
LOAN NUMBER 2184-INO

LOAN AGREEMENT
(Ordinary Operations)
(Road Rehabilitation-2 Project)

between

REPUBLIC OF INDONESIA

and

ASIAN DEVELOPMENT BANK

DATED 16 June 2006

LAL:INO 34159

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 16 June 2006 between REPUBLIC OF INDONESIA (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement; and

(B) ADB has 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, (said Ordinary Operations Loan Regulations being hereinafter called the Loan Regulations).

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) "BAPEDALDA" means the Borrower's regional environmental agency and any successor thereto;
- b) "BAPPENAS" means the Borrower's National Development Planning Agency and any successor thereto;
- c) "CPFFPG" means the Compensation Policy Framework and Procedural Guidelines;
- d) "DGH" means the Borrower's Directorate General of Highway within the MPW and any successor thereto;

- e) "DGLC" means the Borrower's Directorate General of Land Communications within the Ministry of Communication and any successor thereto;
- f) "IA" means Implementing Agency;
- g) "IEE" means Initial Environmental Examination;
- h) "MOC" means the Borrower's Ministry of Communication and any successor thereto;
- i) "MOF" means the Borrower's Ministry of Finance and any successor thereto;
- j) "MPW" means the Borrower's Ministry of Public Works and any successor thereto;
- k) "P3JJ" means the road and bridge planning and management unit, the provincial level representative of DGH;
- l) "PMU" means Project Management Unit;
- m) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means DGH which is responsible for the carrying out of the Project;
- n) "Project facilities" means the roads and bridges to be reconstructed, the structures to be built and the equipment purchased pursuant to this Loan Agreement;
- o) "Project Provinces" means those ten provinces that will participate in the Project, namely West Kalimantan, Central Kalimantan, South Kalimantan, East Kalimantan, West Sumatra, North Sumatra, South Sumatra, Jambi, Riau and Lampung Provinces;
- p) "PSAP" means the Borrower's Policy Statement and Action Plan;
- q) "SC" means Steering Committee; and
- r) "SIEE" means Summary Initial Environmental Impact Examination.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of one hundred fifty-one million dollars (\$151,000,000), 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 term of 25 years, including a grace period of five years, as provided 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 provided by Section 3.02 of the Loan Regulations.

Section 2.03. (a) The Borrower shall pay a commitment charge at the rate of three-fourths of one percent (0.75%) per annum. Such charge shall accrue on amounts of the Loan (less amounts withdrawn from time to time), during successive periods commencing sixty (60) days after the date of this Loan Agreement, as follows:

during the first twelve-month period, on \$22,650,000;
 during the second twelve-month period, on \$67,950,000;
 during the third twelve-month period, on \$128,350,000; and
 thereafter, on the full amount of the Loan.

(b) If any amount of the Loan is cancelled, the amount of each portion of the Loan stated in paragraph (a) of this Section shall be reduced in the same proportion as the cancellation bears to the full amount of the Loan before such cancellation.

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 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 on the Project in accordance with the provisions of this Loan Agreement.

Section 3.02. The goods and services and other items of expenditure to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories of such goods and services and other items of expenditure shall be 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 goods and services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 and Schedule 5 to this Loan Agreement. ADB may refuse to finance a contract where goods or services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all goods and services financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

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 December 2010 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 Project to be carried out with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental, and highway and bridge construction practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 6 to this Loan Agreement.

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

Section 4.03. (a) In the carrying out of the Project, the Borrower shall cause competent and qualified consultants and contractors, acceptable to ADB, to be employed to an extent and upon terms and conditions satisfactory to the Borrower and ADB.

(b) The Borrower shall cause the Project to be carried out in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. The Borrower shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 4.04. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.05. (a) The Borrower shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors 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 six (6) months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest account/statement of expenditures), 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 Borrower shall enable ADB, upon ADB's request, to discuss the Borrower's financial statements for the Project and its financial affairs related to the Project from time to time with the Borrower's auditors, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Borrower unless the Borrower shall otherwise agree.

Section 4.06. The Borrower shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Loan, and any relevant records and documents.

Section 4.07. The Borrower shall ensure that the Project facilities are operated, maintained and repaired in accordance with sound administrative, financial, engineering, environmental, highway and bridge construction, and maintenance and operational practices.

