
LOAN NUMBER 2475-INO

LOAN AGREEMENT
(Ordinary Operations)

(Infrastructure Reform Sector Development Program - Subprogram 2)

between

REPUBLIC OF INDONESIA

and

ASIAN DEVELOPMENT BANK

DATED 10 DECEMBER 2008

PLL: INO 40250

LOAN AGREEMENT (Ordinary Operations)

LOAN AGREEMENT dated 10 December 2008 between the REPUBLIC OF INDONESIA (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 28 October 2008 which supplements the development policy letter dated 24 October 2006 (together called the Policy Letter), setting forth objectives, policies and actions designed to reform the Borrower's infrastructure sectors under a cluster of three subprograms forming the Infrastructure Reform Sector Development Program (hereinafter called the Program) some of which are to be implemented under the second subprogram of the Program (hereinafter called Subprogram 2) as described in Schedule 1 to this Loan Agreement;

(B) the Borrower has applied to ADB for a loan from its ordinary capital resources for the purposes of Subprogram 2; and

(C) ADB has, on the basis inter alia of the foregoing, agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001, 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 thereof (said Ordinary Operations Loan Regulations as so modified being hereinafter called the Loan Regulations):

(a) Section 2.01(49) is deleted and the following is substituted therefor:

49. The term "Program" means Subprogram 2 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(51) is deleted and the following is substituted therefor:

51. 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".

(e) Section 3.03 is deleted and the following is substituted therefor:

Commitment Charge; Credit. (a) The Borrower shall pay a commitment charge on the unwithdrawn amount of the Loan at the rate and on the terms specified in the Loan Agreement.

(b) ADB shall provide to the Borrower a credit at the rate specified in the Loan Agreement, which credit shall remain fixed for the term of the Loan. ADB shall apply the amount of the credit against the interest payable by the Borrower.

(f) Section 3.06 is deleted and the following is substituted therefor:

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB achieving savings, ADB shall provide a Rebate to the Borrower. The amount of the Rebate shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which

the Funding Cost Margin was calculated. ADB shall apply the amount of the Rebate against the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(g) Section 3.07 is deleted and the following is substituted therefor:

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, any Borrower with an outstanding Loan on which a lower Fixed Spread is applicable shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the difference between the Fixed Spread that will be applied to new Loans and the Fixed Spread applicable to the outstanding Loan (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the higher Fixed Spread that will be applied to new Loans.

(b) Following any announcement by ADB that its Funding Cost Margin calculations with respect to any Loan Currency (or Approved Currency) in any Semester resulted in ADB incurring additional costs, the Borrower shall pay ADB a Surcharge. The amount of the Surcharge shall be determined by multiplying (i) the Funding Cost Margin (expressed as a percentage per annum) by (ii) the principal amount of the Loan on which the Borrower shall pay interest for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated. ADB shall add the amount of the Surcharge to the interest payable by the Borrower for the Interest Period commencing immediately after the Semester for which the Funding Cost Margin was calculated.

(h) Section 6.01(a) is deleted and the following is substituted therefor:

(a) Subject to any conditions or restrictions specified in the Loan Agreement, the Borrower shall be entitled to withdraw from the Loan Account such amounts as shall be required to meet payments for expenditures required for the Program and to be financed under the Loan Agreement.

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "BAPPENAS" means Badan Perencanaan Pembangunan Nasional, the Borrower's National Development Planning Agency and any successor thereto;

(b) "BI" means Bank Indonesia, the Borrower's central bank, operating under Law No. 23 of 1999 Concerning Bank Indonesia and any amendments thereto, and any successor thereto;

(c) "CMEA" means the Borrower's Coordinating Ministry for Economic Affairs and any successors thereto;

(d) "Counterpart Funds" means the Rupiah accruing to the Borrower and generated from the Loan proceeds under Subprogram 2, and referred to in paragraph 7 of Schedule 5 to this Loan Agreement;

(e) "Deposit Account" means the account referred to in paragraph 4 of Schedule 3 to this Loan Agreement;

(f) "Eligible Items" means the goods imported under Subprogram 2 (except those specifically excluded pursuant to the Attachment to Schedule 3 to this Loan Agreement), the foreign exchange costs of which are eligible for financing out of the proceeds of the Loan;

(g) "Implementing Agencies" means MOF, CMEA, and the other line ministries responsible for the various infrastructure sectors targeted under the Program and any successors thereto;

(h) "KKPPI" means Komite Kebijakan Percepatan Penyediaan Infrastruktur, the Borrower's National Committee on the Acceleration of Infrastructure Development and any successor thereto;

(i) "MOF" means the Ministry of Finance of the Borrower and any successor thereto;

(j) "Policy Letter" has the meaning specified in Recital (A) to this Loan Agreement;

