
LOAN NUMBER 3185-CAM(SF)

LOAN AGREEMENT
(Special Operations)

(Third Financial Sector Program - Subprogram 3)

between

KINGDOM OF CAMBODIA

and

ASIAN DEVELOPMENT BANK

DATED 18 DECEMBER 2014

CAM 42305

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated 18 December 2014 between KINGDOM OF CAMBODIA ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 20 August 2014, ("Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to develop the Borrower's financial sector which comprise a programmatic approach of three (3) subprograms forming the Third Financial Sector Program (the "Programmatic Approach") described in Schedule 1 to this Loan Agreement;

(B) the Borrower has applied to ADB for a loan for the purposes of the third subprogram of the Programmatic Approach (the "Program"); 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 the 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, subject, however, to the following modifications:

(a) 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 Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

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

(c) Section 2.01 (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 Loan Agreement.

(d) The term “Project Executing Agency” wherever it appears in the Loan Regulations shall be substituted by the term “Program Executing Agency”; and

(e) Section 6.05 (c) is deleted and the following is substituted therefor:

(c) Promptly after the closing date for withdrawals from the Loan Account, but in any event not later than three (3) months thereafter or such later date as may be agreed for this purpose between the Borrower and ADB, the Borrower shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution of the Program, including its cost, the performance by the Borrower of its obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.

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) “Counterpart Funds” means the local currency generated from the Loan proceeds under the Program and referred to in paragraph 8 of Schedule 4 to this Loan Agreement;

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

(c) “Eligible Imports” means the total imports of the Borrower 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 Loan 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) “Implementing Agencies” means MEF, MoC and SECC, which are responsible for carrying out certain reform measures under the Programmatic Approach and the PPPF;

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

(g) "MEF" means the Ministry of Economy and Finance of the Borrower, or any successor thereto;

(h) "MoC" means the Ministry of Commerce of the Borrower, or any successor thereto;

(i) "NBC" means the National Bank of Cambodia, or any successor thereto;

(j) "Policy Matrix" means the policy matrix as agreed between the Borrower and ADB and attached to the Policy Letter which sets forth actions accomplished or to be accomplished by the Borrower under the Programmatic Approach and the PPPF;

(k) "PPPF" means the post program partnership framework as agreed between the Borrower and ADB and set out in the Policy Matrix which sets forth actions accomplished or to be accomplished by the Borrower following completion of the Programmatic Approach Period;

(l) "Program" has the meaning specified in Recital (B) to this Loan Agreement;

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

(n) "Program Period" means the period from 1 January 2014 until 30 June 2014;

(o) "Programmatic Approach" has the meaning specified in Recital (A) to this Loan Agreement;

(p) "Programmatic Approach Period" means the period from 1 December 2010 to 30 June 2014 during which the Programmatic Approach will be implemented;

(q) "Riel" means the currency of the Borrower; and

(r) "SECC" means the Securities and Exchange Commission of Cambodia.

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 nine million eight hundred and seventy-six thousand Special Drawing Rights (SDR9,876,000).

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 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 Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 1 April and 1 October 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 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 Program in accordance with the provisions of this Loan Agreement.

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

Section 3.03. Withdrawals from the Loan 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 2015 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

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

Section 4.02. (a) The Borrower 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 to record the progress of the Program.

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

Section 4.03. (a) As part of the reports and information referred to in Section 6.05 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning (i) the Counterpart Funds and the use thereof; and (ii) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

(b) Without limiting the generality of the foregoing or Section 6.05 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB quarterly reports on the carrying out of the Program and on the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

ARTICLE V

Effectiveness

Section 5.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Deposit Account shall have been nominated as provided in paragraph 3(a) of Schedule 3 to this Loan Agreement.

Section 5.02. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

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

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

For the Borrower

Ministry of Economy and Finance
St. 92 Sangkat Wat Phnom
Khan Daun Penh
Phnom Penh, Cambodia

Facsimile Numbers:

+855 23 427 798

+855 23 428 424.

For ADB

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

Facsimile Numbers:

(632) 636-2444

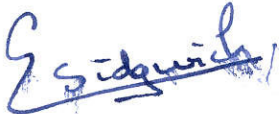
(632) 636-2331.

