
GRANT NUMBER 0041-REG (SF)

GRANT AGREEMENT
(Special Operations)

(Prevention and Control of Avian Influenza in Asia and the Pacific Project)

between

WORLD HEALTH ORGANIZATION

and

ASIAN DEVELOPMENT BANK

DATED 28 APRIL 2006

GAS:REG 39662

**GRANT AGREEMENT
(Special Operations)**

GRANT AGREEMENT dated 28 April 2006 between WORLD HEALTH ORGANIZATION (hereinafter called WHO) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) ADB has approved the provision of a grant in a total amount of thirty-eight million Dollars (\$38,000,000) for the Project described in Schedule 1 to this Grant Agreement;

(B) WHO has applied to ADB for a grant for the purposes of financing activities under Components 1(b) and 2 of the Project described in Schedule 1 to this Grant Agreement; and

(C) ADB has agreed to provide the grant to WHO from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Conditions; Definitions

Section 1.01. The Grant Agreement is subject to the conditions contained in Attachment 1 to Schedule 5 to this Grant Agreement (hereinafter called the Conditions).

Section 1.02. The definitions set forth in the Conditions are applicable to this Grant Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "ASEAN Secretariat" means the Association of South East Asian Nations Secretariat;

(b) "DMC" means developing member country of ADB;

(c) "Executing Agency" for the purposes of, and within the meaning of, the Conditions means ADB, acting through an Avian Influenza Secretariat, which is responsible for the carrying out of the Project;

(d) "FAO" means the Food and Agriculture Organization;

(e) "international technical agencies" or "international organizations" means ASEAN Secretariat, WHO and FAO;

(f) "region" means Asia and the Pacific;

(g) "regional technical agencies" means regional offices of international technical agencies; and

(h) "Special Funds" for the purposes of this Grant Agreement means the Asian Development Fund (hereinafter called ADF), the Technical Assistance Special Fund (hereinafter called TASF), and the Japan Special Fund (hereinafter called JSF).

ARTICLE II

The Grant

Section 2.01. ADB agrees to make available to WHO from ADB's Special Funds resources, on terms and conditions set forth in this Grant Agreement, an amount of twelve million four hundred seventy-nine thousand Dollars (\$12,479,000) as follows:

(a) an amount of eight million six hundred thirty thousand Dollars (\$8,630,000) from ADF;

(b) an amount of four hundred forty-five thousand Dollars (\$445,000) from TASF; and

(c) an amount of three million four hundred-four thousand Dollars (\$3,404,000) from JSF.

ARTICLE III

Use of Proceeds of the Grant

Section 3.01. WHO shall cause the proceeds of the Grant to be applied to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement. WHO shall ensure that the portion of the Grant financed from ADF resources is used for the benefit of ADF-eligible borrower DMCs listed in Attachment 2 to Schedule 5 to this Grant Agreement.

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant among different categories of such goods and services and other items of expenditure shall be in accordance with the provisions of Schedule 2 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between WHO and ADB.

Section 3.03. All goods and services to be financed out of the proceeds of the Grant shall be procured in accordance with WHO's procurement rules as well as with the provisions of Schedule 3 and Schedule 4 to this Grant Agreement.

Section 3.04. Withdrawals from the Grant Account in respect of goods and services shall be made only on account of expenditures relating to goods which are produced in and supplied from and services which are supplied from such countries as shall have been specified in Schedule 3 and Schedule 4 to this Grant Agreement.

Section 3.05. The Grant Closing Date for the purposes of Section 5.02 of the Conditions shall be 28 February 2009 or such other date as may from time to time be agreed between WHO and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, WHO shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Grant Agreement.

Section 4.02. (a) WHO shall (i) keep accurate and systematic separate accounts and records in respect of the Project in such form and detail as are customary to WHO and are sufficient to establish accurately the costs and expenditures under the Project; (ii) have such accounts and related financial statements audited biennially, in accordance with appropriate auditing standards consistently applied, by WHO's auditors or auditors' appointed by WHO, whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 6 months after the end of each related biennium certified copies of such audited accounts and financial statements and the report of the auditors relating thereto, and not later than 6 months after the end of each fiscal year certified financial reports by Chief of Accounts of WHO, all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The income and expenditure recorded in respect of the Project shall be indicated in the WHO financial reports submitted to the World Health Assembly on an annual and biennial basis. An interim financial statement of income and expenditure shall be provided to ADB on a 6 monthly basis. A certified statement of income and expenditure shall be provided by WHO on annual basis, and after settlement of all obligations for activities started by WHO prior to completion or early termination of this Grant Agreement.