(k) "Policy Matrix" means the revised policy matrix for the Program agreed between the Borrower and ADB and attached to the Policy Letter dated 28 October 2008, which sets forth the actions accomplished or to be accomplished by the Borrower under the Program;

(l) "PPP" means public private partnership;

(m) "Program" has the meaning specified in Recital (A) to this Loan Agreement;

(n) "Program Executing Agency" or "EA" means, for the purposes and within the meaning of the Loan Regulations, BAPPENAS, which is responsible for the carrying out of Subprogram 2;

(o) "Program Period" means the period during which the Program will be implemented;

(p) "Project" means the Infrastructure Reform Sector Development Project as described in the Infrastructure Reform Sector Development Project Loan Agreement dated 23 November 2006 between ADB and the Borrower which supports activities being undertaken under the Program;

(q) "Rupiah" means rupiah, the lawful currency of the Borrower;

(r) "Subprogram 2 Period" means the period commencing on 1 October 2006 and ending on 30 September 2008 or such other date as may from time to time be agreed between the Borrower and ADB; and

(s) "subsequent Subprogram" means the proposed subprogram 3 under the Program, following Subprogram 2, the terms of which are to be agreed between the Borrower and ADB.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred eighty million Dollars (\$280,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 12 years and a grace period as defined in paragraph (c) of this Section and as set forth in Schedule 2 to this Loan Agreement.

(c) The term "grace period" as used in paragraph (b) 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 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 0.60% as determined by Section 3.02 of the Loan Regulations, less a credit of 0.40% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay to ADB a commitment charge of 0.15% per annum on the unwithdrawn amount of the Loan. Such charge shall accrue from a date sixty (60) days after the date of this Loan Agreement to the respective dates on which amounts shall be withdrawn from the Loan Account or shall be cancelled.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 April and 15 October in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

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 for Subprogram 2 in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan may be withdrawn from the Loan Account only for the purposes of financing foreign currency expenditures incurred for Eligible Items under Subprogram 2 in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, all Eligible Items to be financed out of the proceeds of the Loan shall be produced in, and procured from, ADB's member countries in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, no withdrawals shall be made from the Loan Account in respect of expenditures for Eligible Items incurred more than one hundred eighty (180) days prior to the Effective Date.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 31 March 2009 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall cause Subprogram 2 to be carried out with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental, and governance practices.

(b) In the carrying out of Subprogram 2, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. The Borrower shall make available, promptly as needed, the funds, facilities, services, and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of Subprogram 2.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of Subprogram 2 are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. (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 indicate the progress of Subprogram 2.

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

Section 4.05. (a) As part of the reports and information referred to in Section 7.04 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 the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter, including the Policy Matrix.

(b) Without limiting the generality of the foregoing or Section 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB semi-annual 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, including the Policy Matrix. These reports shall be used at the completion of the Program to produce a comprehensive report on the overall impact of the policy reforms described in the Policy Letter and Policy Matrix.

ARTICLE V

Effectiveness

Section 5.01. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
Directorate General of Debt Management (DGDM)
OR for repayment issues only
Directorate of Evaluation, Accounting and Settlement (DEAS)
Jln. Lapangan Banteng Timur No 2-4
P.O. Box 1139
Jakarta 10710, Indonesia

Facsimile Numbers:

+62 21 381 2859 (DGDM)
+62 21 384 3712 (DEAS)

For ADB

Asian Development Bank
Indonesian Resident Mission
Gedung BRI II, Level 7
Jln. Jenderal Sudirman, Kav 44-46
Jakarta, Indonesia

Facsimile Number:

+62 21 251 2749

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 and to be delivered at the principal office of ADB, as of the day and year first above written.

REPUBLIC OF INDONESIA

By 
DR. RAHMAT WALUYANTO
Authorized Representative

ASIAN DEVELOPMENT BANK


By 
JEAN-MARIE LACOMBE
Officer-in-Charge
Indonesia Resident Mission

SCHEDULE 1**Description of the Program**

1. The goal of the Program is to improve the investment climate in the Borrower's territory to support the Borrower's medium-term macroeconomic goals. The objectives of the Program are to support enhanced infrastructure provision and access, and to accelerate infrastructure development by facilitating large-scale private sector participation (PSP) and the mobilization and allocation of additional public sector resources in key infrastructure sectors.

2. Subprogram 2 is the second subprogram of the Program and is being implemented during the Subprogram 2 Period. The scope of Subprogram 2 includes the following components:

- (a) strategic cross-sector reforms targeting amongst others, improvements to policy, legal, and institutional frameworks; development of a well-structured risk management framework; and mobilization of domestic financial resources;
- (b) sector-level policy, legal, financial, and institutional reforms and better service delivery and efficiency in transportation, power, oil and gas, telecommunications, and water supply and sanitation sectors; and
- (c) support to prepare and execute well-structured public-private partnership (PPP) transactions to develop sound replicable model projects.

