
LOAN NUMBER 3451-TAJ(SF)

GRANT NUMBER 0509 -TAJ(SF)

FINANCING AGREEMENT
(Special Operations)

(CAREC Corridors 2, 5 and 6 [Dushanbe – Kurgonteppa] Road Project)

between

REPUBLIC OF TAJIKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 15 November 2016

TAJ 49042

**FINANCING AGREEMENT
(Special Operations)**

FINANCING AGREEMENT dated 15 November 2014 between REPUBLIC OF TAJIKISTAN ("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;

(B) by a grant agreement of even date herewith between the Beneficiary and ADB ("Externally Financed Grant Agreement"), ADB has also agreed to make a grant to the Beneficiary in the amount of two million Dollars (\$2,000,000) from the Clean Energy Fund under the Clean Energy Financing Partnership Facility to be administered by ADB ("CEF Grant") for the purposes of the part of the Project described in subparagraph 2(c) of Schedule 1 to this Financing Agreement; 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 provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 ("Loan Regulations"), are hereby made applicable to this Financing Agreement for purposes of the Loan 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 this Financing Agreement for purposes of the Grant 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) "CAREC Corridor 2" means the transport corridor connecting the Caucasus and Mediterranean to East Asia, covering Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Tajikistan, the Kyrgyz Republic and the People's Republic of China;
- (c) "CAREC Corridor 5" means the East Asia-Middle East and South Asia transport corridor running from the People's Republic of China to the Arabian Sea and which passes through the Kyrgyz Republic, Tajikistan and Afghanistan;
- (d) "CAREC Corridor 6" means the transport corridor connecting Europe and the Russian Federation to the Middle East and South Asia, with three routes to the Arabian Sea port of Karachi and Gwadar or Bandar Abbas in the Persian Gulf;
- (e) "CEF Grant" has the meaning set forth in Recital (B) above;
- (f) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);
- (g) "Consulting Services" means the services to be financed out of the proceeds of the Loan as described in subparagraphs 2(d) and (e) of Schedule 1 to this Financing Agreement;
- (h) "Environmental Management Plan" or "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;
- (i) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (j) "Externally Financed Grant Agreement" has the meaning set forth in Recital (B) above;
- (k) "Goods" means equipment and materials to be financed out of the proceeds of the Loan or the Grant; and including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;
- (l) "Initial Environmental Examination" or "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Beneficiary and cleared by ADB;

(m) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

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

(o) "MOT" means the Ministry of Transport of the Beneficiary;

(p) "OPEC Fund" means the OPEC Fund for International Development;

(q) "OPEC Fund Loan" means the loan to be made by the OFID Fund to the Beneficiary under the OPEC Fund Loan Agreement;

(r) "OPEC Fund Loan Agreement" means the loan agreement to be entered into between the Beneficiary and the OPEC Fund for purposes of financing a portion of the expenditures for the part of the Project described in subparagraph 2(a) of Schedule 1 to this Financing Agreement;

(s) "PAM" means the project administration manual for the Project dated 21 September 2016 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;

(t) "Procurement Guidelines" means ADB's Procurement Guidelines (2015; as amended from time to time);

(u) "Procurement Plan" means the procurement plan for the Project dated 21 September 2016 and agreed between the Beneficiary and ADB, as updated from time to time in accordance with the Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

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

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

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

(y) "Resettlement Plan" or "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Beneficiary and cleared by ADB;

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

(aa) "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 and the RP (as applicable), including any corrective and preventative actions; and

(bb) "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 thirty-five million two hundred eighty-nine thousand Special Drawing Rights (SDR35,289,000) ("Loan"); and
- (b) a grant in the amount of fifteen million eight hundred thousand Dollars (\$15,800,000) ("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 Sections 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. 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 September 2021 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 financial reporting standards 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 auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Loan and Grant proceeds, 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 14 days of the date of ADB's confirmation of their acceptability 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

Suspension; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Beneficiary to make withdrawals from (a) the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations, and (b) the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations, respectively:

- (i) the CEF Grant shall have become liable for suspension or cancellation; and
- (ii) OPEC Fund 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 are specified as additional events for acceleration of maturity of the loan for the purposes of Section 8.07(d) of the Loan Regulations: either of the events specified in Section 5.01 of this Financing Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. 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: the OPEC Fund Loan Agreement shall have been duly executed and delivered, and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Financing

Agreement) shall have been fulfilled or arrangements satisfactory to ADB shall have been made for the fulfillment thereof within a period of time satisfactory to ADB.

Section 6.02. 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 VII

Miscellaneous

Section 7.01. 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 7.02. 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
Republic of Tajikistan
3, Prospekt Akademikov Radjabovykh Street
734025 Dushanbe, Tajikistan

Facsimile Number:

(992 37) 221-3329

For ADB

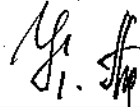
Asian Development Bank
6, ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

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.