(c) All contributions to WHO are subject to its internal and external auditing procedures. The external auditors' certification of accounts and audit report is made available to the World Health Assembly on a biennial basis. WHO shall provide one copy to ADB. WHO shall also furnish to ADB a certificate on the use of ADF resources for ADF-eligible borrower DMCs as specified in Section 3.01 of this Grant Agreement.

(d) WHO and ADB agree that WHO will enable ADB, upon ADB's request to discuss WHO's financial statements for the Project and its financial affairs related to the Project from time to time with the officials or authorized representatives of WHO.

ARTICLE V

Effectiveness

Section 5.01. A date ninety (90) days after the date of this Grant Agreement is specified for the effectiveness of the Grant Agreement for the purposes of Section 6.02 of the Conditions.

ARTICLE VI

Miscellaneous

Section 6.01. The Assistant Director General of WHO is designated as representative of WHO for the purposes of Section 8.02 of the Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 8.01 of the Conditions:

For WHO

World Health Organization
20, Avenue Appia
CH 1211 Geneva 27
Switzerland

Facsimile Number:

4122 791 4666.

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Cable Address:

ASIANBANK
MANILA

Telex Numbers:


29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:


(632) 636-2444
(632) 636-2409.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant 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.

WORLD HEALTH ORGANIZATION

By 
Margaret Chan
Authorized Representative

ASIAN DEVELOPMENT BANK

By 
Haruhiko Kuroda
President

SCHEDULE 1

Description of the Project

1. The Project will (a) support international efforts to respond to the threat of highly pathogenic avian influenza and to prepare for a possible human influenza pandemic; and (b) help prevent possible social and economic disruption due to avian and human influenza outbreaks in the region. The Project will help to achieve these goals by supporting activities at country and regional level for containing avian influenza and preventing and preparing for human influenza pandemic. The Project will support activities that benefit DMCs in the region and will be implemented in close coordination with other national and international initiatives.

2. The Project has the following components:

Component 1 – Regional Capacity Building

This Component includes:

(a) *Containing Infection-at-Source*

- (i) Strengthen the capacity of ASEAN Secretariat to provide adequate support to DMCs against avian influenza and in the animal health sector in general; and
- (ii) Strengthen the capacity of FAO to provide adequate support to DMCs against avian influenza and in the animal health sector in general.

(b) *Preventing Human Infection and Preparing for Potential Human Influenza Pandemic*

Strengthen the capacity of WHO to support DMCs at the regional level by financing consultants and the procurement of equipment, supplies, drugs and services as required and specified in Attachment 3 to Schedule 5 to this Grant Agreement.

Component 2 – Regional Coordination

This Component will include, but is not limited to, the following activities:

(a) *Improved Technical Coordination*

- (i) support the establishment of networks to share epidemiological and other scientific information, diagnostic problems and solutions, laboratory specimen and samples as appropriate;
- (ii) help develop regional research and development projects related to emerging diseases;
- (iii) strengthen regional reference laboratories, if requested;
- (iv) coordinate responses to avian influenza and emerging diseases;

- (v) increase technical exchanges of staff and researchers; and
 - (vi) support regional efforts to develop and manufacture human and animal influenza vaccination and drugs.
- (b) *Rapid Field Response and Containment Capacity*
- (i) support efforts to establish a cadre of national and international professionals resident in the region, who could be rapidly mobilized to respond to a human influenza pandemic; and
 - (ii) strengthen communication networks in the region to ensure early warning of emerging diseases.
- (c) *Risk Communication*
- (i) If required, support the activities of the international organizations and DMCs to develop and implement appropriate risk communication strategies on avian influenza and emerging diseases.

Component 3 – Avian Influenza Response Facility

This Component will address the changing needs of the evolving epidemic in an expeditious and flexible manner through the establishment of the Avian Influenza Response Facility. Provision of financing under this Component will be needs-based and will include, but is not limited to, the following activities:

- (i) provide critical and urgent financing need for rapidly containing an avian influenza outbreak;
- (ii) meet urgent needs for responding to human influenza outbreaks during a pandemic or pre-pandemic scenario; and
- (iii) support for regional stockpiling.

