
LOAN NUMBER 2824-KAZ

LOAN AGREEMENT
(Ordinary Operations)

(CAREC Corridor 1 [Taraz Bypass] [Western Europe-Western People's Republic of China
International Transit Corridor] Project)

between

REPUBLIC OF KAZAKHSTAN

and

ASIAN DEVELOPMENT BANK

DATED JUNE 19, 2012

KAZ 45150

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated JUNE 19, 2012 between REPUBLIC OF KAZAKHSTAN ("Borrower") and ASIAN DEVELOPMENT BANK ("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 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 3.03 is deleted and the following is substituted therefor:

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

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

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

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be reduced, ADB shall provide a Rebate to any Borrower with an outstanding Loan on which a higher Fixed Spread is applicable. The amount of the Rebate shall be determined by multiplying (i) the

difference between the Fixed Spread applicable to the outstanding Loan and the Fixed Spread that will be applied to new Loans (expressed as a percentage per annum), by (ii) the principal amount of the outstanding Loan on which the Borrower shall pay interest for all interest periods commencing on and after the effective date of the lower Fixed Spread that will be applied to new Loans.

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

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

(a) Following any announcement by ADB that the Fixed Spread applicable to new Loans shall be increased, if the then applicable Fixed Spread on the Loan is lower than such increased Fixed Spread, the Borrower 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) "CAREC" means Central Asia Regional Economic Cooperation;
- (b) "CAREC Corridor 1" means the Western Europe – Western People's Republic of China International Transit Corridor running from the state border with the People's Republic of China at Khorgos, through the Cities of Almaty and Shymkent, to the western border with the Russian Federation;
- (c) "EIA" means the environmental impact assessment for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (d) "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the EIA;
- (e) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (f) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (g) "LARP" means the land acquisition and resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (h) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2007, as amended from time to time);
- (i) "MOTC" means the Ministry of Transport and Communications of the Borrower or any successor thereto;
- (j) "Oblast" means a territorial administrative unit of the Borrower;
- (k) "PAM" means the project administration manual for the Project dated 28 October 2011 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower (through the MOTC) and ADB;
- (l) "Procurement Guidelines" means ADB's Procurement Guidelines (2010, as amended from time to time);
- (m) "Procurement Plan" means the procurement plan for the Project dated 28 October 2011 and agreed between the Borrower and ADB, as updated from time to time in accordance with the Procurement Guidelines and other arrangements agreed with ADB;

(n) "Project Executing Agency" for the purposes of, and within the meaning of the Loan Regulations, means MOTC, which is responsible for carrying out of the Project;

(o) "Project Road" means the road section to be reconstructed, and the bypass to be constructed, under the Project, in each case as described in more detail in paragraph 2 of Schedule 1 to this Loan Agreement;

(p) "SPS" means ADB's Safeguard Policy Statement (2009);

(q) "Safeguards Monitoring Report" means each report prepared and submitted by the Borrower to ADB that describes progress with implementation of and compliance with the EMP and the LARP, including any corrective and preventative actions; and

(r) "Works" means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding consulting services.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of ninety five million Dollars (\$95,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of twenty (20) years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 0.60% as provided by Section 3.02 of the Loan Regulations, less a credit of 0.20% 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 May and 15 November 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 subsection (a) hereinabove 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 proceeds of the Loan shall be allocated and 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. Except as ADB may otherwise agree, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where any such item has 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 items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 30 June 2015 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 applicable technical, financial, business, and development 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 5 to this Loan Agreement.

Section 4.02. The Borrower shall make available, promptly as needed, the funds, facilities, services, land and other resources, as 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) Whenever applicable, 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, designs, specifications, work schedules and construction methods acceptable to the Borrower and ADB, as applicable. The Borrower shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, designs, 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 9 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), 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 with the auditors appointed by the Borrower pursuant to subsection (a) hereinabove, and shall authorize and require any representative of such auditors to participate, during such audits, 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 Works and any relevant records and documents.

Section 4.07. The Borrower shall ensure that any facilities relevant to the Project are operated, maintained and repaired in accordance with sound applicable environmental, technical, financial, business, development, operational and maintenance practices.

ARTICLE V

Effectiveness

Section 5.01. A date 60 days after the date of this Loan Agreement is specified for the effectiveness of this 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
11 Pobedy Avenue
Astana 010000
Republic of Kazakhstan

Facsimile Number:

+7 (7172) 717-785.

