
LOAN NUMBER 3149-BHU(SF)

GRANT NUMBER 0400-BHU(SF)

FINANCING AGREEMENT
(Special Operations)

(South Asia Subregional Economic Cooperation Road Connectivity Project)

between

KINGDOM OF BHUTAN

and

ASIAN DEVELOPMENT BANK

DATED 5 SEPTEMBER 2014

BHU 39225

FINANCING AGREEMENT (Special Operations)

FINANCING AGREEMENT dated 5 September 2014 between KINGDOM OF BHUTAN (“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) the Project shall be carried out by (i) DOR under the MOWHS (each as hereinafter defined) for Parts 1(A), 2 and 3 of the Project as described in Schedule 1 to this Financing Agreement, and (ii) PT (as hereinafter defined) for Parts 1(B) and 1(C) of the Project as described in Schedule 1 to this Financing Agreement, and for this purpose the Beneficiary shall make available to DOR and PT the applicable portion of the proceeds of the loan and the grant provided for herein upon terms and conditions satisfactory to ADB; 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 and in the Project Agreement of even date herewith between ADB and PT;

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 the Loan made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

- (a) The term “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 the Grant made pursuant to this Financing Agreement with the same force and effect as if they were fully set forth herein subject, however, to the following modifications:

- (a) The term “Grant Agreement”, wherever it appears in the Grant Regulations, shall be substituted by the term “Financing Agreement”.

(b) The term “Recipient”, wherever it appears in the Grant Regulations, shall be substituted by the term “Beneficiary” as defined in the opening paragraph of this Financing Agreement.

(c) Section 2.01(16) is deleted and the following is substituted therefor:

“Project Agreement” means the Project Agreement of even date herewith between ADB and PT.

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) “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 and/or the Grant as referred to in paragraph 3 of Schedule 1 to this Financing Agreement;

(c) “DOR” means the Department of Roads, under the MOWHS, or any successor thereto;

(d) “Environmental Impact Assessment” or “EIA” means the environmental impact assessment for the Project, including any update thereto, prepared and submitted by the Beneficiary and cleared by ADB;

(e) “Environmental Management Plan” or “EMP” means the environmental management plan for the Project, including any update thereto, incorporated in the EIA or IEE;

(f) “Environmental Safeguards” means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;

(g) “Goods” means equipment and materials to be financed out of the proceeds of the Loan and/or the Grant; and including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding Consulting Services;

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

(i) “Initial Environmental Examination” or “IEE” means each and any initial environmental examination for the Project, including any update thereto, prepared and submitted by the Beneficiary and cleared by ADB;

(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) “km” means kilometers;
- (l) “Loan Disbursement Handbook” means ADB's Loan Disbursement Handbook (2012, as amended from time to time);
- (m) “MOWHS” means the Beneficiary’s Ministry of Works and Human Settlement, or any successor thereto;
- (n) “O&M” means operation and maintenance;
- (o) “PAM” means the project administration manual for the Project dated 26 May 2014 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;
- (p) “Part” means a part of the Project, as described in Schedule 1 to this Financing Agreement;
- (q) “Procurement Guidelines” means ADB’s Procurement Guidelines (2013, as amended from time to time);
- (r) “Procurement Plan” means the procurement plan for the Project dated 26 May 2014 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;
- (s) “Project Executing Agency” means each of the entities indicated as follows or any legal successors thereto acceptable to ADB: (i) DOR for Parts 1(A), 2 and 3 of the Project as described in Schedule 1 to this Financing Agreement; and (ii) PT for Parts 1(B) and 1(C) of the Project as described in Schedule 1 to this Financing Agreement;
- (t) “Project facilities” means the facilities to be improved, rehabilitated, modernized, constructed, and/or maintained, and the equipment to be installed and maintained under the Project;
- (u) “PT” means Beneficiary’s Phuentsholing Thromde, or any successor thereto;
- (v) “Resettlement Plan” or “RP” means each and any resettlement plan for the Project, including any update thereto, prepared and submitted by the Beneficiary 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 Beneficiary to ADB that describes progress with implementation of and compliance with the EMP, the RP and the IPP (as applicable), including any corrective and preventative measures; and