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 the ADB.

KINGDOM OF CAMBODIA

By 
H.E. DR. AUN PORNMONIROTH
Minister
Ministry of Economy and Finance

ASIAN DEVELOPMENT BANK

By 
ERIC SIDGWICK
Country Director
Cambodia Resident Mission

SCHEDULE 1

Description of the Program

1. The principal objective of the Program is a sound, market-oriented finance sector that enhances resource mobilization and supports sustainable economic growth. The Programmatic Approach comprises three subprograms and the Program is the third subprogram. The Programmatic Approach is described in more detail in the Policy Letter and Policy Matrix.

2. The scope of the Program comprises the policy activities agreed upon under subprogram 3 in the Policy Matrix, including reforms to: (a) improve the legal, regulatory and institutional framework in the financial sector, including court systems for enforcement of commercial laws, leasing regulations, corporate governance code, revisions to the Law on the Organization and Conduct of the NBC and the Law on Banking and Financial Institutions, laws on insurance, financial trusts, consumer protection, e-commerce, and payments systems; (b) build capacity for bank and microfinance supervision, including a framework for crisis and problem bank resolution; (c) strengthen institutional coordination amongst national regulatory agencies; (d) build capacity to prevent risks from money laundering and the financing of terrorism; (e) improve financial intermediation by upgrading the payments, clearance and settlement system; (f) operationalize a credit information bureau; (g) establish an interbank market and a government securities market; (h) develop supportive market infrastructure for the SECC; and (i) modernize the business registration system.

3. The Program actions are being implemented during the Program Period.

4. In support of the Program:

(a) the proceeds of the Loan shall be used to finance the foreign currency expenditures incurred for the Eligible Items; and

(b) the Counterpart Funds shall be used to finance local currency expenditures relating to the implementation of certain programs and activities consistent with the objectives of the Program. The Borrower shall ensure that the Counterpart Funds shall be used, first, to support the adjustment cost for policies adopted and actions taken under the Program, and second, to finance expenditures for the general development purposes of the Borrower.

5. The proceeds of the Loan are expected to be fully disbursed by 30 June 2015.

SCHEDULE 2**Amortization Schedule
(Third Financial Sector Program – Subprogram 3)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
1 April 2023	308,625
1 October 2023	308,625
1 April 2024	308,625
1 October 2024	308,625
1 April 2025	308,625
1 October 2025	308,625
1 April 2026	308,625
1 October 2026	308,625
1 April 2027	308,625
1 October 2027	308,625
1 April 2028	308,625
1 October 2028	308,625
1 April 2029	308,625
1 October 2029	308,625
1 April 2030	308,625
1 October 2030	308,625
1 April 2031	308,625
1 October 2031	308,625
1 April 2032	308,625
1 October 2032	308,625
1 April 2033	308,625
1 October 2033	308,625
1 April 2034	308,625
1 October 2034	308,625
1 April 2035	308,625
1 October 2035	308,625
1 April 2036	308,625
1 October 2036	308,625
1 April 2037	308,625
1 October 2037	308,625
1 April 2038	308,625
1 October 2038	308,625
TOTAL	9,876,000

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

SCHEDULE 3**Withdrawal of Loan Proceeds**

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

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

(b) Such withdrawal application shall be accompanied by a certificate of the Borrower confirming that (i) in case the proceeds of the Loan will finance imports already made, the value of Eligible Imports in the period concerned exceeded the amount of the requested withdrawal, or (ii) in case the proceeds of the Loan will finance items to be imported, the value of Eligible Imports in the immediately preceding one-year period was greater than the amount of the requested withdrawal plus all other amounts expected to be withdrawn from the Loan Account during the succeeding one-year period ; and

(c) The Borrower shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Borrower 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, the Borrower shall nominate an account (the "Deposit Account") at NBC into which all withdrawals from the Loan Account 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 Borrower shall have the financial statements for the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB. Promptly after their preparation but in any event not later than 6 months after the date of ADB's request, copies of such audited financial statements and the opinion of the auditors on the financial statements, in the English language, shall be furnished to ADB; and

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

4. No withdrawal shall be made from the Loan Account for the Loan unless ADB is satisfied that the Borrower has completed the policy actions specified in the Policy Matrix relating to the Program.

