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LOAN NUMBER 3333-PHI

LOAN AGREEMENT  
(Ordinary Operations)

(Expanding Private Participation in Infrastructure Program – Subprogram 1)

between

REPUBLIC OF THE PHILIPPINES

and

ASIAN DEVELOPMENT BANK

DATED 7 DECEMBER 2015

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**LOAN AGREEMENT  
(Ordinary Operations)**

LOAN AGREEMENT dated 7 DECEMBER 2015 between REPUBLIC OF THE PHILIPPINES ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 2 October 2015 ("Policy Letter"), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to contribute to the Borrower's targeted investment rate for infrastructure development ("Program");

(B) the Program comprises the first subprogram of a programmatic approach, as described in paragraph 1 of Schedule 1 to this Loan Agreement ("Programmatic Approach"), and the Borrower has applied to ADB for a loan for the purposes of the Program; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein;

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 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

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

49. The term "Program" means the program for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

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

(c) Section 2.01(51) is deleted and the following is substituted therefor:

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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.** (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) **Credit.** 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 credit against the interest payable by the Borrower.

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

**Rebate.** (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.

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

**Surcharge.** (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.

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

(a) "Counterpart Funds" means the local currency generated from the Loan proceeds under the Program and referred to in paragraph 6 of Schedule 4 to this Loan Agreement;

(b) "DBM" means the Department of Budget and Management of the Borrower or any successor thereto;

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

(d) "DOF" means the Department of Finance of the Borrower or any successor thereto;

(e) "DOTC" means the Department of Transportation and Communications of the Borrower or any successor thereto;

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(f) "Eligible Imports" means the total imports of the Borrower during the relevant period minus the following imports during the same period:

- (i) imports from countries which are not members of ADB;
- (ii) imports of ineligible items specified in the Attachment to Schedule 3 to this Loan Agreement; and
- (iii) imports financed by official international or bilateral aid agencies or any other loans or grants made by ADB;

(g) "Eligible Items" means the Eligible Imports and services in connection with the delivery and installation of such imports;

(h) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2015, as amended from time to time);

(i) "NEDA" means the National Economic and Development Authority of the Borrower or any successor thereto;

(j) "Policy Letter" means the development policy letter referred to in Recital (A) of this Loan Agreement;

(k) "Policy Matrix" means the policy matrix agreed between the Borrower and ADB, attached to the Policy Letter, setting forth the objectives, policies and actions accomplished by the Borrower under the Program;

(l) "PPP Center" means the Public-Private Partnership Center of the Borrower or any successor thereto;

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

(n) "Program Implementing Agencies" means NEDA, DBM, DOTC and the PPP Center or any successor thereto, which are responsible for the day-to-day implementation of the Program; and

(o) "Program Steering Committee" means the inter-departmental program steering committee established under the first subprogram of the Programmatic Approach, chaired by DOF, comprising representatives from NEDA, DBM, DOTC and the PPP Center.

## ARTICLE II

### The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of three hundred million Dollars (\$300,000,000) as

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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.

(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:

- (a) LIBOR; and
- (b) 0.60% as determined by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 March and 15 September 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

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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 the Program in accordance with the provisions of this Loan Agreement.

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

Section 3.03. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2016 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 the Program to be carried out with due diligence and efficiency and in conformity with sound applicable technical, financial, business and development practices.

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

Section 4.02. The Borrower shall make available, promptly as needed, the funds, facilities and services, as required, in addition to the proceeds of the Loan, for the carrying out of the Program and for the operation and maintenance of the Program facilities.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Program 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 the Program.

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

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Section 4.05. 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 (a) the Counterpart Funds and the use thereof; and (b) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter and the Policy Matrix.

## ARTICLE V

### Effectiveness

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

## ARTICLE VI

### Miscellaneous

Section 6.01. The DOF 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

Department of Finance  
DOF Building  
Roxas Boulevard  
Manila, Philippines

#### Facsimile Numbers:

(632) 523-9216  
(632) 521-9495.

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For ADB

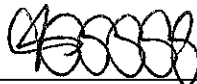
Asian Development Bank  
6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila  
Philippines  
Facsimile Numbers:

(632) 636-2444  
(632) 636-2331.



IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

REPUBLIC OF THE PHILIPPINES

By   
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CESAR V. PURISIMA  
Secretary  
Department of Finance

ASIAN DEVELOPMENT BANK

By   
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RICHARD S.M. BOLT  
Country Director  
Philippines Country Office

**SCHEDULE 1****Description of the Program**

1. The principal objective of the Programmatic Approach is to improve private participation in infrastructure. The Programmatic Approach comprises two subprograms and the Program is the first subprogram.
2. The scope of the Program includes: (a) allocation of government funds for various costs associated with public to private partnerships (PPP); (b) allocation of government funds to cover contingent liabilities arising under PPP contracts; (c) execution of contracts for six national transport, health and education PPP projects and ten feasibility studies completed for new PPP projects; (d) submission to the NEDA Board of the Roadmap for Infrastructure Development for Metro Manila and Its Surrounding Areas and initiation of the preparation of the Philippine Transport Infrastructure Roadmap; (e) enhanced capacity of the Borrower to support a strengthened PPP program; (f) introduction of a new process to enhance the quality of appraisal for PPP projects by the various government agencies; and (g) submission to the Congress of the Borrower of certain amendments to the Build Operate Transfer Law to enhance sustainability of the Borrower's PPP program.
3. The Program is described in more detail in the Policy Letter.
4. The Program is expected to be completed by 31 December 2016.