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 Treasury
P.O. Box 1139
Jakarta 10710, Indonesia

Facsimile Number:

(62-21) 381-2859

For ADB

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

Telex Numbers:

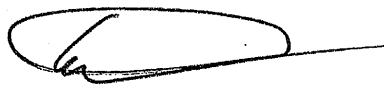
29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

(632) 636-2444
(632) 636-2428

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 
MULIA P. NASUTION
Authorized Representative

ASIAN DEVELOPMENT BANK

By 
EDGAR A. CUA
Country Director
Indonesia Resident Mission

SCHEDULE 1

Description of the Project

1. The Project aims to foster economic growth and improve living conditions by improving vehicular access on strategic national roads, while contributing to reducing transport tariffs, improving road safety awareness, reducing premature breakage of roads, and promoting transparency through improved fiduciary controls and anti-corruption activities with components consisting of the rehabilitation of deteriorated road links and replacement of bridges on the strategic national road networks of Sumatra and Kalimantan. The road links lie along the trans-island corridors and are the main inter-regional routes linking producing areas and markets in the country's two largest islands and will take place in the Project Provinces. The Project also aims to assist in development of a road sector policy which includes developing new approaches in road maintenance and management. It also includes components to assist with capacity building and training, and prevention of vehicle overloading.
2. The Project will include the following components:
 - A. Civil Works: Rehabilitation of approximately 1,300 km of road in Sumatra and Kalimantan islands and replacement or rehabilitation and widening of approximately 40 bridges in West, Central and South Kalimantan, and North Sumatra.
 - B. Road Sector Policy: This will include, but is not limited to, both vehicle overloading prevention measures and road safety awareness, and also bridge design. With regard to vehicle overloading, permanent weigh-in motion equipment will be installed to monitor and verify data records and overall performance. This will be monitored and evaluated for further use, with one station located in Sumatra and three in Kalimantan. For road safety awareness, assistance will be provided to DGLC to raise awareness of traffic safety, focusing on vulnerable groups (children and the elderly) in areas newly exposed to higher traffic volumes and speeds. In addition, new approaches to road maintenance and management will be developed.
 - C. Capacity Building and Training: Capacity building and training will include environmental and social impact management, and road maintenance and engineering support (such as (i) construction contract law, (ii) landslide control, slope stability and retaining walls, (iii) financial management and control, (iv) road and bridge maintenance, and (v) role of specifications in road and bridgeworks).
3. The Project also includes the provision of consulting services. The Project is expected to be completed by 30 June 2010.

SCHEDULE 2

Amortization Schedule (Road Rehabilitation – 2 Project)

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.

Period	Date payment Due	Installment Share (expressed in a %)
1	15 September 2010	0.83
2	15 March 2011	0.87
3	15 September 2011	0.91
4	15 March 2012	0.96
5	15 September 2012	1.01
6	15 March 2013	1.06
7	15 September 2013	1.11
8	15 March 2014	1.16
9	15 September 2014	1.22
10	15 March 2015	1.28
11	15 September 2015	1.35
12	15 March 2016	1.42
13	15 September 2016	1.49
14	15 March 2017	1.56
15	15 September 2017	1.64
16	15 March 2018	1.72
17	15 September 2018	1.81
18	15 March 2019	1.90
19	15 September 2019	1.99
20	15 March 2020	2.09
21	15 September 2020	2.20
22	15 March 2021	2.31
23	15 September 2021	2.42
24	15 March 2022	2.54
25	15 September 2022	2.67
26	15 March 2023	2.80
27	15 September 2023	2.94

Schedule 2

28	15	March	2024	3.09
29	15	September	2024	3.25
30	15	March	2025	3.41
31	15	September	2025	3.58
32	15	March	2026	3.76
33	15	September	2026	3.94
34	15	March	2027	4.14
35	15	September	2027	4.35
36	15	March	2028	4.57
37	15	September	2028	4.79
38	15	March	2029	5.03
39	15	September	2029	5.29
40	15	March	2030	5.54
Total				100.00%

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

Schedule 2

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.

SCHEDULE 3

Allocation and Withdrawal of Loan 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 Loan and the allocation of amounts of the Loan 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 and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category.)