(y) "Works" means construction or civil works to be financed out of the proceeds of the Loan and/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 twenty million three hundred and five thousand Special Drawing Rights (SDR 20,305,000) ("Loan"); and
- (b) a grant in the amount of eighteen million nine hundred sixty thousand Dollars (\$18,960,000) ("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 January and 15 July 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 (a) make the proceeds of the Loan and a portion of the proceeds of the Grant in respect of Parts 1(A), 2 and 3 of the Project as described in Schedule 1 to this Financing Agreement available to DOR, and shall cause DOR to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Financing Agreement; and (b) make a portion of the proceeds of the Grant in respect of Parts 1(B) and 1(C) of the Project as described in Schedule 1 to this Financing Agreement available to PT, and shall cause PT to apply such proceeds to the financing of expenditures on the Project in accordance with the provisions of this Financing Agreement and the Project 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 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. Withdrawals from the Loan Account and the Grant Account in respect of Goods, Works and Consulting Services shall be made only on account of expenditures relating to:

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

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 December 2019, and the Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2019 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 and the Project 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 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 and Grant proceeds and compliance with the financial covenants of this Financing 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 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.

Section 4.04. The Beneficiary shall take all action which shall be necessary on its part to enable PT to perform its respective obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

ARTICLE V

Effectiveness

Section 5.01. 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 VI

Miscellaneous

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

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

For the Beneficiary

Ministry of Finance
Tashichho Dzong
Thimphu
Bhutan

Facsimile Number:

(975) 232-3154.

For ADB

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

Facsimile Numbers:

(63 2) 636-2444
(63 2) 636-2340.

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.

KINGDOM OF BHUTAN

By 

LYONPO NAMGAY DORJI
Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 

TAKEHIKO NAKAO
President

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to improve road connectivity and efficiency in and along the Project areas.
2. The Project shall comprise:
 - Part 1 - Improvement of land transport and trade infrastructure, including the construction of:
 - (A) about 68 km of the southern east-west highway between Nganglam and Dewathang and an access road of about 1.2 km from a border with India at the Pasakha area;
 - (B) a mini-dry port in Phuentsholing and land custom station at Alay; and
 - (C) about 2.7 km of a bypass road in Phuentsholing.
 - Part 2 - Improvement of road construction and maintenance capacity.
 - Part 3 - Promotion of eco-friendly transport.
3. Consulting Services shall be provided to support the above activities.
4. The Project is expected to be completed by 30 June 2019.

SCHEDULE 2**Amortization Schedule****(South Asia Subregional Economic Cooperation Road Connectivity Project)**

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 Jan 2023	423,021
15 Jul 2023	423,021
15 Jan 2024	423,021
15 Jul 2024	423,021
15 Jan 2025	423,021
15 Jul 2025	423,021
15 Jan 2026	423,021
15 Jul 2026	423,021
15 Jan 2027	423,021
15 Jul 2027	423,021
15 Jan 2028	423,021
15 Jul 2028	423,021
15 Jan 2029	423,021
15 Jul 2029	423,021
15 Jan 2030	423,021
15 Jul 2030	423,021
15 Jan 2031	423,021
15 Jul 2031	423,021
15 Jan 2032	423,021
15 Jul 2032	423,021
15 Jan 2033	423,021
15 Jul 2033	423,021
15 Jan 2034	423,021
15 Jul 2034	423,021
15 Jan 2035	423,021
15 Jul 2035	423,021
15 Jan 2036	423,021
15 Jul 2036	423,021
15 Jan 2037	423,021
15 Jul 2037	423,021
15 Jan 2038	423,021
15 Jul 2038	423,021
15 Jan 2039	423,021
15 Jul 2039	423,021
15 Jan 2040	423,021
15 Jul 2040	423,021
15 Jan 2041	423,021
15 Jul 2041	423,021

<u>Date Payment Due</u>	<u>Payment of Principal (expressed in Special Drawing Rights)*</u>
15 Jan 2042	423,021
15 Jul 2042	423,021
15 Jan 2043	423,021
15 Jul 2043	423,021
15 Jan 2044	423,021
15 Jul 2044	423,021
15 Jan 2045	423,021
15 Jul 2045	423,021
15 Jan 2046	423,021
15 Jul 2046	423,013
TOTAL	20,305,000

* 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 or Subcategory 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 2 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.