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**SCHEDULE 2**

**Amortization Schedule  
(Expanding Private Participation in Infrastructure Program – Subprogram 1)**

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 March 2019	0.542983
15 September 2019	0.624431
15 March 2020	0.718095
15 September 2020	0.825809
15 March 2021	0.949681
15 September 2021	1.092133
15 March 2022	1.255953
15 September 2022	1.444346
15 March 2023	1.660997
15 September 2023	1.910147
15 March 2024	2.196669
15 September 2024	2.526169
15 March 2025	2.905095
15 September 2025	3.340859
15 March 2026	3.841988
15 September 2026	4.418286
15 March 2027	5.081029
15 September 2027	5.843183
15 March 2028	6.719661
15 September 2028	7.727610
15 March 2029	8.886752
15 September 2029	10.219764
15 March 2030	11.752729
15 September 2030	13.515631
<b>Total</b>	<b>100.000000</b>

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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. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. 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.

5. 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.

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**SCHEDULE 3****Withdrawal of Loan Proceeds**

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

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

(b) Such withdrawal applications shall be accompanied by a certificate of the Borrower confirming that with respect to each year during which the proceeds of the Loan are expected to be disbursed, the value of the Eligible Imports is expected to be greater than the amount of the Loan expected to be disbursed during such year.

(c) The Borrower shall allow experts appointed by ADB to verify the value of Eligible Imports during any period in respect of which the Borrower has certified the value of Eligible Imports in its withdrawal application.

3. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall nominate a single treasury account (Deposit Account) at Bangko Sentral ng Pilipinas into which all withdrawals from the Loan Account shall be deposited.

(b) The Borrower shall ensure that upon each deposit of an amount of the Loan into the Deposit Account, an equivalent amount in Pesos is accounted for in the Borrower's budget management system, in a manner acceptable to ADB.

(c) Accounts and records in respect of the Deposit Account shall be maintained in accordance with accounting principles applied by the Borrower in maintaining accounts and records in respect of the Deposit Account. The Borrower shall retain all records relating to the Loan proceeds and shall enable ADB's representatives to examine such records.

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

4. The Borrower may withdraw the Loan upon effectiveness of this Loan Agreement.



**Negative List**

No withdrawals will be made from the Loan proceeds from the Loan Account for the following:

- (i) expenditures for goods included in the following groups or sub-groups of the United Nations Standard International Trade Classification, Revision 3 (SITC, Rev. 3) or any successor groups or sub-groups under future revisions to the SITC, as designated by ADB by notice to the Borrower:

**Table: Ineligible Items**

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

Source: United Nations.

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

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## SCHEDULE 4

### Program Implementation and Other Matters

#### Implementation Arrangements

1. The Program Executing Agency shall be responsible for the overall implementation of the Program.
2. The Program Implementing Agencies shall be responsible for the day-to-day implementation of the Program.
3. The Borrower shall ensure that the Program Steering Committee shall meet semiannually and if needed, on an ad hoc basis, to: (a) monitor progress of the Programmatic Approach and the medium-term directions and expected results highlighted in the Policy Matrix; and (b) provide guidance and direction to the Program Executing Agency and the Program Implementing Agencies for the implementation of the policy actions under the Programmatic Approach and the medium-term directions and expected results highlighted in the Policy Matrix. The Borrower may invite ADB to participate in the meetings held by the Program Steering Committee as an observer.

#### Policy Actions and Dialogue

4. The Borrower shall ensure that all policy actions adopted under the Program, as set forth in the Policy Letter and the Policy Matrix, continue to be in effect for the duration of the Programmatic Approach.
5. The Borrower shall keep ADB informed of policy discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower shall take into account ADB's views before finalizing and implementing any such proposal.

#### Use of Counterpart Funds

6. The Borrower shall ensure that the Counterpart Funds are used to finance the implementation of certain programs and activities consistent with the objectives of the Program.

#### Governance and Anticorruption

7. The Borrower, the Program Executing Agency, and the Program Implementing Agencies shall: (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Program; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

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Monitoring and Review

8. The Borrower shall provide ADB with the opportunity to review and comment on relevant studies, draft legislation, decrees, orders, rules and regulations which may likely impact the objectives and implementation of the Programmatic Approach.

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