Component 4 – Project Management

This Component will include, but is not limited to:

- (i) support for workshops and meetings required for the Project coordination with participating DMCs and international organizations; and
- (ii) coordination efforts with other partners at regional and country levels.

3. The Project includes provision of consulting services. The Project is expected to be completed by 31 August 2008.

SCHEDULE 2

Allocation and Withdrawal of Grant Proceeds

General

1. The table attached to this Schedule sets forth the Categories of goods, services and other items to be financed out of the proceeds of the Grant and the allocation of amounts of the Grant to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Grant on the basis of the percentages set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Grant proceeds set forth in the Table,

(a) if the amount of the Grant allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to WHO, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of 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 Grant then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to WHO, reallocate such excess amount to any other Category.

Disbursement

4. The Grant proceeds, will be drawn down on the basis of the estimated expenditures up to 12 months. At the time of each drawdown, WHO shall submit to ADB a written application setting out, among other things, a forecast of the requirements for the use of the Grant proceeds to be drawn down. The amounts to be drawn down shall subsequently be replenished/liquidated against (i) statement of expenditures (SOE), categorized according to the Table, and (ii) annual Project financial report showing the source and use of the Grant proceeds, certified by WHO. The forms for these procedures will be provided by ADB.

Retroactive Financing

5. Withdrawals from the Grant Account may be made for reimbursement of reasonable expenditures incurred under the Project, including but not limited to contracting consultants, before the Effective Date, but not earlier than 3 months prior to the Effective Date, subject to a maximum amount of 10% of the Grant amount.

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS* (Thousand of Dollars) (Prevention and Control of Avian Influenza in Asia and the Pacific Project)					
		ADF	TASF	JSF	Total
1	Regional Capacity Building				
1.1	Consulting services (including travel)	4,922	254	1,942	7,118
1.2	Equipment	0	0	0	0
1.3	Drugs, Protective Clothing, and Supplies	0	0	0	0
1.4	Information, Communication, Data Management	0	0	0	0
1.5	Training, Research and Development, Meetings, Conferences, and Exchanges	380	20	150	550
1.6	Incremental Cost, Administration, Logistics, and Supply Management	0	0	0	0
	Subtotal	5,302	273	2,092	7,668
2	Regional Coordination				
2.1	Consultants, Staff, Travel	298	15	117	430
2.2	Equipment	236	12	93	341
2.3	Drugs, Protective Clothing, and Supplies	62	3	25	90
2.4	Information, Communication, Data Management	802	41	316	1,160
2.5	Training, Research and Development, Meetings, Conferences, and Exchanges	1,411	73	557	2,040
2.6	Incremental Cost, Administration, Logistics, and Supply Management	519	27	205	750
	Subtotal	3,327	172	1,313	4,811
	Total	8,630	445	3,404	12,479
	Percentage Allocation	69.2%	3.6%	27.3%	

* Exclusive of duties and taxes.

SCHEDULE 3

Procurement

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of goods and services to be financed out of the proceeds of the Grant. In this Schedule, the term "goods" includes equipment and materials; the term "services" does not include consulting services.

2. Procurement of goods and services by WHO shall be done in accordance with procurement procedures of WHO and in consultation with ADB.

Procurement of Drugs and Vaccination

3. Notwithstanding the preceding paragraph, procurement of drugs and vaccination shall be done in accordance with WHO rules and regulations.

Advance Procurement Action

4. Given the urgency of the Project, ADB has approved advance action prior to the Effective Date, up to but not including the award of contracts for the procurement of goods and services. Notwithstanding approval of such advance action, WHO shall ensure that procurement of all such goods and services is carried out in accordance with the provisions of this Schedule.

Procurement From Non-Member Countries

5. In view of the need to coordinate with other international organizations and to facilitate work with potential cofinanciers, the procurement of goods and services shall be open to suppliers in both ADB member and non-member countries.