The reform agenda for the subsequent Subprogram will be jointly refined by the Borrower and ADB to reflect the progress made under Subprogram 2 and the evolving circumstances in the development of the Borrower's infrastructure programs.

3. In support of Subprogram 2:

(a) the proceeds of the Loan shall be used to finance the foreign exchange costs of Eligible Items; and

(b) the Counterpart Funds shall be used to finance the local currency costs relating to the implementation of certain programs and other activities consistent with the objectives of Subprogram 2, pursuant to the provisions of paragraph 7 of Schedule 5 to this Loan Agreement.

4. The proceeds of the Loan are expected to be disbursed in a single tranche and utilized by 31 March 2009.

SCHEDULE 2

Amortization Schedule (Infrastructure Reform Sector Development Program - Subprogram 2)

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Payment Due</u>	<u>Installment Share</u> (Expressed as a %)
15 April 2012	4.166667
15 October 2012	4.166667
15 April 2013	4.166667
15 October 2013	4.166667
15 April 2014	4.166667
15 October 2014	4.166667
15 April 2015	4.166667
15 October 2015	4.166667
15 April 2016	4.166667
15 October 2016	4.166667
15 April 2017	4.166667
15 October 2017	4.166667
15 April 2018	4.166667
15 October 2018	4.166667
15 April 2019	4.166667
15 October 2019	4.166667
15 April 2020	4.166667
15 October 2020	4.166667
15 April 2021	4.166667
15 October 2021	4.166667
15 April 2022	4.166667
15 October 2022	4.166667
15 April 2023	4.166667
15 October 2023	4.166659
Total	100.000000

Schedule 2

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

4. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

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) Withdrawals from the Loan Account shall be made for the financing of the cost of Eligible Items.

(b) No withdrawals from the Loan Account shall be made in respect of any expenditures which have been financed by credits from official international or bilateral aid agencies or any other loans made by ADB.

3. (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 equal to or 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.

(c) For the purposes of this paragraph, the term "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 for ineligible items specified in Attachment 1 to this Schedule; and
- (iii) imports financed from credits from official international or bilateral aid agencies or any other loans made by ADB.

(d) 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.

4. (a) Prior to submitting the application to ADB for withdrawal from the Loan Account, the Borrower shall nominate an account (the Deposit Account) at BI 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 consistently maintained sound accounting principles. Upon ADB's request, the Borrower shall have the Deposit Account audited by independent

Schedule 3

auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with appropriate auditing standards. Promptly after their preparation but in any event not later than six (6) months after the date of ADB's request, certified copies of such audited accounts and records shall be furnished to ADB, all in the English language.

(c) Throughout Subprogram 2 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.

5. Notwithstanding any other provisions of this Loan Agreement or the Loan Regulations and except as ADB may otherwise agree, no withdrawals shall be made from the Loan Account unless ADB shall be satisfied based on evidence satisfactory to ADB and after consultation with the Recipient, that there has been no action which adversely and materially impacts the objectives of Subprogram 2.

List of Ineligible Items

1. Loan proceeds will finance the foreign currency expenditures for the reasonable cost of imported goods required during Subprogram 2.
2. No withdrawals shall be made in respect of:
 - (i) expenditures for goods (included in the following Standard International Trading Commodity chapters or headings):

<u>Group</u>	<u>Sub-Group</u>	<u>Description of Items</u>
112		alcoholic beverages
121		tobacco, unmanufactured; tobacco refuse
122		tobacco, manufactured (whether or not containing tobacco substitutes)
525		radioactive and associated materials
667		pearls, precious and semi-precious stones, unworked or worked
718	718.7	nuclear reactors and parts thereof, fuel elements (cartridges) non-irradiated, for nuclear reactors
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, non-monetary (excluding gold ores and concentrates)

Source: United Nations.

- (ii) expenditures in the currency of the Borrower or of goods supplied from the territory of the Borrower;
- (iii) payments made for expenditures incurred more than 180 days before the effectiveness date of the loan;
- (iv) 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 loans from the Asian Development Bank;
- (v) expenditures for goods intended for a military or paramilitary purpose or for luxury consumption;
- (vi) expenditures for narcotics; and
- (vii) expenditures for pesticides categorized as extremely hazardous or highly hazardous in classes I-a and I-b, Classification of Pesticides by Hazard and Guidelines to Classification.

SCHEDULE 4

Procurement

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraph of this Schedule shall apply in the procurement of Eligible Items (other than consulting services) to be financed out of the proceeds of the Loan.

2. (a) Except as provided in paragraph 2(b) below, each contract for Eligible Items shall be awarded on the basis of either the purchaser's normal commercial procurement practices, in the case of procurement by the private sector, or the Borrower's prescribed procurement procedures, in the case of procurement by the public sector, having due regard for the principles of economy and efficiency.

