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LOAN NUMBER 3343-TAJ(SF)

GRANT NUMBER 0463-TAJ(SF)

FINANCING AGREEMENT  
(Special Operations)

(Investment Climate Reforms Program – Subprogram 1)

between

REPUBLIC OF TAJIKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 8 DECEMBER 2015

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TAJ 47099

**FINANCING AGREEMENT  
(Special Operations)**

FINANCING AGREEMENT dated 8 December 2015 between REPUBLIC OF TAJIKISTAN (“Beneficiary”) and ASIAN DEVELOPMENT BANK (“ADB”).

WHEREAS

(A) ADB has received from the Beneficiary a development policy letter dated 30 October 2015 (“Policy Letter”), setting forth certain objectives, policies and actions, described in Schedule 1 to this Financing Agreement, designed to develop the Beneficiary’s investment climate (“Program”);

(B) the Program comprises the first subprogram of a programmatic approach, as described in paragraph 1 of Schedule 1 to this Financing Agreement (“Programmatic Approach”), and the Beneficiary has applied to ADB for a loan and a grant for the purposes of the Program; and

(C) 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 the provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 (“Loan Regulations”), are hereby made applicable 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.

(c) Section 2.01(24) is deleted and the following is substituted therefor:

24. The term “Program” means the program for which ADB has agreed to make the Loan, as described in the Financing Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Beneficiary.

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

(e) Section 2.01(26) is deleted and the following is substituted therefor:

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

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

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.

(c) Section 2.01(15) is deleted and the following is substituted therefor:

15. The term "Program" means the program for which ADB has agreed to make the Grant, as described in the Financing Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Beneficiary.

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

(e) Section 2.01(17) is deleted and the following is substituted therefor:

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

(f) The term "Project Executing Agency" wherever it appears in the Grant Regulations shall be substituted by the term "Program Executing Agency".

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) “Counterpart Funds” means the local currency generated from the proceeds of the Loan and the Grant under the Program and referred to in paragraph 4 of Schedule 4 to this Financing Agreement;

(b) “Deposit Account” means the account referred to in paragraph 3(a) of Schedule 3 to this Financing Agreement;

(c) “Eligible Imports” means the total imports of the Beneficiary during the relevant period minus the following imports during the same period:

- (i) imports from countries which are not members of ADB;
- (ii) imports of ineligible items specified in the Attachment to Schedule 3 to this Financing Agreement; and
- (iii) imports financed by official international or bilateral aid agencies or any other loans or grants made by ADB;

(d) “Eligible Items” means the Eligible Imports and services in connection with the delivery and installation of such imports and consulting services;

(e) “EOP” means the Executive Office of the President of the Beneficiary or any successor thereto;

(f) “ESF” means the Entrepreneurship Support Fund of the Beneficiary;

(g) “Government” means the government of the Beneficiary or any successor thereto;

(h) “Implementing Agencies” means SCISPM, MOJ, ESF, Tajikstandard and the Tax Committee, or any successor to any of the foregoing acceptable to ADB, as described in paragraph 1 of Schedule 4 to this Financing Agreement;

(i) “Loan Disbursement Handbook” means ADB’s Loan Disbursement Handbook (2015, as amended from time to time);

(j) “MOF” means the Ministry of Finance of the Beneficiary or any successor thereto;

(k) “MOJ” means the Ministry of Justice of the Beneficiary;

(l) “Policy Matrix” means the matrix of policy actions as agreed between the Beneficiary and ADB and attached to the Policy Letter;

(m) “Program Executing Agency” for the purposes of, and within the meaning of, the Loan Regulations and the Grant Regulations means SCISPM or any successor thereto acceptable to ADB, which is responsible for the carrying out of the Program;

(n) “SCISPM” means the State Committee on Investments and State Property Management of the Beneficiary;

- (o) "Tajikstandard" means the Agency for Standardization, Metrology, Certification and Trade Inspection of the Beneficiary;
- (p) "Tax Committee" means the Tax Committee of the Beneficiary; and
- (q) "TJS" means the lawful currency of the Beneficiary.

## **ARTICLE II**

### **The Loan and the Grant**

Section 2.01. ADB agrees to provide to the Beneficiary from ADB's Special Funds resources:

- (a) a loan in various currencies equivalent to four million seven hundred twenty thousand Special Drawing Rights (SDR4,720,000) ("Loan"); and
- (b) a grant in the amount of fifty-three million four hundred thousand Dollars (\$53,400,000) ("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 May and 15 November 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 Program in accordance with the provisions of this Financing Agreement.