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 Borrower:

Table: Ineligible Items

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

Source: United Nations.

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

SCHEDULE 4

Program Implementation and Other Matters

Implementation Arrangements

1. The Borrower shall ensure that: (a) the NBC performs its responsibilities as the Program Executing Agency for the Programmatic Approach, the Program and the PPPF implementation activities, including maintaining the Deposit Account and reporting to ADB; (b) MEF administers and disburses the Loan proceeds; (c) a senior NBC officer who has been appointed as program director under the Programmatic Approach supervises and assists in coordinating day-to-day Program implementation; and (d) NBC coordinates with MEF, MoC and SECC (the Implementing Agencies), which are responsible for carrying out certain reform measures under the Program and the PPPF.

2. The Financial Sector Steering Committee (the “Steering Committee”), chaired by the governor of the NBC, and comprising senior officers from MEF, MoC, NBC, SECC and relevant line agencies of the Borrower involved in Programmatic Approach actions and activities, shall be responsible for coordinating the implementation of, and sustaining, the Program and the PPPF actions. The Borrower shall cause the Steering Committee to: (a) meet as required to: (i) review progress reports from the Program Technical Working Group, (ii) monitor progress and oversee the implementation of the Programmatic Approach, and (iii) provide guidance and direction to the Program Executing and Implementing Agencies and relevant line agencies of the Borrower involved in Programmatic Approach actions and activities; and (b) ensure that the reforms are undertaken in line with the agreed timetable. The Steering Committee may invite ADB to participate in its meetings as an observer.

3. The Borrower shall cause the Technical Working Group, chaired by a senior official of the MEF and comprising senior officers from MEF, MoC, NBC, SECC and other relevant line agencies of the Borrower, to meet on an ad-hoc basis when required to review progress in implementation of the Program, consider pending issues, report to the Steering Committee and propose concrete actions to resolve any issues arising. The Steering Committee and Technical Working Group may invite ADB to participate in their meetings as an observer.

Policy Actions and Dialogue

4. The Borrower shall ensure that all policy actions adopted and actions taken under the Program, as set forth in the Policy Letter and the Policy Matrix, continue in effect, and all reasonable measures are undertaken to implement the reform actions set out in the PPPF.

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

6. The Borrower shall promptly discuss with ADB problems and constraints encountered during implementation of the Programmatic Approach and the PPPF, and appropriate measures to overcome or mitigate such problems and constraints.

7. The Borrower shall ensure that NBC and the Implementing Agencies will hold consultative meetings with stakeholders and the development partner community as needed to solicit their feedback on relevant proposed and existing regulations and the impact of the Programmatic Approach and the PPPF.

Use of Counterpart Funds

8. The Borrower shall ensure that the Counterpart Funds are primarily used to finance the local currency costs relating to the implementation of the Program and other activities consistent with the objectives of the Programmatic Approach, and shall provide the necessary budget appropriations to finance the structural adjustment costs relating to the implementation of reforms under the Program and the PPPF.

Governance and Anticorruption

9. The Borrower, 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; (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation; and (c) undertake other measures to ensure good governance, accountability, and transparency under the Program, including implementing in a timely manner the mitigation measures agreed upon by the Borrower and set out in the risk assessment and risk management plan referred to in the Report and Recommendation of the President on the Program.

Monitoring and Review

10. The Borrower shall ensure that: (a) NBC undertakes periodic reviews to evaluate the scope, implementation arrangements, progress, achievements, and impacts of the Programmatic Approach and the PPPF; and (b) NBC is responsible for maintaining all monitoring data and evaluating benefits of the Program and the PPPF. To facilitate ADB's semiannual reviews of Programmatic Approach and PPPF implementation, the Borrower shall provide relevant macroeconomic and financial data, and related information in such detail as ADB may reasonably request. The reviews shall form the basis for discussions between the Borrower and ADB on further reforms and measures that may be considered necessary or desirable to promote the continued development of the financial sector.

11. The Borrower shall ensure that the Implementing Agencies review and report to NBC on the scope, implementation arrangements, impact and achievement of the objectives of the Programmatic Approach and the PPPF following the Programmatic Approach Period, to enable NBC to in turn report to ADB.