Taxes

2. No withdrawals from the Loan Account shall be made in respect of any local taxes.

Percentages of ADB Financing

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

4. Notwithstanding paragraph 5 of this Schedule, any contract awarded to a local supplier after effective international competitive bidding or international shopping pursuant to the relevant provisions of Schedule 4 to this Loan Agreement shall be financed out of the proceeds of the Loan on the following basis:

- (a) where the goods procured from a local supplier are manufactured locally, 100 percent of the ex-factory price of the goods supplied (exclusive of any taxes); and
- (b) where the goods procured from a local supplier have been entirely imported, 100 percent of the foreign-currency component of the contract price.

Local Expenditure

5. (a) Loan proceeds up to the amount of \$74,800,000 may be withdrawn from the Loan Account in foreign currency for the purposes of financing local expenditure.

(b) Except as ADB may otherwise agree, no withdrawals from the Loan Account shall be made in respect of any local expenditure on the Project.

Interest and Commitment Charge

6. The amount allocated to Category 4 is for financing interest and commitment charge on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charge.

Reallocation

7. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table and subject to paragraph 5 of this Schedule,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Imprest Account; Statement of Expenditures

8. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, an imprest account at Bank Indonesia. The imprest account shall be established, managed, replenished and liquidated in accordance with ADB's "Loan Disbursement Handbook", dated January 2001, as amended from time to time, and detailed arrangements agreed upon between the Borrower and ADB. The initial amount to be deposited into the imprest account will be based on approved contracts and planned expenditures for the first six (6) months of the Project, not to exceed \$1,500,000. The ceiling on the imprest account shall not exceed \$1,500,000.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account, in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and detailed arrangements agreed upon between the Borrower and ADB. Any individual payment to be reimbursed or liquidated under the SOE procedure shall not exceed \$100,000.

Condition of Withdrawals from Loan Account

9. Notwithstanding any other provision of this Loan Agreement, the Borrower shall ensure that no disbursement of Loan proceeds is made for any civil works contract for a geographic area until completion of all approved resettlement and income restoration activities in that geographic area.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Road Rehabilitation – 2 Project)					
CATEGORY				PERCENTAGE OF ADB FINANCING	
Number	Item	Amount Allocated (\$'000)		Percentage	Basis for Withdrawal from the Loan Account
		Category	Subcategory		
1	Civil Works	118,985		69	percent of total expenditure 36% for foreign and 33% for local
1A	Road Rehabilitation –Sumatra		65,345	69	percent of total expenditure 39% for foreign and 30% for local
1B	Road & Bridge Rehabilitation – Kalimantan		53,130	69	percent of total expenditure 34% for foreign and 35% for local
1C	Enforcing Controls over Truck Overloading		510	91	percent of total expenditure 65% for foreign and 26% for local
2	Equipment	2,030		100	percent of total expenditure
3	Consulting Services	11,020		100	percent of local expenditure*
3A	Consulting Services for DGH		9,670	100	percent of foreign expenditure
3B	Consulting Services for DGLC		750	100	percent of local expenditure*
3C	Consulting Services for BAPPENAS		600	100	percent of foreign expenditure
4	Interest and Commitment Charge	17,465		100	percent of local expenditure*
5	Unallocated	1,500			
	Total	151,000			

* Exclusive of local taxes and duties

SCHEDULE 4

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 Loan. In this Schedule and the Attachment hereto, the term "goods" includes equipment and materials; the term "services" does not include consulting services.

2. Procurement of goods and services shall be subject to the provisions of the "Guidelines for Procurement under Asian Development Bank Loans" dated November 2004 (hereinafter called the Guidelines for Procurement), as amended from time to time, which have been furnished to the Borrower.

3. Procurement of goods and services shall be made without any restriction against, or preference for, any particular supplier or contractor or any particular class of suppliers or contractors, except as otherwise provided in paragraph 5 below.

4. (a) Each civil works contract estimated to cost the equivalent of more than \$1.5 million and each supply contract for equipment or materials estimated to cost the equivalent of more than \$1,000,000 shall be awarded on the basis of international competitive bidding as described in Chapter II of the Guidelines for Procurement. Bidders for civil works contracts shall be prequalified before bidding.

