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LOAN NUMBER 3310- MYA (SF)

LOAN AGREEMENT  
(Special Operations)

(Greater Mekong Subregion East West Economic Corridor Eindu Kawkareik Road  
Improvement Project)

between

REPUBLIC OF THE UNION OF MYANMAR

and

ASIAN DEVELOPMENT BANK

DATED 8 APRIL 2016

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MYA 46422

**LOAN AGREEMENT  
(Special Operations)**

LOAN AGREEMENT dated 8 APRIL 2016 between REPUBLIC OF THE UNION OF MYANMAR ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the project described in Schedule 1 to this Loan Agreement ("Project");

(B) for the purposes of the Project or parts thereof, the Borrower has also applied to ADB for and ADB agreed to make a loan in the amount of twenty million Dollars (\$20,000,000) ("B Loan") to be funded by ADB entirely from a participation therein by ASEAN Infrastructure Fund Limited ("AIF") pursuant to a loan agreement of even date herewith between the Borrower and ADB ("B Loan Agreement"); and

(C) ADB has agreed to make a loan to the Borrower 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; 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 this Loan Agreement with the same force and effect as if they were fully set forth herein.

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) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(b) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in paragraph 3 of Schedule 1 to this Loan Agreement;

(c) "CPP" or "Communications and Participation Plan" means the communications and participation plan for the Project, including any update thereto, incorporated in the PAM;

(d) "EMP" or "Environmental Management Plan" 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) "Goods" means equipment and materials, if any to be financed out of the proceeds of the Loan, including related services such as installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

(g) "IEE" or "Initial Environmental Examination" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

(h) "Implementing Agency" means Department of Highways of MOC or any successor thereto acceptable to ADB;

(i) "Indigenous Peoples Safeguards" means the principles and requirements set forth in Chapter V, Appendix 3, and Appendix 4 (as applicable) of the SPS;

(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) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(l) "Ministry of Finance" means the Borrower's Ministry of Finance, or any successor thereto;

(m) "MOC" means the Borrower's Ministry of Construction, or any successor thereto;

(n) "O&M" means operation and maintenance;

(o) "PAM" means the project administration manual for the Project dated 11 September 2015 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;

(p) "PMU" means the Project management unit established in the Project Executing Agency for the purposes of the Project and staffed as described in the PAM;

(q) "Procurement Guidelines" means ADB's Procurement Guidelines (2015, as amended from time to time);

(r) "Procurement Plan" means the procurement plan for the Project dated 11 September 2015 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements for this Project agreed with ADB;

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

(t) "Project facilities" means facilities to be installed, constructed, reconstructed, developed or operationalized under the Project;

(u) "Project Road" means the approximately 66.4 kilometer of road between Eindu and Kawkareik which is to be rehabilitated under the Project;

(v) "REGDP" or "Resettlement and Ethnic Groups Development Plan" means the resettlement and ethnic groups development plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;

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

(x) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of and compliance with the EMP and the REGDP (as applicable), including any corrective and preventative actions; and

(y) "Works" means construction or civil works to be financed out of the proceeds of the Loan, 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**

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to seventy-one million two hundred fifty-eight thousand Special Drawing Rights (SDR71,258,000).

Section 2.02. (a) The Borrower 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 subsection (a) hereinabove 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 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 May and 1 November in each year.

Section 2.04. The Borrower 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 Loan 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 Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

### **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 on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and 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. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 March 2020 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 Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. (a) The Borrower shall cause the project Executing Agency to (i) maintain separate accounts and records for the Project, the Loan and the B Loan; (ii) prepare joint annual financial statements for the Project, the Loan and the B Loan 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 Borrower shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Borrower'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 Borrower, unless the Borrower shall otherwise agree.

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

Section 4.04. Except as ADB may otherwise agree, any cancellation by the Borrower of any unwithdrawn amount of the Loan under Section 8.03 of the Loan Regulations shall be made pro-rata with the cancellation of the B Loan: at 83.3% in respect of the Loan and 16.7% in respect of the B Loan or as otherwise provided in the PAM.