SCHEDULE 4**Consultants**

1. The services of consultants shall be utilized in the carrying out of the Project. The terms of reference of the consultants shall be as determined by agreement between ADB and the WHO.
2. The selection, engagement and services of individual consultants shall be subject to the provisions of this Schedule and the provisions of recruitment procedures of WHO.
3. Given the urgency of the Project, ADB has approved advance action prior to the Effective Date, up to but not including the award of contracts for consulting services. Notwithstanding approval of such advance action, WHO shall ensure that engagement of consultants is carried out in accordance with the provisions of this Schedule.
4. In view of the need to coordinate with other international organizations and to facilitate work with potential co-financiers, the contracting of consultants shall be from both ADB member and non-member countries.

SCHEDULE 5

Execution of Project and Operation of Project Facilities

1. ADB, acting through the Avian Influenza Secretariat, shall be the Executing Agency for the Project. The Executing Agency will, among other things (i) provide overall supervision of the Project and strategic guidance; (ii) support workshops and meetings required for the Project coordination with participating DMCs and international organizations; and (iii) support coordination efforts with other partners at country and regional levels.
2. WHO shall be the Implementing Agency and shall implement the Project in accordance with Attachment 3 to this Schedule and detailed arrangements described in a Project Administration Memorandum to be agreed between ADB and WHO (as may be amended from time to time). WHO shall implement the Project in close coordination with ADB and shall commence activities in the territory of a DMC upon advice of ADB.
3. A Steering Committee will be established within ADB to coordinate activities under the Project. Unless otherwise decided by ADB, the Steering Committee will be headed by the Director General, Regional and Sustainable Development Department of ADB and will comprise directors general of ADB's regional departments and Strategy and Policy Department. The Steering Committee will meet every three months or more frequently if needed, to give guidance in the Project implementation, policy dialogue, and building regional capacity and cooperation.
4. The Project is expected to have no significant impact on environment, resettlement, indigenous people, or other vulnerable groups. If emerging needs require new Project activities during implementation that may have an impact on environment, resettlement, indigenous people or other vulnerable groups WHO will inform ADB and will prepare and submit to ADB for approval plans, prior to requesting financing for that particular activity.

CONDITIONS**ARTICLE I****Definitions; Interpretation**

Section 1.01. **Definitions.** Except where the context otherwise requires, the following terms have the following meanings wherever used in these Conditions or in a grant agreement to which these Conditions have been made applicable:

1. "ADB" means Asian Development Bank;
2. "assets" includes property, revenues and claims of any kind;
3. "currency" of a country or a territory means such currency as at the time referred to is legal tender for the payment of public and private debts in that country or territory;
4. "Dollar" or the sign "\$" each means the lawful currency of the United States of America;
5. "Effective Date" means the date on which the Grant Agreement shall have come into force and effect pursuant to Section 6.02;
6. "foreign currency" means any currency other than local currency;
7. "foreign expenditure" means any expenditure other than local expenditure;
8. "Grant" means the grant provided for in the Grant Agreement;
9. "Grant Account" means the account opened or to be opened by ADB on its books in the name of WHO to which the amount of the Grant has been or will be credited;
10. "Grant Agreement" means the grant agreement between ADB and WHO for Prevention and Control of Avian Influenza in Asia and the Pacific Project, to which these Conditions shall have been made applicable, as such agreement may be amended from time to time; and such term includes these Conditions as thus made applicable, all agreements supplementary to the Grant Agreement and all schedules to the Grant Agreement;
11. "Grant Closing Date" means the date specified in the Grant Agreement, after which ADB may terminate the right of WHO to make any withdrawals from the Grant Account, or such other date as may be agreed between ADB and WHO for such purpose;

12. "local currency" means the currency of the member in whose territory the Project is to be carried out;

13. "local expenditure" means expenditure incurred, or to be incurred, in the currency of the member in whose territory the Project is to be carried out for goods produced in, and services supplied from, the territory of such member, excluding, however, expenditure on the import content of such goods and services;

14. "member" means a member of ADB;

15. "Special Funds resources" means "Special Funds resources" of ADB as defined in Article 20 of the Articles of Agreement of ADB; and

16. "taxes" includes imposts, levies, fees and duties of any nature, whether in effect at the date of the Grant Agreement or thereafter imposed.

ARTICLE II

Currency Provisions

Section 2.01. **Denomination of the Grant.** Except as the Board of Directors may otherwise determine, the Grant shall be denominated in Dollar.