(b) For contracts to be awarded on the basis of international competitive bidding, there shall be submitted to ADB, as soon as possible, and in any event not later than 90 days before the issuance of either the first prequalification invitation or the first invitation to bid for the Project, a General Procurement Notice (which ADB will arrange to publish separately) in such form and detail and containing such information as ADB shall reasonably request. ADB shall be provided the necessary information to update such General Procurement Notice annually as long as any goods and works remain to be procured on the basis of international competitive bidding.

(c) For contracts to be awarded on the basis of international competitive bidding, procurement actions shall be subject to review by ADB in accordance with the procedures set forth in Chapter IV of the Guidelines for Procurement. Each draft prequalification invitation and each draft invitation to bid, to be submitted to ADB for approval under such procedures, shall reach ADB at least 21 days before it is issued and shall contain such information as ADB shall reasonably request to enable ADB to arrange for the separate publication of such invitation. ADB shall respond within ten (10) working days of receipt of such invitation. In the event ADB does not respond within twenty-eight (28) working days of receipt of such invitation, the Borrower may proceed on the assumption that ADB has no objection to the invitation.

(d) To maximize opportunities for international competitive bidding, all road links within 15 (fifteen) kilometers of each other shall be consolidated into a single contract package.

Schedule 4

5. In comparing bids under international competitive bidding, a margin of preference may be provided, at the option of the Borrower and in accordance with the provisions of the Attachment to this Schedule, for goods manufactured in the territory of the Borrower, provided that the bidder offering such goods shall have established to the satisfaction of the Borrower and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods.

6. Each civil works contract estimated to cost the equivalent of \$1.5 million or less may be awarded on the basis of local competitive bidding among prequalified contractors in accordance with the standard procurement procedures of the Borrower and acceptable to ADB. Prequalification, selection and engagement of contractors shall be subject to the approval of ADB. As soon as the bids received have been evaluated, the proposal for award of contract shall be submitted to ADB for approval. For this purpose, ADB shall be furnished with three copies of (i) an account of the public opening of bids; (ii) a summary and evaluation of the bids; (iii) the proposal for award; and (iv) a draft contract or a draft letter of acceptance. Promptly after each contract is awarded, ADB shall be furnished with three copies of the contract as executed.

7. (a) Each supply contract estimated to cost the equivalent of \$1,000,000 or less (other than minor items) shall be awarded on the basis of international shopping as described in Chapter III of the Guidelines for Procurement.

(b) Each draft invitation to bid and related bid document need not be submitted to ADB for approval before they are issued.

(c) Notwithstanding paragraph 3.03(b) of the Guidelines for Procurement, any award of contract shall be subject to prior ADB approval.

8. Equipment and spare parts required for the Project, and estimated to cost, in the aggregate, the equivalent of less than \$100,000, may be procured directly from the manufacturers of the original equipment or their agents. Prior to such procurement, a list of individual items to be procured, an estimate of their costs, an indication of potential sources of supply and any related documents shall be submitted to ADB for approval. After award, three copies of each contract for such items shall be furnished to ADB.

9. (a) The Borrower shall ensure that all ADB-financed goods and services procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all ADB-financed contracts for the procurement of goods and services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

Preference for Domestically Manufactured Goods

1. In the procurement of goods through international competitive bidding, goods manufactured in the territory of the Borrower may be granted a margin of preference in accordance with the following provisions, provided that the bidder shall have established to the satisfaction of the Borrower and ADB that the domestic value added equals at least 20 percent of the ex-factory bid price of such goods. The 20 percent domestic value added applies to the total ex-factory bid price of the goods and not only to one item in a list.

- (a) For application of domestic preference, all responsive bids shall first be classified into the following three categories:

Category I -- bids offering goods manufactured in the territory of the Borrower which meet the minimum domestic value added requirement;

Category II -- bids offering other goods manufactured in the territory of the Borrower; and

Category III -- bids offering imported goods.

