), nonirradiated for nuclear reactors
728	728.43	Tobacco processing machinery
897	897.3	Jewelry of gold, silver or platinum-group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, nonmonetary (excluding gold ore and concentrates)

Source: United Nations.

- (ii) expenditures in the currency of the Borrower or for goods supplied from the territory of the Borrower;
- (iii) expenditures for goods supplied under a contract that any national or international financing institution or agency will have financed or has agreed to finance, including any contract financed under any loan or grant from the ADB;
- (iv) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
- (v) expenditures for narcotics;
- (vi) expenditures for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Borrower or international agreements to which the Borrower is a party; and
- (vii) expenditures on account of any payment prohibited by the Borrower in compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

Policy Actions for Release of the Second Tranche

1. The Borrower through MET shall (a) develop and implement an education and outreach program, targeting at least 50% female participation, including female headed households, to increase awareness on air pollution including the impact and reduction measures; and (b) approve a strategy to upgrade Ulaanbaatar's air quality and emission compliance monitoring networks, including cost requirements.
2. The Borrower through MCUD and MOE shall (a) complete a study on barriers and opportunities to deploy innovative heating and green building technologies, such as heat pumps; and (b) identify technologies for renewable energy pilot projects. The study shall include gender analysis, with the collection of sex-disaggregated data as well as gender-specific barriers to use new energy sources.
3. The Borrower through MOE and MUB shall prepare and submit to the relevant authority the final draft of the (a) energy efficiency standard for electric stoves and heaters; and (b) emission standard for lower-emitting fuel. These standards shall take into consideration the affordability for the poor.
4. The Borrower through MOE shall procure 80,000 tons of semi-coke briquettes, or lower-emitting fuel, for distribution to households in Ulaanbaatar ger areas, targeting the poor and female headed households.
5. The Borrower shall allocate the budget for the extension of the district heating infrastructure to enable the retirement of additional 71 heat-only boilers.
6. The Borrower shall allocate adequate budget for insulation and air filtration systems in new and rehabilitated kindergartens, schools, and hospitals in Ulaanbaatar.
7. The Borrower through MMHI, in collaboration with MRTD and consultation with relevant stakeholders, shall develop a roadmap for transitioning to low sulfur transportation fuel.
8. The Borrower through MOF shall inject sufficient capital to enable CGFM to either (a) issue at least 10 guarantees to support investment by SMEs in air pollution reduction products or services; or (b) provide such guarantees for loans with the minimum total value of no less than the equivalent of one million Dollars (\$1,000,000).
9. The Borrower through MCUD shall require all newly built Borrower-owned or operated buildings in Ulaanbaatar to apply energy efficiency standards and prohibit use of on-site coal-fired boilers.
10. The Borrower through MOE and MUB shall finalize a study on climate change adaptation to increase the climate resilience of the action plan for coordinated energy and urban planning.

SCHEDULE 4**Program Implementation and Other Matters**Implementation Arrangements

1. The Borrower shall appoint MOF as the Program Executing Agency, which shall oversee and coordinate the timely implementation of the policy actions. The Borrower shall also appoint MET; MCUD; MUB; MOE; MRTD; MMHI; and MOH as the Program implementing agencies.
2. The Borrower shall establish a working group comprising senior representatives from the MOF and the Program implementing agencies. The working group shall be chaired by the Vice Minister of Finance and shall meet quarterly to monitor progress under the Program. ADB shall assess Program implementation through periodic progress reports submitted by the Program Executing Agency, and will field missions to confirm the fulfillment of policy actions for subsequent tranche release.

Policy Actions and Dialogue

3. The Borrower shall ensure that all policy actions adopted under the Program, as set forth in the Policy Letter and the Policy Matrix, continue to be in effect for the duration of the Program.
4. The Borrower shall keep ADB informed of policy discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower shall take into account ADB's views before finalizing and implementing any such proposal.

Use of Counterpart Funds

5. The Borrower shall ensure that the Counterpart Funds are used to finance the implementation of certain programs and activities consistent with the objectives of the Program.

Governance and Anticorruption

6. The Borrower and the Program Executing Agency 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 Program; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

Monitoring and Review

7. The Borrower and ADB shall carry out quarterly review of Program implementation. ADB and the Borrower shall agree on the updated outcome and output indicators to monitor Program implementation and evaluate its impact.

Retirement of Heat-only Boilers

8. The Borrower shall ensure that the retirement of heat-only boilers and subsequent disposal of potential hazardous waste prescribed through the policy actions under the Program shall (a) be coordinated with and supervised by the relevant environmental authority; (b) not involve land acquisition and involuntary resettlement; and (c) be conducted in accordance with the prevailing laws and regulations of the Borrower. The Borrower shall facilitate the registration of the labor made redundant from the retirement of heat-only boilers at the employment center of MUB.