For ADB

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

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

REPUBLIC OF KAZAKHSTAN

By 

BOLAT ZHAMISHEV
Minister
Ministry of Finance

ASIAN DEVELOPMENT BANK

By 

XIAOYU ZHAO
Vice President (Operations 1)

SCHEDULE 1**Description of the Project**

1. The objective of the Project is a more efficient transport network in the Zhambyl Oblast at the section of Taraz Bypass along CAREC Corridor 1 (Western Europe-Western People's Republic of China International Transit Corridor).
2. The Project shall comprise reconstruction of an existing approximately 7.7 km two-lane category II road section and widening it to a four-lane category IB cement-concrete road, and construction of an approximately 57.4 km asphalt-concrete two-lane bypass, on CAREC Corridor 1.
3. The Project is expected to be completed by 31 December 2014.

SCHEDULE 2

Amortization Schedule

(CAREC Corridor 1 [Taraz Bypass] [Western Europe-Western People's Republic of China International Transit Corridor] 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.

Date Payment Due	Installment Share (Expressed as a %)
15 May 2016	2.500000
15 November 2016	2.500000
15 May 2017	2.500000
15 November 2017	2.500000
15 May 2018	2.500000
15 November 2018	2.500000
15 May 2019	2.500000
15 November 2019	2.500000
15 May 2020	2.500000
15 November 2020	2.500000
15 May 2021	2.500000
15 November 2021	2.500000
15 May 2022	2.500000
15 November 2022	2.500000
15 May 2023	2.500000
15 November 2023	2.500000
15 May 2024	2.500000
15 November 2024	2.500000
15 May 2025	2.500000
15 November 2025	2.500000
15 May 2026	2.500000
15 November 2026	2.500000
15 May 2027	2.500000
15 November 2027	2.500000
15 May 2028	2.500000

Schedule 2

Date Payment Due	Installment Share (Expressed as a %)
15 November 2028	2.500000
15 May 2029	2.500000
15 November 2029	2.500000
15 May 2030	2.500000
15 November 2030	2.500000
15 May 2031	2.500000
15 November 2031	2.500000
15 May 2032	2.500000
15 November 2032	2.500000
15 May 2033	2.500000
15 November 2033	2.500000
15 May 2034	2.500000
15 November 2034	2.500000
15 May 2035	2.500000
15 November 2035	2.500000
Total	100.000000

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

Schedule 2

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.

SCHEDULE 3**Allocation and Withdrawal of Loan Proceeds**General

1. The table attached to this Schedule sets forth the Categories of items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category of the Table.)

Percentages of ADB Financing

2. Except as ADB may otherwise agree, each item of expenditure shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table:

(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 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.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (CAREC Corridor 1 [Taraz Bypass] [Western Europe-Western People's Republic of China International Transit Corridor] Project)			
CATEGORY			ADB FINANCING
Number	Item	Total Amount Allocated for ADB Financing (\$) Category	Percentage and Basis for Withdrawal from the Loan Account
1	Civil Works	95,000,000	85% of total expenditure claimed
	Total	95,000,000	

SCHEDULE 4**Procurement of Works**General

1. The procurement of Works shall be subject to and governed by the Procurement Guidelines.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines.

Works

3. Works shall only be procured on the basis of International Competitive Bidding.
4. The method of procurement is subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the method of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

Conditions for Award of Contract

5. The Borrower shall not award any Works contract which involves environmental impact until:
 - (a) the EIA has been approved by the appropriate authority of the Borrower; and
 - (b) the Borrower has incorporated relevant provisions from the EMP into the Works contract.
6. The Borrower shall not award any Works contract which involves involuntary resettlement impact until the Borrower has prepared and submitted to ADB the final LARP based on the Project's detailed design, and obtained ADB's clearance of such LARP.

Industrial or Intellectual Property Rights

7.
 - (a) The Borrower shall ensure that all Works 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 contracts for the procurement of Works 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.

ADB's Review of Procurement Decisions

8. Contracts procured under international competitive bidding procedures shall be subject to prior review by ADB.

9. The Borrower shall seek ADB's approval before it:

- (a) grants any extension of the stipulated time for completion of a contract for Works;
- (b) agrees to any modification or waiver of the conditions of a contract for Works, including any change order that falls under (c) or (d) below;
- (c) issues any change order under a contract for Works that will in aggregate increase the original contract price (for the avoidance of doubt, such aggregate shall take into account any previous or simultaneous change order or orders under such contract); or
- (d) issues any change order under a contract for Works that will affect more than 15% of the original contract price (either through increases or decreases), even if the net effect of such change order will not in aggregate increase the original contract price. For the avoidance of doubt, such aggregate shall take into account any previous or simultaneous change order or orders under such contract.