- (b) The lowest evaluated bid of each category shall then be determined by comparing all evaluated bids in each category among themselves, without taking into account customs duties and other import taxes levied in connection with the importation, and sales and similar taxes levied in connection with the sale or delivery, pursuant to the bids, of the goods.
- (c) Such lowest evaluated bids shall next be compared with each other and if, as a result of this comparison, a bid from Category I or Category II is found to be the lowest, it shall be selected for the award of contract.
- (d) If, however, as a result of the comparison under subparagraph (c) above, the lowest bid is found to be from Category III, it shall be further compared with the lowest evaluated bid from Category I. For the purpose of this further comparison only, an upward adjustment shall be made to the lowest evaluated bid price of Category III by adding either
- (i) the amount of customs duties and other import taxes which a nonexempt importer would have to pay for the importation of the goods offered in such Category III bid; or
 - (ii) 15 percent of the CIF bid price of such goods if the customs duties and import taxes referred to above exceed 15 percent of the CIF bid price.

If, after such further comparison, the Category I bid is determined to be the lowest, it shall be selected for the award of contract; if not, the lowest evaluated bid from Category III shall be selected for the award.

2. (a) Bidders applying for the preference shall provide evidence necessary to establish the eligibility of a bid for the preference, including the minimum domestic value added.

(b) The bidding documents shall clearly indicate the preference to be granted, the information required to establish the eligibility of a bid for the preference claimed, and the procedures to be followed in the comparison of bids, all as set forth above.

SCHEDULE 5

Consultants

1. The services of consultants shall be utilized in the carrying out of the Project, particularly with regard to:

- (a) overall coordination and supervision of civil works;
- (b) coordination and supervision of civil works at the provincial level;
- (c) truck overloading and weigh station management;
- (d) road safety awareness campaign;
- (e) developing and strengthening road maintenance management;
- (f) training services to strengthen capabilities in project, environmental and social impact management; and
- (g) strengthening Project management practices.

The terms of reference of the consultants shall be as determined by agreement between ADB and either DGH or DGLC, as appropriate.

2. The selection, engagement and services of the consultants shall be subject to the provisions of this Schedule and the provisions of the "Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers" dated January 2005 (hereinafter called the Guidelines on the Use of Consultants), as amended from time to time, which have been furnished to DGH and DGLC.

3. The consultants shall be selected and engaged as firms by either DGH or DGLC, as appropriate, using the quality-and-cost-based selection (QCBS) method in accordance with the following procedures.

(a) Invitation for technical and financial proposals. The invitation to submit technical and financial proposals (hereinafter called the Request for Proposals or RFP) and all related documents shall be approved by ADB before they are issued. For this purpose, three copies of the draft RFP, the names of consultants to be short-listed, the proposed criteria for evaluation of both proposals, a draft consultancy contract, and other related documents shall be submitted to ADB. A period of at least 45 days shall be allowed for submission of both proposals. A copy of the final RFP as issued, together with all related documents, shall be furnished to ADB for information promptly after issuance. The validity period for the technical and financial proposals as provided in the RFP shall usually not exceed 120 (one hundred and twenty) days from the date specified for submission of the technical and financial proposals. The approval of ADB shall be obtained for any request to extend such validity period. Except as ADB may otherwise agree, the validity period, including any extensions, shall not exceed a maximum total period of six months. If the contract is not signed within the validity period in accordance with the Guidelines on the Use of Consultants, and there is no acceptable reason for such failure to sign, the selection shall be invalid and the selection and engagement process as provided in this paragraph shall be followed again.

(b) Evaluation and scoring of technical proposals. Immediately after the technical proposals have been evaluated and scored, approval of ADB shall be obtained to the evaluation and scoring of the technical proposals. For this purpose, ADB shall be furnished with three copies of the technical proposals.

Schedule 5

(c) Public opening of financial proposals. The financial proposals of the firms whose technical proposals meet the minimum qualifying technical score shall be opened publicly after adequate notice is given to such firms or their representatives to attend the opening of the financial proposals.

(d) Evaluation and scoring of financial proposals and ranking of technical and financial proposals. After the financial proposals have been evaluated and scored, the ranking of the technical and financial proposals shall be made. Before negotiations are started with the first-ranked consultants, approval of ADB shall be obtained to the evaluation and scoring of the financial proposals and the ranking of the technical and financial proposals. For this purpose, ADB shall be provided with three copies of (i) the evaluation and scoring of the financial proposals and (ii) the ranking of the technical and financial proposals.