TABLE 1

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (South Asia Subregional Economic Cooperation Road Connectivity Project)			
Number	Item	Total Amount Allocated for ADB Financing (SDR) Category	Basis for Withdrawal from the Loan Account
1	Works and Equipment	17,167,000	84% of total expenditure claimed
2	Interest Charge	259,000	100% of amount due
3	Unallocated	2,879,000	
	Total	20,305,000	

TABLE 2

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (South Asia Subregional Economic Cooperation Road Connectivity Project)			
Number	Item	Total Amount Allocated for ADB Financing (\$) Category Subcategory	Basis for Withdrawal from the Grant Account
1	Works and Equipment	11,010,000	81% of total expenditure claimed
2	Consulting Services	6,350,000	100% of total expenditure claimed
3	Unallocated	1,600,000	
	Total	18,960,000	

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 Financing 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 methods of procurement set forth below:
 - (a) International Competitive Bidding; and
 - (b) National Competitive Bidding.
4. The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Beneficiary may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

National Competitive Bidding

5. The Beneficiary and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Beneficiary's national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Beneficiary and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Beneficiary and ADB.

Conditions for Award of Contract

6. The Beneficiary shall ensure that no Works contract which involves environmental impacts is awarded until:
 - (a) the relevant environmental authority of the Beneficiary has granted the final approval of the EIA and/or IEE; and
 - (b) the Beneficiary has incorporated the relevant provisions from the EMP into the Works contract.
7. The Beneficiary shall ensure that no Works contract which involves involuntary resettlement impacts is awarded, 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.

8. The Beneficiary shall ensure that no Works contract which involves impacts on indigenous peoples is awarded until the Beneficiary has prepared and submitted to ADB the final indigenous peoples plan, and obtained ADB's clearance of such plan.

Consulting Services

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

Industrial or Intellectual Property Rights

10. (a) The Beneficiary 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 Beneficiary 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.

11. 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

12. 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.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Implementation Arrangements

1. The Beneficiary and the Project Executing Agencies 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 Funds

2. The Beneficiary shall make available the Loan and Grant proceeds to the Project Executing Agencies under appropriate arrangements acceptable to ADB, and shall provide or cause each Project Executing Agency to provide, as necessary, respective counterpart staff, land, facilities, and funding required for timely and effective implementation of the Project, including, without limitation, any funds required (a) to meet any shortfall between cost and revenues for the O&M of Project facilities; (b) to mitigate unforeseen environmental or social impacts; and (c) to meet any additional costs arising from design changes, price escalation in construction costs and/or unforeseen circumstances. The Beneficiary shall cause the relevant Project Executing Agency to make the resources thus required available on an annual basis for each fiscal year.

Coordination among the Beneficiary's Agencies

3. The Beneficiary shall be fully committed to the Project and shall ensure that all its ministries, agencies and divisions involved in the implementation of the Project, including local government authorities, give their full cooperation to ensure smooth implementation of the Project. Specifically, the Beneficiary shall cause the MOWHS, each Project Executing Agency and any other relevant authority to give full, timely and efficient cooperation in issuing any licenses, permits or approvals required in connection with construction, upgrade, and/or improvement of Project facilities within the Project areas.

Project Website

4. Within 12 months after the Effective Date, the Beneficiary shall ensure that a Project website is created to disclose information about various matters in regards to the Project, including procurement. With regard to procurement, the website shall include information on 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 procured. The Project website need not be separate from an existing website of the Beneficiary or the Project Executing Agency, as long as it is comprehensive and easily accessible by the public.

Environment

5. The Beneficiary shall ensure, or cause the relevant Project Executing Agency to 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 EIA, the IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

Resettlement

6. The Beneficiary shall ensure, or cause the relevant 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 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.

