



Dr. Anup Pujari
Joint Secretary (M.I.)
Department of Economic Affairs
Ministry of Finance
Government of India

31 July 2009

Dear Dr. Pujari:

Sub: Loan 2151: IND – Multisector Project for Infrastructure Rehabilitation in Jammu and Kashmir – Amendment to the Loan Agreement

1. Reference is made to the Loan Agreement between India (the Borrower) and the Asian Development Bank (ADB) dated 17 March 2005. We have on 24 June 2009, received a request from the Borrower to consider certain amendment to the Loan Agreement in provisions relating to environmental issues as explained below. The letter has also forwarded the request of the J&K State dated 1 April 2009 in this regard.

2. Currently, the Loan Agreement under paragraph 13(ii) of Schedule 6 that relates to environmental issues restricts; category A or sensitive B subprojects as defined under ADB's *Environment Policy (2002)* and facilities and lots in, or close to, national parks, sanctuaries, or any other environmentally sensitive areas.

3. The State in its letter of 1 April 2009 has requested certain amendments to above provision essentially seeking removal of restriction regarding subprojects passing through or close to a sanctuary. This request is sought to enable the State to take up upgradation of certain important road stretches in the State that would assist in realizing vital links to different areas in the State. Based on underlying reasons provided in the State letter forwarded by the Borrower for favorable consideration ADB has internally discussed and approved the request.

Proposed Amendment

4. The above request requires certain amendments to paragraphs 10 and 13 under Schedule 6 to the Loan Agreement, as indicated below in mark up.

A. Amended paragraph 10 (vii)

Subproject Eligibility Criteria

10. The State and ERA shall ensure that each PIU shall ensure that each Subproject meets, to the satisfaction of ADB, the agreed eligibility criteria and is selected in accordance with the eligibility criteria and selection procedures set out in Appendix 2 of the RRP except as provided under clause (vii) below. Each Subproject shall be proposed on the basis of the following general criteria.

(vii) Environmental assessment of the Subproject shall have been carried out in accordance with the Environmental Assessment Framework. For the Subproject, an IEE/Environment Impact Assessment (EIA) with EMP shall have been prepared.

B. Amended paragraph 13 (i), (ii), (iv) and (v)

Environmental Issues

13. With respect to environmental assessment and compliance, the Borrower, the State and ERA shall ensure that:

- (i) the Project is carried out and all Project facilities are designed, constructed, operated, maintained, and monitored in compliance with the existing environmental laws and regulations of the Borrower, the State, and ADB's *Environmental Policy (2002)*, the Initial Environmental Examination (IEE) or the Environment Impact Assessment (EIA), as applicable, including the Environmental Assessment Framework;
- (ii) Subprojects encroaching any national park or its buffer zone shall not be included in the Project; however Subprojects encroaching upon wildlife sanctuaries or any other environmentally sensitive areas may be allowed subject to ERA obtaining all statutory clearances;
- (iv) each PIU shall prepare an IEE/EIA report, including an environmental management plan (EMP), with adequate public consultations for each Subproject, in accordance with the Environmental Assessment Framework. Each PIU shall ensure that (i) all mitigation measures identified in the IEEs/EIAs, the summary IEE/EIA, and EMPs prepared for the Subprojects, are incorporated in the Subprojects' designs, and are carried out during their construction, operation, and maintenance in consultation with stakeholders and (ii) if there are any changes in specific locations or alignments of infrastructure or Project facilities after the process of IEE/EIA, for either the Prepared Subprojects or additional Subprojects, additional environmental assessment shall be done and a process similar to IEE/EIA, acceptable to ADB, shall be undertaken; and
- (v) (A) an appropriate budgetary allocation (including vehicles, material and equipment, operating expenses, and staff) is provided to PIUs to fulfill their responsibilities for implementation of mitigation measures and monitoring requirements as outlined in the IEE/EIA, in particular those mitigation and monitoring requirements arising from the application of the Environmental Assessment Framework; (B) ERA assigns an adequate number of environment and social specialists to be responsible for appraising IEEs/EIAs and EMPs for Subprojects prepared by the PIUs, ensuring the implementation of EMPs, and submitting IEEs/EIAs and progress reports on implementation of EMPs to ADB; and (C) each PIU shall assign an adequate number of environment and social specialists to be responsible for preparing IEEs/EIAs and EMPs for the Subprojects and submitting them to the ERA and ADB, and implementing the EMPs. The Borrower shall design and conduct appropriate training programs for environment and social specialist staff on topics related to their areas of responsibility.

5. Kindly indicate your agreement to the proposed amendment by obtaining countersignatures of the authorized representatives of the State and ERA and further

countersigning, the three original counterparts of this letter. Please return one signed original counterpart to ADB. One signed original counterpart each may be retained by you for your records and for that of the State and ERA respectively. The proposed amendment will be effective as of the date ADB receives the counterpart of this letter duly countersigned on behalf of the Borrower, the State, and ERA. Upon the effectiveness of the amendment, the relevant Environmental Assessment Framework will also be updated to be consistent with the amendment to the Loan Agreement.

6. Please be advised that according to ADB's Public Communications Policy ("PCP") on disclosure and exchange of information, the amendment to the Loan Agreement will automatically be publicly disclosed within two (2) weeks after its effectiveness, unless ADB is advised by return mail that the amendment contains information or data of sensitive or confidential nature falling under the PCP exceptions.

Sincerely,

for *Project Dir*
Tadashi Kondo
Country Director
India Resident Mission
OC
17

Confirmed:

1. For India

Name: *Anup K. Pujari* 25/8/09

Designation: अनुप के. पुजारी/Anup K. Pujari
संयुक्त सचिव/Joint Secretary
वित्त मंत्रालय/Ministry of Finance
Date: 17/8/09
कारिगरी विभाग, Deptt of Eco Affairs
नई दिल्ली/New Delhi

2. For State of Jammu and Kashmir

Name: *S.L. Bhat*, I.A.S

Designation: Financial Commissioner (Planning), Go J&K

Date: 17/8/09 Financial Commissioner
Planning and Dev. Deptt.
3. For Economic Reconstruction Agency Jammu/Kashmir

Name: *S.L. Bhat*, I.A.S

Designation: Chief Executive Officer, JKERA
Chief Executive Officer,
Date: 17/8/09 Economic Reconstruction Agency,
Jammu/Srinagar