(e) Execution of contract. After the conclusion of negotiations but before the signing of the contract, ADB shall be furnished with the contract as negotiated for approval. Promptly after the contract is signed, ADB shall be furnished with three copies of the signed contract. If any substantial amendment of the contract is proposed after its execution, the proposed changes shall be submitted to ADB for prior approval.

4. In addition, the services of domestic consultants shall be utilized. The terms of reference of the consultants shall be as determined by agreement between ADB and either DGH or DGLC, as appropriate.

5. The domestic consultants shall be selected and engaged in accordance with procedures acceptable to the ADB, and the selection and engagement of the consultants shall be subject to the approval of ADB with regard to their competence and experience for carrying out the assignment.

6. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

SCHEDULE 6
Implementation and Execution of Project; Financial Matters

Project Implementation and Coordination

1. DGH shall be the Executing Agency responsible for the execution of the overall Project.
2. A Steering Committee (SC) shall be established with representatives from BAPPENAS, MOF, MPW, and MOC, under the chairmanship of BAPPENAS, to monitor and coordinate Project implementation.
3. DGH shall appoint a PMU with responsibility for day-to-day implementation and preparation of Project reports, ensuring that financial and reporting requirements are met and ADB procurement procedures implemented. The PMU shall be headed by a manager experienced in managing donor loan projects and appointed for the duration of the Project. The Project manager shall be assisted by an experienced accountant, a Project analyst, and a Project engineer, at a minimum. Consultants will assist the Project Manager and PMU in management, administration, monitoring, procurement and construction supervision.
4. As a part of its Project execution responsibilities, DGH shall carry out all coordination and liaison responsibilities as required with DGLC and BAPPENAS in order to ensure that DGLC and BAPPENAS carry out their responsibilities as described in para. 7 and para. 8 of this Schedule.
5. The DGH, acting as an Implementing Agency, shall coordinate design, implementation, supervision of road rehabilitation, road maintenance, and capacity building components of the project. The DGH shall also supervise the P3JJ units in the Project Provinces which shall supervise and manage the road and bridge rehabilitation works carried out by contractors.
6. The P3JJ units shall be responsible for pre-construction activities (preparation and acceptance of detailed designs), and the Procurement Committee appointed by the Project Manager shall be responsible for preparation and acceptance of detailed designs, preparation of tender documents, pre-qualification of contractors, and bid evaluations and awards of civil works contracts.
7. The DGLC, acting as an Implementing Agency, shall implement the truck overloading and road safety awareness campaign components of the Project. The DGLC shall also be responsible for preparing and awarding consulting service and operational management contracts, minor civil works, and weighbridge and related equipment procurement and installation.
8. BAPPENAS, acting as an Implementing Agency, shall be responsible for developing new policy approaches to road maintenance and management.

Counterpart Funding

9. The Borrower shall ensure that the implementation arrangements of the Project, the provision of funds from the proceeds of the Loan, and the corresponding counterpart contributions of the Borrower necessary for financing Project activities, shall continue throughout the period of Project implementation in a manner agreed with ADB.

10. The Borrower shall ensure availability of funding for (i) regular maintenance (routine and periodic) of the national roads and bridges rehabilitated under the Project, and (ii) expenditures for weighbridge operations and training for operating and maintaining weighbridges installed under the Project.

Reporting

11. The PMU shall (i) collect and consolidate all Project progress reports, site reports, technical and financial reports and submit them to ADB; and (ii) prepare quarterly progress reports, a midterm Project evaluation report and an overall Project completion report. Quarterly reports shall include updated implementation, financial and procurement-related information. Quarterly reports shall be submitted to ADB within 15 days of the end of each quarter. The quarterly reports submitted to ADB shall be posted on the Project's website, located as a link within the MPW website.

12. The IAs shall (i) prepare Project progress, technical and financial reports covering site-specific activities; and (ii) collect and consolidate field data and feedback from local participating agencies and contractors. The IAs shall submit monthly and quarterly reports and data to the PMU within one (1) week of the end of each month or quarter, as applicable.

13. If and when available, DGH shall periodically submit to ADB progress reports on the revised PSAP and consult with ADB on further road sector policy measures.

14. The Borrower shall keep ADB informed of all transport sector and road sub-sector studies undertaken in the Borrower's territory and shall provide ADB with copies of all available documents relevant to such studies, including consultants' reports, and shall ensure that ADB has the opportunity to comment on the recommendations contained therein.