7. Without limiting the application of the Involuntary Resettlement Safeguards or the RP, the Beneficiary shall ensure, or cause the Project Executing Agencies 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 RP; and
- (b) a comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

8. The Beneficiary shall ensure, or cause the Project Executing Agencies to ensure, that the Project does not have any indigenous peoples impact within the meaning of the SPS. In the event that the Project does have any such impact, the Beneficiary shall ensure, or cause the relevant Project Executing Agency to ensure, that the preparation, design, construction, implementation and operation of the Project comply with (a) all applicable laws and regulations of the Beneficiary relating to indigenous peoples, and (b) the Indigenous Peoples Safeguards.

Human and Financial Resources to Implement Safeguards Requirements

9. The Beneficiary shall make available, or cause the Project Executing Agencies to make available, necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

10. The Beneficiary shall ensure, or cause the Project Executing Agencies 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 EIA, the IEE, the EMP, the RP and any indigenous peoples plan (to the extent they concern impacts on affected people during design and/or construction), and any corrective or preventative actions set forth in a 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 design, construction, implementation or operation of the Project that were not considered in the EIA, 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

11. The Beneficiary shall do the following or cause the Project Executing Agencies to do the following:

- (a) submit semiannual Safeguards Monitoring Reports to ADB for disclosure on ADB's website and disclose relevant information from such reports to affected persons promptly when requested;
- (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 EIA, 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) no later than 3 months from award of the first Works contract, engage or cause to be engaged qualified and experienced external experts or qualified non-governmental organizations under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process for environment, resettlement and indigenous peoples (if any), 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 and the RP promptly after becoming aware of the breach.

Prohibited List of Investments

12. 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.

Gender and Development

13. The Project Executing Agencies shall ensure that the Project is fully implemented with regard to gender-related activities as agreed between ADB and the Beneficiary, and referred to in the PAM.

Labor, Health and Anti-Human Trafficking

14. The Beneficiary shall ensure, or cause the Project Executing Agencies to ensure, that contractors, comply with all applicable labor, health, and safety laws and regulations of the Beneficiary and, in particular, (a) do not employ child labor for construction and maintenance activities, and (b) provide appropriate facilities (latrines, etc.) for workers at construction sites. The Project Executing Agencies shall require contractors not to differentiate wages between men and women for work of equal value. The Project Executing Agencies shall further ensure that (i) specific clauses are included in bidding documents to ensure adherence to these provisions, (ii) compliance is strictly monitored during Project implementation, and (iii) regular reports are provided to ADB as set forth in the PAM.

15. The Beneficiary shall ensure, or cause the Project Executing Agencies to ensure, that contractors shall disseminate information on the risk of transmission of sexually-transmitted diseases, including HIV/AIDS, in health and safety programs to all construction workers employed under the Project. Specific provisions to this effect shall be included in bidding documents and civil works contracts, and compliance shall be monitored by the relevant Project Executing Agency and reported to ADB.

16. The Beneficiary shall ensure, or cause the Project Executing Agencies to ensure, that awareness campaigns on anti-human trafficking shall be conducted and that information and print material on anti-human trafficking shall be developed and distributed to all construction workers and the community in the Project areas throughout the Project implementation period. Compliance shall be monitored by DOR and PT, and reported to ADB.

O&M

17. During Project implementation and thereafter, the Beneficiary shall ensure that each Project Executing Agency maintain the Project facilities and that proper technical supervision and adequate routine funds for this purpose are provided. The funds required for the O&M of the Project facilities shall be allocated annually and released in a timely basis. The Beneficiary shall ensure that DOR prepare and maintain a road asset management system during Project implementation and thereafter.

Road Safety

18. The Beneficiary shall ensure that each Project Executing Agency undertake road safety audits, accompanied by road safety awareness sessions, during the design process, construction, and on existing roads, and shall also ensure that recommendations of the road safety audits are reviewed and promptly incorporated in the design and implemented on existing roads, as appropriate.

Workshop

19. The Beneficiary shall ensure that, during the mid-term review, each Project Executing Agency shall conduct a one-day workshop to share information with stakeholders on the progress of the Project, issues, lessons learned and performance improvement measures as part of the stakeholders communication strategy.

Governance and Anticorruption

20. The Beneficiary and the Project Executing 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 Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

21. The Beneficiary and the Project Executing Agencies shall 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.