Section 2.02. **Currency of Withdrawal and Purchase of Currencies.** Except as ADB and WHO shall otherwise agree, withdrawals from the Grant Account shall be made in the currency in which the Grant is denominated. ADB shall, at the request and acting as agent of WHO, use such currency to purchase the currencies in which the cost of goods and services to be financed out of the proceeds of the Grant has been paid or is payable.

ARTICLE III

Withdrawal of Grant Proceeds

Section 3.01. **Evidence of Authority to Sign Applications.** WHO shall furnish to ADB sufficient evidence of the authority of the person authorized to sign applications for withdrawal and the authenticated specimen signature of each person.

Section 3.02. **Supporting Evidence.** WHO shall furnish to ADB such documents and other evidence in support of the application for withdrawal as ADB shall reasonably request, whether before or after ADB shall have permitted any withdrawal requested in the application.

Section 3.03. **Sufficiency of Applications and Documents.** Each application for withdrawal and the accompanying documents and all other evidence must be

sufficient in form and substance to satisfy ADB that WHO is entitled to withdraw from the Grant Account the amount applied for and that the amount to be withdrawn from the Grant Account is to be used only for the purposes specified in the Grant Agreement.

Section 3.04. **Payment by ADB.** Payment by ADB of amounts which WHO is entitled to withdraw from the Grant Account shall be made to or on the order of WHO in accordance with Schedule 2 to the Grant Agreement.

ARTICLE IV

Particular Covenants

Section 4.01. **Cooperation and Information.** ADB and WHO shall cooperate fully to ensure that the purposes of the Grant will be accomplished. To that end, ADB and WHO shall:

- (i) from time to time, at the request of either one of them, exchange views with regard to any matters relating to the progress of the Project, the purposes of the Grant, the performance of their respective obligations under the Grant Agreement, and furnish to the other party all such related information as it shall reasonably request; and
- (ii) promptly inform each other of any condition which interferes with, or threatens to interfere with, the matters referred to in paragraph (a)(i) above.

Section 4.02. **Records, Accounts and Audits.** WHO shall maintain, or cause to be maintained, records and accounts adequate to identify the goods and services and other items of expenditure financed out of the proceeds of the Grant, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, the operations and financial condition of WHO.

Section 4.03. **Reports.** (a) WHO shall furnish, or cause to be furnished, to ADB all such reports as ADB shall reasonably request concerning (i) the Grant, and the expenditure of the proceeds and maintenance of the service thereof; (ii) the goods and services and other items of expenditure financed out of the proceeds of the Grant; (iii) the Project; and (iv) any other matters relating to the purposes of the Grant.

(b) Without limiting the generality of the foregoing, WHO shall furnish to ADB quarterly reports, or reports at such other later interval as may be agreed for this purpose between ADB and WHO on the execution of the Project, on the accomplishment of the targets and actions agreed between the ADB and WHO, and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) After the Project completion date or such later date as may be agreed for this purpose between WHO and ADB, WHO shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by WHO of its obligations under the Grant Agreement and the accomplishment of the purposes of the Grant.

Section 4.04. **Work Schedules, Plans and Design Standards.** WHO shall cause the Project to be carried out as agreed between ADB and WHO in the Grant Agreement.

Section 4.05. **Contractors and Consultants.** Whenever applicable, in the carrying out of the Project, WHO shall cause competent and qualified consultants and contractors, in accordance with the terms of reference agreed between ADB and WHO.

ARTICLE V

Suspension and Cancellation

Section 5.01. **Suspension by ADB.** If any of the following events shall have occurred at any time after the date of the Grant Agreement and be continuing, ADB may by notice to WHO suspend in whole or in part the right of WHO to make withdrawals from the Grant Account:

- (a) WHO shall have failed to perform any of its obligations under the Grant Agreement.
- (b) A representation made by WHO in or pursuant to the Grant Agreement or any statement furnished in connection therewith and intended to be relied upon by ADB in making the Grant, shall have been incorrect in any material respect, or, where WHO is not a member, any material adverse change in the condition of WHO as so represented by WHO shall have occurred.
- (c) It shall have been determined, with respect to any contract to be financed in full or in part out of the proceeds of the Grant, that corrupt, fraudulent, collusive or coercive practices, were engaged in by representatives of WHO or any beneficiary of the Grant during the procurement of goods and services, consultants' selection or the execution of a contract, without WHO having taken timely and appropriate action to remedy the situation; or that the procurement of any goods or services to be financed out of the proceeds of the Grant is inconsistent with the relevant procedure set out in the Grant Agreement.
- (d) Any other event specified in the Grant Agreement for the purposes of this Section shall have occurred.