15. The Borrower shall keep ADB informed of progress on financing mechanisms that may be available for regular maintenance of all national roads.

Environmental Management

16. The Borrower shall ensure that the Government's laws and regulations governing environmental and social impact assessments, as well as ADB's *Environment Policy* (2002) are followed.

Schedule 6

17. The Borrower and DGH shall ensure that the contract documents for all civil works under the Project include specific measures as indicated in the SIEE and IEEs and in accordance with ADB's *Environment Policy* to mitigate negative environmental impacts caused by Project activities and to give due consideration to prevention of damage to the natural and social environment in the design, construction, operation and maintenance of Project facilities. Such mitigation measures will include, but not be limited to, controls over the location and operation of quarries, dust raised from unpaved surfaces, vegetation damage, slope failure caused by inadequate drainage, use of firewood for heating bitumen and prevention of possible spread of, and exposure to, potentially hazardous materials and wastes. DGH shall further ensure that adequate drainage of Project roads is provided by appropriate design and implementation of cross-falls, shoulder grading, cross-drains, culverts and side ditches. The Borrower and DGH shall cause (i) the contractors engaged under the civil works contracts to comply strictly with all environmental impact mitigation requirements set out in the contract documents, and (ii) the consultants engaged for construction supervision to monitor closely the compliance by the contractors with the environmental impact mitigation requirements. DGH shall submit to ADB semi-annual reports on implementation of the Environmental Monitoring Program as stated in the IEEs.

18. When roads rehabilitated under this Project are near protected or environmentally sensitive areas, including nature reserves, parks, conservation areas, biodiversity reserves, and cultural and historic sites, the Borrower shall ensure that a monitoring program is in place and DGH shall monitor performance of the civil works contractor. In the event problems are identified, then DGH shall work with the appropriate BAPEDALDA office to cooperatively prepare and implement environmental protective measures including, but not limited to, any combination of area demarcation, fencing, checkpoints, speed bumps, wildlife passage zones, patrols or other measures to preserve the integrity of the area from encroachment or environmental degradation due to road improvement and increased access. The Borrower and DGH shall ensure that civil works contracts include a provision requiring implementation of identified environmental protective measures.

19. DGH shall establish an Environmental Management Plan, agreed to by both parties, to ensure that environmental mitigation measures in bidding documents for civil works are implemented as planned and have the required mitigating effects. In this regard, DGH shall make the appropriate arrangements, agreed to by ADB and DGH, for independent monitoring of the environmental mitigation measures undertaken by civil works contractors.

Social Safeguards

20. In the event land acquisition or resettlement is needed, then the Borrower shall ensure that a Resettlement Plan, approved by ADB, is developed for the geographic area concerned. The Borrower shall ensure that all land acquisition and resettlement activities have been completed prior to the award of a civil works contract for that geographic area. No civil works shall commence in any geographic area prior to completion of all approved resettlement activities in that geographic area. The Borrower shall further ensure that all land acquisition and resettlement activities are carried out in accordance with the Compensation Policy Framework and Procedural Guidelines (CPFPG) developed by DGH, the Borrower's laws, regulations, and procedures, and ADB's requirements as defined in

Schedule 6

ADB's *Policy on Involuntary Resettlement*. In case of discrepancies between the Borrower's laws, regulations, and procedures, and ADB's requirements, then DGH and ADB shall agree upon a mutually acceptable resolution.

21. The Borrower shall ensure that, to the extent that any indigenous peoples are likely to be affected under the Project, the measures set forth in the CPFPG, the Borrower's laws, regulations, and procedures, and ADB's requirements as defined in ADB's *Policy on Indigenous Peoples* shall apply. In case of discrepancies between the Borrower's laws, regulations, and procedures, and ADB's requirements, or to the extent there is an omission in CPFPG or a discrepancy with the ADB's requirements, then DGH and ADB shall agree upon a mutually acceptable resolution.

Health and Safety

22. The Borrower shall ensure that the civil works contracts include mandatory provisions on health, sanitation and appropriate working conditions, including health, safety and accommodation, for construction workers at campsites during the construction period. In addition, contractors shall be contractually required to allow workers to attend awareness campaigns on sexually transmitted diseases and HIV/AIDS as those campaigns occur in their respective locales. DGH shall ensure that contract documentation contains such requirements.