## ARTICLE V

### **Suspension; Acceleration of Maturity**

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations: If the B Loan shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 8.07(d) of the Loan Regulations: any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

## ARTICLE VI

### Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the B Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of the Borrower, and all conditions precedent to its effectiveness, other than this Section 6.01, have been met to the satisfaction of ADB.

Section 6.02. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

## ARTICLE VII

### Miscellaneous

Section 7.01. The Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

#### For the Borrower

Ministry of Finance  
Building No. 26 Nay Pyi Taw  
Republic of the Union of Myanmar

Facsimile Number:

+95-67-410198.

#### For ADB

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

Facsimile Numbers:

+63 2 636-2444  
+63 2 636-2015.

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.

REPUBLIC OF THE UNION OF  
MYANMAR



By \_\_\_\_\_  
U MAUNG MAUNG WIN  
Authorized Representative

ASIAN DEVELOPMENT BANK



By \_\_\_\_\_  
WINFRIED WICKLEIN  
Country Director  
Myanmar Resident Mission



## **SCHEDULE 1**

### **Description of the Project**

1. The objective of the Project is improved connectivity to and within Kayin State of the Borrower and with Thailand.
2. The Project shall comprise the following output: Rehabilitation of the Project Road including construction of 2 traffic lanes with paved shoulders, the access road to Kyon Doe river port, bridges, and box culverts.
3. The Project includes Consulting Services to finance support for construction supervision, Project management, and capacity development for the government staff.
4. The Project is expected to be completed by 30 September 2019.

**SCHEDULE 2****Amortization Schedule****(Greater Mekong Subregion East West Economic Corridor Eindu Kawkareik Road Improvement Project)**

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)*
1 May 2024	1,484,542
1 November 2024	1,484,542
1 May 2025	1,484,542
1 November 2025	1,484,542
1 May 2026	1,484,542
1 November 2026	1,484,542
1 May 2027	1,484,542
1 November 2027	1,484,542
1 May 2028	1,484,542
1 November 2028	1,484,542
1 May 2029	1,484,542
1 November 2029	1,484,542
1 May 2030	1,484,542
1 November 2030	1,484,542
1 May 2031	1,484,542
1 November 2031	1,484,542
1 May 2032	1,484,542
1 November 2032	1,484,542
1 May 2033	1,484,542
1 November 2033	1,484,542
1 May 2034	1,484,542
1 November 2034	1,484,542
1 May 2035	1,484,542
1 November 2035	1,484,542
1 May 2036	1,484,542
1 November 2036	1,484,542
1 May 2037	1,484,542
1 November 2037	1,484,542
1 May 2038	1,484,542
1 November 2038	1,484,542
1 May 2039	1,484,542
1 November 2039	1,484,542
1 May 2040	1,484,542
1 November 2040	1,484,542
1 May 2041	1,484,542
1 November 2041	1,484,542

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)*
1 May 2042	1,484,542
1 November 2042	1,484,542
1 May 2043	1,484,542
1 November 2043	1,484,542
1 May 2044	1,484,542
1 November 2044	1,484,542
1 May 2045	1,484,542
1 November 2045	1,484,542
1 May 2046	1,484,542
1 November 2046	1,484,542
1 May 2047	1,484,542
1 November 2047	1,484,526
<b>TOTAL</b>	<b>71,258,000</b>

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

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

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

Basis for Withdrawal from the Loan Account

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

Interest Charge

3. The amount allocated to Category 4 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

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

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan 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 allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook subject to the following: all disbursements from the Loan other than disbursements in relation to the financing of interest charges shall be made pro-rata to disbursements from the B Loan: at 83.3% in respect of the Loan and 16.7% in respect of B Loan or as otherwise provided in the PAM.

TABLE

<b>ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS</b> <b>(Greater Mekong Subregion East West Economic Corridor Eindu to Kawkareik Road Improvement Project)</b>			
<b>Number</b>	<b>Item</b>	<b>Total Amount Allocated For ADB Financing (SDR) Category</b>	<b>Basis for Withdrawal from the Loan Account</b>
1	Works	52,802,000	83.3% of total expenditure claimed
2	Project Management and Contract Supervision Consultants	3,563,000	83.3% of total expenditure claimed
3	Incremental Administrative Costs	356,000	83.3% of total expenditure claimed
4	Interest during Implementation	1,425,000	100% of amounts due
5	Unallocated	13,112,000	
	<b>Total</b>	<b>71,258,000</b>	

## **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 Loan 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 following method of procurement: International Competitive Bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the method of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

#### Domestic Preference

5. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.