(b) Each supply contract for Eligible Items which are commonly traded commodities shall be awarded on the basis of procedures appropriate to the trade and acceptable to ADB.

SCHEDULE 5

Program Implementation and Other Matters

Program Management

1. BAPPENAS shall be the Program Executing Agency responsible for reporting to KKPPPI and ADB, and coordinating implementation of the Program by the Implementing Agencies and a number of other relevant agencies of the Borrower, including state-owned enterprises and local government-owned enterprises that are in charge of infrastructure provision. MOF shall be responsible for the administration and disbursement of the Loan proceeds, and the maintenance of accounts.
2. In line with its mandate, KKPPPI, co-chaired by the Minister of CMEA and the Chairman of BAPPENAS, shall continue to be responsible for coordinating the implementation and sustaining of the actions under the Program, and for providing guidance and direction to the EA, the Implementing Agencies and the relevant line agencies of the Borrower involved in Program actions and activities.

Implementation of the Policy Letter

3. The Borrower shall ensure that: (a) the policies adopted and actions taken prior to the date of this Loan Agreement as described in the Policy Letter and the Policy Matrix, continue in effect during the Program Period and thereafter; and (b) all reasonable measures are undertaken to implement the reform actions which are agreed triggers for the processing of the subsequent Subprogram.

Policy Dialogue

4. The Borrower shall keep ADB informed of, and the Borrower and ADB shall from time to time exchange views on, sector issues, policy reforms and additional reforms arising during the implementation of the Program and Project that may be considered necessary or desirable, including the progress made in carrying out policies and actions set out in the Policy Letter and the Policy Matrix.
5. The Borrower shall promptly discuss with ADB problems and constraints encountered during implementation of the Program and appropriate measures to overcome or mitigate such problems and constraints.
6. The Borrower shall keep ADB informed of policy discussions with other multilateral or bilateral agencies that have implications for implementation of the Program and Project, and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower shall consider ADB's views before finalizing and implementing any such proposals.

Counterpart Funds

7. The Borrower shall ensure that the Counterpart Funds are used to finance the local currency costs relating to the implementation of Subprogram 2 and other activities consistent with the objectives of Subprogram 2 and shall provide the necessary budget

appropriations to finance the structural adjustment costs relating to the implementation of reforms under Subprogram 2 and the Program.

Environmental and Social Assessments and other Compliance Actions

8. The Borrower shall ensure, and shall cause the EA, Implementing Agencies and other relevant line ministries and contracting agencies of the Borrower to ensure that for the PPP projects developed or supported under the Program: (a) environmental and social assessments are carried out and appropriate mitigation measures, including monitoring, are prepared and implemented in a timely manner, in accordance with all applicable laws and regulations of the Borrower; and (b) studies and technical designs prepared will broadly comply with all relevant ADB policies, guidelines and other requirements.

9. The Borrower shall ensure, and shall cause the EA, Implementing Agencies, and other relevant line ministries and contracting agencies of the Borrower to ensure that recommendations resulting as outputs from the Project and/or the ADB's technical assistance entitled 'Enhancing Private Sector Participation in Infrastructure Provision' which is linked to the Project, are implemented to the fullest extent possible, and within a timely manner.

Monitoring of the Program

10. The Borrower shall ensure that: (a) reporting on progress of, and refinements to, the Program through periodic meetings are made to BAPPENAS by the Implementing Agencies and the other relevant agencies of the Borrower, which in turn will report to ADB and relevant stakeholders; and (b) the CMEA part of the KKPI Secretariat, in accordance with CMEA Regulation 1/2006, hosts regular consultative meetings with the private sector and development partner community to solicit their feedback on emerging regulations and the impact of Program implementation. Joint semi-annually reviews of the overall Program performance shall be undertaken by the Borrower with ADB during the Program Period.

11. The Borrower and ADB shall jointly assess the impact and evaluate the benefits of the Program within ten months after Subprogram 2 is completed, in accordance with ADB's Performance Management System. BAPPENAS shall be responsible for maintaining all monitoring data and evaluating benefits of Subprogram 2 and the Program. The Borrower shall cause the BAPPENAS and Implementing Agencies to submit a Program review report to ADB within ten months after Loan Effectiveness that: (a) assesses compliance with, and impact of, the agreed actions under Subprogram 2; and (b) subject to the Borrower's readiness to continue with the Program, defines requirements for adjustments to activities to be undertaken under the subsequent Subprogram. The Borrower and ADB shall use the findings of such assessment and evaluation in refining the Program. The Borrower shall actively assist and support ongoing Program monitoring and evaluation including facilitating consultations with central and provincial agencies, infrastructure sector participants, civil society, and other key stakeholders as appropriate.