The right of WHO to make withdrawals from the Grant Account shall continue to be suspended in whole or in part, as the case may be, until the event which gave rise to such suspension shall have, in the reasonable opinion of ADB, ceased to exist or until ADB shall have notified WHO that the right to make withdrawals has been restored in whole or in part, whichever is the earlier.

Section 5.02. **Cancellation by ADB.** If (i) the right of WHO to make withdrawals from the Grant Account shall have been suspended with respect to any amount of the Grant for a continuous period of 30 days; or (ii) at any time, that any amount of the Grant will not be required for the purposes of the Project; (iii) by the date specified in the Grant Agreement as the Grant Closing Date, an amount of the Grant shall remain unwithdrawn from the Grant Account; or (iv) at any time, with respect to any contract to be financed in full or in part out of the proceeds of the Grant, that corrupt, fraudulent, collusive or coercive practices, were engaged in by representatives of WHO or any beneficiary of the Grant during the procurement of goods and services, consultants' selection or the execution of a contract, without WHO having taken timely and appropriate action to remedy the situation; or (v) at any time that the procurement of any goods or services to be financed out of the proceeds of the Grant is inconsistent with the procedure set out in the Grant Agreement, ADB may by notice to WHO terminate the right of WHO to make withdrawals with respect to such amount. Upon the giving of such notice, such amount of the Grant shall be cancelled.

Section 5.03. **Cancellation by WHO.** After consultation with ADB, WHO may by notice to ADB cancel any amount of the Grant which WHO shall not have withdrawn prior to the giving of such notice.

Section 5.04. **Effectiveness of Provisions After Suspension or Cancellation.** Notwithstanding any cancellation or suspension, all the provisions of the Grant Agreement shall continue in full force and effect except as specifically provided in this Article.

ARTICLE VI

Effectiveness; Termination

Section 6.01. **Effective Date.** (a) Except as ADB and WHO shall otherwise agree, the Grant Agreement shall come into force and effect on the date upon which both parties have signed the Grant Agreement and thereafter the first installment will be received by WHO.

(b) If, before the Effective Date, any event shall have occurred which would have entitled ADB to suspend the right of WHO to make withdrawals from the Grant Account if the Grant Agreement had been effective, ADB may postpone the dispatch of the notice referred to in paragraph (a) of this Section until such event shall have ceased to exist.

Section 6.02. **Termination for Failure to Become Effective.** If the Grant Agreement shall not have come into force and effect by the date specified in the Grant Agreement for the purposes of this Section, the Grant Agreement and all obligations of

the parties thereunder shall terminate, unless ADB, after consideration of the reasons for the delay, shall establish a later date for the purposes of this Section. ADB shall promptly notify WHO of such later date.

ARTICLE VII

Enforceability; Failure to Exercise Rights; Arbitration

Section 7.01. **Enforceability.** (a) The rights and obligations of ADB and WHO under the Grant Agreement shall be valid and enforceable in accordance with their terms.

(b) Neither ADB nor WHO shall be entitled in any proceeding under this Article to assert any claim that any provision of the Grant Agreement is invalid or unenforceable because of any provision of the Articles of Agreement Establishing the Asian Development Bank or for any other reason.

Section 7.02. **Failure to Exercise Rights.** No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under the Grant Agreement upon any default shall impair any such right, power or remedy, or be construed to be a waiver thereof or an acquiescence in any such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

Section 7.03. **Arbitration.** Any controversy between the parties to the Grant Agreement and any claim by any such party against any other such party arising under the Grant Agreement which shall not be settled by agreement of the parties shall be submitted to arbitration conducted in accordance with the Rules of Arbitration of the International Chamber of Commerce. The arbitral award shall be final and binding on the parties.