#### Conditions for Award of Contract

6. The Borrower shall not award any Works contracts until:
  - (a) The Ministry of Environmental Conservation and Forestry has granted the final approval of the Project;
  - (b) the Borrower has incorporated the relevant provisions from the EMP into the Works contracts; and
  - (c) the Borrower has prepared and submitted to ADB the final REGDP based on the Project's detailed design, and obtained ADB's clearance of such REGDP.
7. The Borrower shall not issue the notice to commence work under any Works contract until all public utilities that are required to be relocated, within the said Works contract length, have been relocated.

Consulting Services

8. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

9. (a) The Borrower 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 Borrower 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.

10. The Borrower 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

11. 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 Borrower and ADB and set forth in the Procurement Plan.

## SCHEDULE 5

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. The Borrower and the Project Executing Agency 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 Borrower and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.
2. The Borrower shall ensure that the Project Executing Agency and the Implementing Agency are equipped with professionally skilled staff, reasonable office space, equipment, and adequate financial resources required for implementation of the Project throughout the Project implementation period.
3. The Borrower shall cause the Project Executing Agency and the Implementing Agency to ensure that the construction of the Project facilities is carried out in accordance with the standards and requirements set out in Works contracts and that the operation of the Project facilities are conducted in accordance with all applicable national and local laws, regulations, procedures and other requirements of the Borrower for road network operations.

#### Road Safety

4. The Borrower shall cause the Project Executing Agency to ensure the following prior to the commencement of Works under the Project: (a) completion of a comprehensive road safety audit of the design of the Project Road, undertaken in accordance with internationally-accepted road safety standards and requirements and within the context of a road rehabilitation project; and (b) adjustment of the design of the Project Road to incorporate the recommendations of the road safety audit.
5. The Borrower shall cause the Project Executing Agency to ensure that not later than 6 months prior to the completion of Works under the Project and again before the Project is accepted as substantially completed, road safety audits of the Project Road have been conducted and, on the basis of those audits, the contractors have implemented such additional Works as may be necessary to ensure the Project Road meets appropriate internationally-accepted road safety standards.

#### Operations and Maintenance

6. The Borrower shall, and shall cause the Project Executing Agency to, ensure that adequate resources are made available to the Implementing Agency to ensure that: (a) the Project Road is maintained and operated in good condition in compliance with applicable laws, regulations and standards of the Borrower and best international practices; and (b) adequate budgetary appropriations or other funding and qualified and experienced staff are made available to enable the Implementing Agency to successfully carry out these O&M activities. The Borrower shall further cause the Project Executing Agency to ensure that a comprehensive road network management strategy is developed for the overall road network



for which it is responsible, with the assistance of ADB through resources provided under the ADB Technical Assistance: Asset Management Program for Myanmar.

#### Internal Audit

7. The Borrower shall cause the Project Executing Agency to ensure that the head of its Internal Audit Unit reports to the highest level of its management to ensure the independence of internal audits and consistent with international best practices.

#### Safeguards

8. Environment. The Borrower shall cause the Project Executing Agency to ensure that the preparation, design, construction, implementation, and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower 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 Safeguards Monitoring Report.

9. Land Acquisition and Involuntary Resettlement. The Borrower shall cause the Project Executing Agency 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 Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the REGDP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

10. Without limiting the application of the Involuntary Resettlement Safeguards or the REGDP, The Borrower shall cause the Project Executing Agency 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 REGDP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the REGDP.

11. Ethnic Groups. The Borrower shall cause the Project Executing Agency to ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with (a) all applicable laws and regulations of the Borrower relating to indigenous peoples; (b) the Indigenous Peoples Safeguards; and (c) all measures and requirements set forth in the REGDP and the CPP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

12. Communication and Participation. The Borrower shall through the Project Executing Agency cause the Implementing Agency to ensure that affected people under the Project due to environment, resettlement, or indigenous peoples impacts are adequately provided with all relevant information through proper consultations in accordance with the CPP.