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

Section 3.03. Withdrawals from the Loan Account and the Grant Account shall be made only on account of expenditures relating to Eligible Items which:

- (a) are produced in, and 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) meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.04. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2016, and the Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 30 June 2016 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 Program, the Beneficiary shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Financing Agreement.

Section 4.02. (a) The Beneficiary shall maintain, or cause to be maintained, records and documents adequate to identify the Eligible Items financed out of the proceeds of the Loan and the Grant and to record the progress of the Program.

(b) The Beneficiary shall enable ADB's representatives to inspect any relevant records and documents referred to in paragraph (a) of this Section.

Section 4.03. As part of the reports and information referred to in Section 6.05 of the Loan Regulations and Section 6.04 of the Grant Regulations, the Beneficiary shall furnish, or cause to be furnished, to ADB all such reports and information as

ADB shall reasonably request concerning the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

## **ARTICLE V**

### **Effectiveness**

Section 5.01. The following is specified as an additional condition to the effectiveness of this Financing Agreement for the purposes of Section 9.01(f) of the Loan Regulations and Section 9.01(e) of the Grant Regulations, respectively: ADB is satisfied, after consultation with the Beneficiary, that the policy actions specified in Attachment 2 to Schedule 3 have been met.

Section 5.02. A date 60 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

Ministry of Finance  
3, Akademikov Rajabovikh Avenue  
734025 Dushanbe City  
Tajikistan

Facsimile Numbers:

+992 372 213-329  
+992 372 216-237

#### For ADB

Asian Development Bank  
6, ADB Avenue  
Mandaluyong City

1550 Metro Manila  
Philippines

Facsimile Numbers:

(632) 636-2444  
(632) 636-2424.

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.

REPUBLIC OF TAJIKISTAN

By   
\_\_\_\_\_  
ABDUSALOM QURBONIYON  
Minister  
Ministry of Finance

ASIAN DEVELOPMENT BANK

By   
\_\_\_\_\_  
CHANG CHING YU  
Country Director  
Tajikistan Resident Mission



**SCHEDULE 1****Description of the Program**

1. The principal objective of the Programmatic Approach is the increased capability and opportunities of businesses in the Beneficiary to set up and expand higher value added production. The Programmatic Approach comprises 3 subprograms and the Program is the first subprogram. In particular, the Program supports (a) the reduction of the cost of doing business, (b) the strengthening of protection for businesses, and (c) the increase of business innovation and productivity.
2. The Program is described in more detail in the Policy Letter.
3. The Program is expected to be completed by 31 December 2015.

**SCHEDULE 2****Amortization Schedule****(Investment Climate Reforms Program – Subprogram 1)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 May 2024	147,500
15 November 2024	147,500
15 May 2025	147,500
15 November 2025	147,500
15 May 2026	147,500
15 November 2026	147,500
15 May 2027	147,500
15 November 2027	147,500
15 May 2028	147,500
15 November 2028	147,500
15 May 2029	147,500
15 November 2029	147,500
15 May 2030	147,500
15 November 2030	147,500
15 May 2031	147,500
15 November 2031	147,500
15 May 2032	147,500
15 November 2032	147,500
15 May 2033	147,500
15 November 2033	147,500
15 May 2034	147,500
15 November 2034	147,500
15 May 2035	147,500
15 November 2035	147,500
15 May 2036	147,500
15 November 2036	147,500
15 May 2037	147,500
15 November 2037	147,500
15 May 2038	147,500
15 November 2038	147,500
15 May 2039	147,500
15 November 2039	<u>147,500</u>
<b>Total</b>	<b>4,720,000</b>

\*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

#### Withdrawal of Loan and Grant Proceeds

1. Except as ADB may otherwise agree, the following provisions of this Schedule shall apply to the withdrawal of Loan and Grant proceeds from the Loan Account and the Grant Account.

2. (a) An application for withdrawal from the Loan Account and the Grant Account shall be submitted to ADB by the Beneficiary and shall be in a form satisfactory to ADB.

(b) Such withdrawal applications shall be accompanied by a certificate of the Beneficiary confirming that with respect to each year during which the proceeds of the Loan and the Grant are expected to be disbursed, the value of the Eligible Imports is expected to be greater than the aggregate amount of the Loan and the Grant expected to be disbursed during such year.

(c) The Beneficiary shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Beneficiary has certified the value of Eligible Imports in its withdrawal application.

3. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account and the Grant Account, the Beneficiary shall nominate an account (Deposit Account) at the National Bank of Tajikistan into which all withdrawals from the Loan Account and the Grant Account, respectively, shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with terms and conditions satisfactory to ADB.