ARTICLE VIII

Miscellaneous Provisions

Section 8.01. **Notices and Requests.** Any notice or request required or permitted to be given or made under the Grant Agreement, and any other agreement between any of the parties contemplated by the Grant Agreement, shall be in writing. Except as otherwise provided in Section 6.02 such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telegram, cable, telex, facsimile or electronic mail to the party to which it is required or permitted to be given or made at such party's address specified in the Grant Agreement or at such other address as such party shall have designated by notice to the party giving such notice or making such request.

Section 8.02. **Authority to Take Action.** Any action required or permitted to be taken, and any documents required or permitted to be executed, under the Grant Agreement, on behalf of WHO, may be taken or executed by the representative of WHO designated in the Grant Agreement for the purposes of this Section or any person thereunto authorized in writing by him. Any modification of the provisions of the Grant Agreement may be agreed to on behalf of WHO, by written instrument executed on behalf of WHO by the representative so designated or any person authorized in writing by such representative; provided that, in the opinion of such representative or other person, such modification is reasonable in the circumstances and will not substantially increase the obligations of WHO under the Grant Agreement. ADB may accept the execution by such representative or other person of any such instrument as conclusive evidence that in the opinion of such representative or other person any modification of the provisions of the Grant Agreement effected by such instrument is reasonable in the circumstances and will not substantially increase the obligations of WHO thereunder.

Section 8.03. **Evidence of Authority.** WHO shall furnish to ADB sufficient evidence of the authority of the person or persons who will, on behalf of WHO, take any action or execute any documents required or permitted to be taken or executed by WHO under the Grant Agreement and the authenticated specimen signature of each such person.

Section 8.04. **Execution in Counterparts.** The Grant Agreement may be executed in several counterparts, each of which shall be an original.

LIST OF ADF-ELIGIBLE BORROWERS

1. Afghanistan
2. Azerbaijan
3. Bangladesh
4. Bhutan
5. Cambodia
6. Cook Islands
7. Federated States of Micronesia
8. Indonesia
9. Kiribati
10. Kyrgyz Republic
11. Lao People's Democratic Republic
12. Maldives
13. Marshall Islands
14. Mongolia
15. Nepal
16. Pakistan
17. Papua New Guinea
18. Samoa
19. Solomon Islands
20. Sri Lanka
21. Tajikistan
22. Timor-Leste
23. Tonga
24. Tuvalu
25. Uzbekistan
26. Vanuatu
27. Vietnam

Prevention and Control of Avian Influenza in Asia and the Pacific Project *

Components	WHO	WHO HQ	SEARO	WPRO	EURO
A. Base Costs					
1. Regional Capacity Building					
a. Support Containing Infection-at-Source					
b. Support for Preventing for Potential Pandemic	7,668		3,575	3,300	793
• Pandemic Preparedness Plans (2.3)	750		375	375	
• Development of Strategies for Rapid Intervention (2.4)	30				30
• Regional Operations Support Teams (2.6)	6,888		3,200	2,925	763
Subtotal (1)	7,668	0	3,575	3,300	793
2. Regional Coordination and Communication					
a. Improved Technical Coordination	225		113	113	
• Laboratory Networking (2.1)			113	113	
b. Rapid Field Response and Containment Capacity	4,586	4,586			
• Rapid Field Response and Containment Operations (2.2)		4,586			
c. Risk Communication	-		-	-	
• Translation/distribution of Materials (2.3)			-	-	
• Risk Communication Strategy and Materials (2.3)			-	-	
Subtotal (2)	4,811	4,586	113	113	0
Total	12,479	4,586	3,663	3,438	793

SEARO - South East Asia Regional Office
WPRO - Western Pacific Regional Office
EURO - European Regional Office

* WHO's Human Pandemic Influenza Preparedness Plan

Reporting

1. WHO shall develop a financial and technical reporting system to keep ADB informed as frequently as possible. The formal reporting formats will be based on the activities planned by the relevant Region:

- Technical: Every six months a technical report would be submitted based on a review of the plans of action.
- Financial: A financial report would be compiled by WHO/HQ based on regional office reports and submitted to ADB annually.

2. In the spirit of information sharing, ADB would be included in all communications from both regional offices regarding avian influenza and emerging infectious diseases, including (but not limited to) outbreak updates and reports; relevant mission and travel reports by consultants; and meeting/workshop reports.