REPUBLIC OF TAJIKISTAN

By 
ABDUSALOM QURBONIYON
Minister of Finance

ASIAN DEVELOPMENT BANK

By 
CHANG CHING YU
Country Director
Tajikistan Resident Mission

SCHEDULE 1**Description of the Project**

1. The objective of the Project is improved efficiency and safer movement of goods and people along selected sections of the CAREC Corridors 2, 5 and 6 passing through the territory of the Beneficiary.

2. The Project shall comprise the following:

Improved Road Conditions, Facilities, and Safety

- (a) rehabilitation and/or reconstruction of an approximately 33 km road section from Dushanbe to Chashmasoron ("Project Road") of the Dushanbe to Kurgonteppa road;
- (b) installation of road safety features on the Project Road;
- (c) provision and installation of clean energy technology equipment including: (i) solar-based street lighting and power back-up systems along, and in the vicinity of, the Project Road, and (ii) LED tunnel lights and advanced uninterruptible power supply in Ozodi tunnel on the Dushanbe-Dangara road, including support for capacity development, procurement and project auditing;

Strengthened Institutional Capacity

- (d) provision of support to strengthen institutional capacity of MOT, including in respect of road safety, road asset management, financial management, construction supervision, project management, environment and resettlement monitoring, and project auditing; and

Completed Procurement Readiness for Future Road Project

- (e) provision of support for advance procurement actions for proposed future road project.

3. The Project is expected to be completed by 31 March 2021.

SCHEDULE 2

Amortization Schedule

(CAREC Corridors 2, 5 and 6 [Dushanbe – Kurgonteppa] Road Project)

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)*
15 May 2025	735,188.00
15 November 2025	735,188.00
15 May 2026	735,188.00
15 November 2026	735,188.00
15 May 2027	735,188.00
15 November 2027	735,188.00
15 May 2028	735,188.00
15 November 2028	735,188.00
15 May 2029	735,188.00
15 November 2029	735,188.00
15 May 2030	735,188.00
15 November 2030	735,188.00
15 May 2031	735,188.00
15 November 2031	735,188.00
15 May 2032	735,188.00
15 November 2032	735,188.00
15 May 2033	735,188.00
15 November 2033	735,188.00
15 May 2034	735,188.00
15 November 2034	735,188.00
15 May 2035	735,188.00
15 November 2035	735,188.00
15 May 2036	735,188.00
15 November 2036	735,188.00
15 May 2037	735,188.00
15 November 2037	735,188.00
15 May 2038	735,188.00
15 November 2038	735,188.00
15 May 2039	735,188.00
15 November 2039	735,188.00
15 May 2040	735,188.00
15 November 2040	735,188.00
15 May 2041	735,188.00
15 November 2041	735,188.00
15 May 2042	735,188.00
15 November 2042	735,188.00
15 May 2043	735,188.00
15 November 2043	735,188.00
15 May 2044	735,188.00
15 November 2044	735,188.00
15 May 2045	735,188.00

Date Payment Due	Payment of Principal (expressed in Special Drawing Rights)*
15 November 2045	735,188.00
15 May 2046	735,188.00
15 November 2046	735,188.00
15 May 2047	735,188.00
15 November 2047	735,188.00
15 May 2048	735,188.00
15 November 2048	735,164.00
TOTAL	35,289,000.00

* 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 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 3 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.

Condition for Withdrawals from Loan Account and Grant Account

6. Notwithstanding any other provision of this Financing Agreement and except as ADB may otherwise agree, no withdrawals shall be made from either the Loan Account or the Grant Account until (a) an appropriate legislation, decree and/or resolution has been duly enacted to provide effective and enforceable exemption from taxes, duties and similar mandatory payments that accrue on Project expenditures in the territory of the Beneficiary (including, without limitation, for Consulting Services); and (b) the Beneficiary has allocated adequate funds and resources to MOT for the implementation of the RP.

TABLE 1

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (CAREC Corridors 2, 5 and 6 [Dushanbe – Kurgonteppa] Road Project)			
Number	Item	Total Amount Allocated for ADB Financing (SDR) Category	Basis for Withdrawal from the Loan Account
1	Works* **	24,488,000	80.7% of total expenditure claimed***
2	Consulting Services*	2,858,000	100% of total expenditure claimed***
3	Interest Charge	1,164,000	100% of amount due
4	Unallocated	6,779,000	
	Total	35,289,000	

* Subject to the condition for withdrawal described in paragraph 6 of Schedule 3.

** Financing allocated to this item under the ADB Grant will be utilized first at 80.7% of every claim until it has been disbursed in full. Thereafter, financing allocated to this item under the ADB Loan will be utilized at 80.7% of every claim.

*** Exclusive of taxes and duties imposed within the territory of the Beneficiary.

TABLE 2

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (CAREC Corridors 2, 5 and 6 [Dushanbe – Kurgonteppa] Road Project)			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Basis for Withdrawal from the Grant Account
1	Works***	15,800,000	80.7% of total expenditure claimed***
	Total	15,800,000	

* Subject to the condition for withdrawal described in paragraph 6 of Schedule 3

** Financing allocated to this item under the ADB Grant will be utilized first at 80.7% of every claim until it has been disbursed in full. Thereafter, financing allocated to this item under the ADB Loan will be utilized at 80.7% of every claim.