13. Human and Financial Resources to Implement Safeguards Requirements. The Borrower shall make available necessary budgetary and human resources to fully implement the EMP and the REGDP.

14. Application of the SPS. The Borrower shall, and shall cause the Project Executing Agency to ensure that the SPS is applied to all parts of the Eindu-Kawkareik Road Improvement Project including the Gyang (Kawkareik) bridge financed by the Government of Japan.

15. Safeguards-Related Provisions in Bidding Documents and Works Contracts. The Borrower shall cause the Project Executing Agency to 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, the REGDP and the CPP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in the Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Project Executing Agency 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 REGDP; and
- (d) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-Project condition upon the completion of construction.

16. Safeguards Monitoring and Reporting. The Borrower shall cause the Project Executing Agency to do the following:

- (a) submit semi-annual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected people 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 REGDP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) for land acquisition and involuntary resettlement, no later than 3 months from the Effective Date, engage qualified and experienced external experts under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts; and

- (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP, the REGDP and the CPP promptly after becoming aware of the breach.

17. Prohibited List of Investments. The Borrower shall ensure that no proceeds of the Loan and the B Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of ADB's Safeguards Policy Statement (2009).

18. Safeguards Grievance Redress Mechanism. The Borrower shall cause the Project Executing Agency to ensure that separate safeguards grievance redress mechanisms acceptable to ADB are established in accordance with the provisions of the IEE, the EMP, the REGDP and the CPP at PMU, within the timeframes specified in the relevant IEE, EMP, REGDP and the CPP, to consider safeguards related complaints.

#### Labor Standards, Health and Safety

19. The Borrower shall, and shall cause the Project Executing Agency to ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during the Project implementation. The Borrower shall further cause the Project Executing Agency to include specific provisions in the bidding documents and Works contracts under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law, regulations and applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate against workers in respect of employment and occupation; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

20. The Borrower shall strictly monitor compliance with the requirements set forth in paragraph 19 above and provide ADB with regular reports.

#### Gender and Development

21. The Borrower shall cause the Project Executing Agency to ensure that the principles of gender equity aimed at increasing Project benefits and impacts on women in the Project area consistent with ADB's Policy on Gender and Development (1998) are followed during implementation of the Project, including (a) equal pay to men and women for work of equal value; (b) enabling working conditions for women workers; and (c) taking necessary actions to encourage women living in the Project area to participate in the implementation of the Project activities especially inclusion of provisions in the Works contracts binding the contractors to ensure facilitation of local women's employment in road construction.

#### Governance and Anticorruption

22. The Borrower shall, and shall cause the Project Executing Agency and the Implementing Agency to, (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.

23. The Borrower shall, and shall cause the Project Executing Agency and the Implementing Agency to 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. The Borrower shall, and shall cause the Project Executing Agency to ensure that (a) individuals/entities on ADB's anticorruption debarment lists being ineligible to participate in ADB-financed activity are not awarded any contracts under the Project; and (b) in case of a reasonable suspicion that any member of the Borrower, the Project Executing Agency or the Implementing Agency has engaged in corrupt or fraudulent practices (as defined in ADB's Anticorruption Policy) under or in connection with the Project or the Loan, timely and appropriate action, satisfactory to ADB, will be taken to investigate and/or remedy the situation.

24. To deter corruption and increase transparency the Borrower shall cause the Project Executing Agency to create the Project website within 3 months of the Effective Date, accessible by the public, to disclose various information concerning the Project including general information, public procurement, progress and contact details in English and Myanmar language. The website will also provide a link to ADB's Integrity Unit (<http://www.adb.org/Integrity/complaint.asp>) for reporting to ADB any grievances or allegations of corrupt practices arising out of the Project and the Project activities. For each contract, the website will include information on, among others, the list of participating bidders, name of the winning bidder, basic details on bidding procedures adopted, amount of contract awarded, and the list of goods/services, including consulting services, procured. MOC will permit any bidder to request an explanation as to why a bid was unsuccessful and MOC will respond promptly. The website will be updated promptly after each award of contract.