23. The Borrower shall ensure that the civil works contractors comply with all applicable labor laws, specifically including those related to gender, and further ensure that female workers receive equal benefits as male workers for work of an equal type. DGH shall ensure that contract documentation contains such requirements.

24. The Borrower shall ensure that the civil works contracts include mandatory provisions on road safety enhancement measures identified during Project preparation or identified by the consultants engaged under the Project are incorporated into the design of the Project and implemented. Such road safety measures enhancements shall include adequate road warning signs and marking, guardrails, and staff training in road safety and traffic engineering. DGH shall ensure that contract documentation contains such requirements.

Auditing

25. Without prejudice to the generality of Section 4.05 of this Loan Agreement, for purpose of audit of accounts and financial statements of the Project carried out pursuant thereto, the Borrower shall ensure that any independent auditors financed from proceeds of the Loan shall be selected and engaged in accordance with competitive selection procedures acceptable to ADB.

26. Without prejudice to the generality of Section 4.05 of this Loan Agreement, the Borrower shall ensure that a separate accounting system for Project expenditures is maintained in accordance with sound accounting principles. All Project accounts, including financial statements, statements of expenditures and account records, shall be audited annually as part of the regular audit accounts and financial statements by a single independent auditor. The consolidated audit reports (in English) shall be submitted to ADB in accordance with the requirements and within the deadlines stated in Section 4.05(a) of this

Schedule 6

Loan Agreement. The audit opinion shall include (i) an assessment of the adequacy of accounting and internal controls systems with respect to Project expenditures and other financial transactions, and to ensure safe custody of Project-financed assets; (ii) a determination as to whether the Borrower, DGH and IAs have maintained adequate documentation for all financial transactions, specifically including the SOE and Imprest account procedures; (iii) confirmation that expenditures submitted to ADB are eligible for financing and identification of any ineligible expenses; and (iv) confirmation of compliance with this Loan Agreement's financial covenants and ADB requirements for Project management.

27. Without prejudice to the generality of Section 4.05 of this Loan Agreement, the Borrower shall ensure that the Borrower's Inspectorate General performs the audits required under the Borrower's laws and regulations and that these audits include an assessment of the Project's financial accounts as well as an audit of the effectiveness of financial control mechanisms established by the Project. The Inspectorate General shall make recommendations on strengthening financial controls, if appropriate, and such recommendations shall be submitted to ADB as part of the next quarterly report after such recommendations are made. The Inspectorate General's full annual report shall be submitted to ADB within 30 days of its completion, but in no event later than six (6) months subsequent to the year being audited.

28. The findings of ADB review missions with regard to implementation progress, procurement, disbursement, compliance with the covenants of this Loan Agreement, and other relevant Project issues shall be posted and made available to the public through the ADB website or other means of public posting.

Fiduciary and Ethics Controls

29. The Borrower and DGH shall ensure that the Fiduciary Control and Anti-Corruption Action Plan, as agreed upon by the Borrower and ADB, is fully implemented in the carrying out of Project activities.

Monitoring

30. At least two (2) months prior to commencement of civil works in a Project Province, DGH shall have established Project indicators (baseline data) in the Project Province, on the basis of selected road links (as agreed by the DGH and ADB), for: (i) traffic volumes; (ii) average road roughness; (iii) annual expenditures on maintenance (routine and periodic) in the provincial level national road network; and (iv) social and economic impact indicators.

31. At least two (2) months prior to commencement of civil works in a Project Province, DGLC shall have established Project indicators (baseline data) in the Project Province, on the basis of selected road links, for: (i) impact of road safety awareness campaign; (ii) truck axle loads as measured at the four weighbridges and weigh-in-motion monitoring equipment; and (iii) average one-way passenger fares and freight transport rates for general cargo for selected routes (as agreed by the DGLC and ADB).

Schedule 6

32. The Borrower shall ensure that monitoring indicators are measured before Project implementation and for three years after completion. Each assessment shall contain an evaluation of changes that have occurred within the preceding year. Comments and findings regarding the Project indicators described in paragraphs 30 and 31 of this Schedule 6 shall be included in the mid-term review report described in paragraph 11 of this Schedule.