*** Exclusive of taxes and duties imposed within the territory of the Beneficiary.

SCHEDULE 4**Procurement of Works and Consulting Services**General

1. The procurement of Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. Except as ADB may otherwise agree, Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Beneficiary may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.
3. 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.

Eligible Source of Procurement of Works and Consulting Services

4. Works and Consulting Services may also be procured under the Project from non-member countries of ADB.

Works

5. Works shall be procured on the basis of International Competitive Bidding.

Conditions for Award of Contract

6. The Beneficiary shall not award any Works contract which involves environmental impacts until:
 - (a) the State Committee on Environment of the Beneficiary has granted the final approval of the IEE; and
 - (b) the Beneficiary has incorporated the relevant provisions from the EMP into the Works contract.

7. The Beneficiary shall not award any Works contract which involves involuntary resettlement impacts, until the Beneficiary has prepared and submitted to ADB the final RP based on the Project's detailed design, and obtained ADB's clearance of such RP.

Consulting Services

8. The Beneficiary shall apply Quality- and Cost-Based Selection for Consulting Services.

Industrial or Intellectual Property Rights

9. (a) The Beneficiary shall ensure that all 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 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 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

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 Beneficiary and ADB and set forth in the Procurement Plan.

12. In the case of a contract for 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/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).

13. In the case of a contract for 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.

14. 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.

SCHEDULE 5**Execution of Project and Operation of
Project Facilities; Financial Matters**Implementation Arrangements

1. The Beneficiary and MOT 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 ensure that, throughout the Project implementation period, adequate budgetary allocations of the required counterpart funds are approved and released in a timely manner. Without limiting the generality of the foregoing, before the end of each year, the Beneficiary shall furnish ADB with a public investment project plan for the succeeding year demonstrating availability of funds necessary for the Project. As part of its counterpart funding commitment, the Beneficiary shall ensure that no taxes, duties or similar mandatory payments are levied on the Project expenditures within its territory.

Operation and Maintenance

3. The Beneficiary shall allocate and make available to MOT sufficient funds for the operation and maintenance of the Project Road and facilities on a timely basis and for the lifetime of those Project Road and facilities. The Beneficiary shall further cause the MOT to ensure that a road asset management system framework is developed for the overall network for which it is responsible, with the view to developing and implementing a road asset management system.

Road Safety

4. The Beneficiary, through MOT, shall ensure that road safety measures identified in road safety audits of the Project Road are timely and adequately implemented by the Works contractor to meet appropriate internationally-accepted road safety standards.

Construction Quality

5. The Beneficiary, through MOT, shall 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.

Change in Ownership

6. The Beneficiary shall ensure that ADB's consent is obtained at least 6 months prior to the implementation of any of the following: (a) any change in ownership of any asset,

facility or structure financed under the Project; (b) any sale, transfer, or assignment of interest or control in any asset, facility or structure financed under the Project; or (c) any lease or other contract or modification of the functions and authority of MOT over operation and maintenance of any such asset, facility or structure financed under the Project. The Beneficiary shall ensure that any such changes shall be carried out in a legal and transparent manner.

Environment

7. The Beneficiary, through MOT, shall 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 the Safeguards Monitoring Report.

Land Acquisition and Involuntary Resettlement

8. The Beneficiary, through MOT, shall 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 RP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

9. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Beneficiary, through MOT, shall 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 RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

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

Human and Financial Resources to Implement Safeguards Requirements

11. The Beneficiary, through MOT, shall make available necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards-Related Provisions in Bidding Documents and Works Contracts

12. The Beneficiary, through MOT, 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 RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set forth in a Safeguards Monitoring Reports;
- (b) make available a budget for all such environmental and social measures;
- (c) provide Beneficiary, through MOT, 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 RP;
- (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

13. The Beneficiary, through MOT, shall:

- (a) submit semiannual 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 RP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the RP promptly after becoming aware of the breach; and
- (d) prepare and submit to ADB a land acquisition and resettlement completion report once all activities, measures and requirements set forth in the RP are duly accomplished.

Prohibited List of Investments

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

Labor Standards, Health and Safety

15. The Beneficiary shall ensure that the core labor standards and the Beneficiary's applicable laws and regulations are complied with during Project implementation. The Beneficiary, through MOT, shall include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things, (a) comply with the Beneficiary's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate 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.

16. The Beneficiary shall strictly monitor compliance with the requirements set forth in paragraph 15 above and provide ADB with regular reports.

Gender and Development

17. The Beneficiary shall ensure that the principles of gender equality aimed at increasing Project benefits and impact on women in the Project area are followed during implementation of the Project. These include (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 design and implementation of Project activities.

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 MOT 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 MOT shall ensure that 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.

Information Disclosure

21. Throughout the period of Project implementation, the MOT shall (a) maintain and regularly update its website with relevant information on the Project implementation and monitoring, and (b) regularly consult with the public and civil society organizations in respect of each of the foregoing matters.