(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 Beneficiary shall have the separate accounts and records in respect of 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, certified copies of such audited separate accounts and records in respect of the Deposit Account, in the English language, shall be furnished to ADB.

(c) Throughout the Program implementation period, the Beneficiary shall submit trade statistics and any other information as ADB may require from time to time to assess the Beneficiary's compliance with the formula for determining Eligible Imports.

4. The Beneficiary may withdraw the Loan and the Grant upon the effectiveness of this Financing Agreement.

**Negative List**

No withdrawals 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 Beneficiary:

**Table: Ineligible Items**

<b>Chapter</b>	<b>Heading</b>	<b>Description of Items</b>
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 Beneficiary or for goods supplied from the territory of the Beneficiary;
- (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 Beneficiary or international agreements to which the Beneficiary is a party; and
- (vii) expenditures on account of any payment prohibited by the Beneficiary in compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.

**Policy Actions**

1. The Government shall (a) approve improvements to the institutional mechanism for assessing the impact (including gender analysis) of legal and regulatory proposals on the cost of doing business; (b) assigned the responsibility for quality control of the Regulatory Impact Analysis (RIA) system to an appropriate regulatory oversight body; and (c) launch two pilot RIAs to be completed by June 2016.
2. The Government shall approve (a) a risk-based business inspection system, and (b) a mechanism for coordination and reporting of annual inspection plans for agencies undertaking business inspections.
3. The Government shall (a) further reduced the number of goods subject to outdated (mandatory) technical regulations by removing at least 100 of those that do not meet international standards; and (b) disclose the full list of provisional technical regulations.
4. The Tax Committee shall (a) make available to all taxpayers electronic declarations through its website using a login/mobile password authentication system; and (b) design and implement a nation-wide awareness campaign to promote the system.
5. The Government shall make permanently available on the Tax Committee's website basic information (including ownership, management, economic activity, capital, and contacts) about all legal entities registered in the Tax Committee's database.
6. The Government shall approve the submission of the draft Law on Investment to the Parliament. The draft Law on Investment shall set out a more transparent, consistent and stable regime for incentives to investors by establishing (a) a concept of indirect expropriation, (b) a voluntary one-stop-shop to be managed by the government body in charge of coordination of incentives to investment, and (c) that all incentives provided to investors are disclosed to the general public.
7. To reduce potential conflicts of interest within the national quality infrastructure system, the Government shall (a) transfer the accreditation functions from Tajikstandard to a separate accreditation body; (b) appoint the head of this new accreditation body and the members of its supervisory board (including independent members); and (c) make the new accreditation body operational by 1 January 2016. The new accreditation body will be reporting to Tajikstandard during the first year of its operation.
8. The Government shall raise the current legal status of the Entrepreneurship Support Fund to a status of state organization under the Government.
9. The Government shall allocate (a) grants to businesswomen for co-financing of investments (TJS2 million in 2015), and (b) office space for two business services centers with gender balance among staff and managed by non-governmental organizations.
10. A Presidential order is issued instructing the Government to (a) develop and adopt a new tariff policy for electricity, in line with good international practice, that eliminates cross-customer subsidies; (b) carry out public consultations in the course of development and implementation of the policy; and (c) make the new tariff policy effective on or before 1 January 2017.

## SCHEDULE 4

### Program Implementation and Other Matters

#### Implementation Arrangements

1. The SCISPM shall be the Program Executing Agency. The SCISPM, the ESF, the MOJ, Tajikstandard and the Tax Committee shall be the Program's Implementing Agencies. The EOP, the MOF, and the Secretariat of the Consultative Council on Improvement of Investment Climate under the President of the Beneficiary shall oversee the implementation of the Program.

#### Policy Actions and Dialogue

2. The Beneficiary shall ensure that all policy actions adopted under the Program, as set out in the Policy Letter and the Policy Matrix, continue to be in effect for the duration of the Programmatic Approach.

3. The Beneficiary shall keep ADB informed of policy discussions with other multilateral or bilateral aid agencies that have implications for the implementation of the Program, and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Beneficiary shall take into account ADB's views before finalizing and implementing any such proposals.

#### Use of Counterpart Funds

4. The Beneficiary 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

5. The Beneficiary, the Program Executing Agency and the Implementing Agencies 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 the satisfactory completion of such investigation.

#### Monitoring and Review

6. The Beneficiary and ADB shall carry out a review of the Program, particularly with respect to the outcome and output indicators and follow-up actions for the Program.