10. ADB shall respond to each request for approval under paragraph 9 above within 7 business days (in Manila) of ADB's receipt of such request. Such response will indicate that the request is: (a) approved; (b) declined; (c) pending receipt of additional information or documentation; or (d) pending consideration by ADB's Procurement Committee, in each case as determined by ADB. If ADB fails to respond within 7 business days (in Manila) of ADB's receipt of such request, the request (except if it relates to consideration of ADB's Procurement Committee) shall be deemed to have been approved by ADB. In the case of (c), the Borrower shall promptly provide the requested information or documentation to ADB and ADB shall respond to the relevant request within 7 business days (in Manila) upon receipt of such requested information or documentation satisfactory to ADB. In the case of (d), ADB shall notify the Borrower of the decision by the Procurement Committee within 7 business days (in Manila) of such decision by the Procurement Committee.

11. The Borrower shall, or shall ensure that MOTC will:

- (a) provide to ADB within 7 days a copy of all time extensions, modifications or waivers to the contracts (including change orders) following ADB's approval in accordance with paragraph 9 above and amendment of the contracts; and
- (b) maintain a record of all change orders under all contracts for Works which do not require ADB's prior approval under paragraph 9 above and submit such record for ADB's review every 6 months.

SCHEDULE 5

Execution of Project; Financial Matters

Implementation Arrangements

1. The Borrower and MOTC shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Borrower (through the MOTC) and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Environment

2. The Borrower shall cause MOTC to ensure that the preparation, design, construction, implementation, operation and decommissioning of the Project comply with: (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the EIA, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report. The Borrower shall cause MOTC to submit to ADB an updated EMP prior to initiation of Works.

Land Acquisition and Involuntary Resettlement

3. The Borrower shall cause MOTC to ensure that:

- (a) all land and all rights-of-way required for the Project are made available to the Works contractor in accordance with the schedule agreed under the related Works contract; and
- (b) all land acquisition and resettlement activities are implemented in compliance with: (i) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; and (ii) the Involuntary Resettlement Safeguards, as set forth in the measures and requirements of the LARP, and any corrective or preventative actions set forth in the Safeguards Monitoring Report.

4. Without limiting the application of the Involuntary Resettlement Safeguards or the LARP, the Borrower shall cause MOTC to ensure that no physical or economic displacement takes place in connection with the Project until:

- (a) the Borrower has obtained ADB's clearance for the final LARP and this LARP has been disclosed to affected people;
- (b) compensation and other entitlements have been provided to affected people in accordance with the LARP;
- (c) a comprehensive income and livelihood restoration program has been established in accordance with the LARP; and

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- (d) the Borrower has submitted to ADB a report, validated by an external expert appointed by the Borrower and ADB, on the fulfillment of the requirements of this paragraph, and ADB has cleared such report.

Indigenous Peoples

5. The Borrower shall cause MOTC to ensure that the Project does not cause any impact on indigenous people within the meaning of the SPS. If there is such an impact, the Borrower shall cause MOTC to prepare, disclose and implement an indigenous peoples plan in accordance with all applicable laws and regulations of the Borrower relating to indigenous peoples and the SPS.

Human and Financial Resources to Implement Safeguards Requirements

6. The Borrower shall cause MOTC to make available necessary budgetary and human resources to fully implement the EMP and the LARP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

7. The Borrower shall cause MOTC to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the EIA, the EMP and the LARP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures; and
- (c) provide MOTC with a written notice of any unanticipated environmental, resettlement (including temporary land acquisition and resettlement activities, and agreements made with affected people on these activities) or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP and the LARP.

Safeguards Monitoring and Reporting

8. The Borrower shall cause MOTC to do the following:

- (a) submit to ADB Safeguards Monitoring Reports (i) semi-annually during construction and (ii) annually during operation, and disclose relevant information from such reports to affected persons promptly upon submission;
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMP and the LARP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;

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- (c) no later than the date of award of Works contract, engage qualified and experienced external experts (such external experts to be funded under the project management budget of Loan 2503 between the Borrower and ADB) under a selection process and terms of reference acceptable to ADB, to verify information produced through the Project monitoring process, and facilitate the carrying out of any verification activities by such external experts; and
- (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the LARP promptly after becoming aware of the breach.

Prohibited List of Investments

9. The Borrower shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards and Gender

10. The Borrower shall cause MOTC to ensure that the Works contracts incorporate provisions to the effect that contractors: (a) shall comply with applicable labor laws and regulations of the Borrower, and incorporate applicable workplace occupational safety norms; (b) shall not differentiate payment between men and women for work of equal value; (c) shall not employ child labor in the construction and maintenance activities; (d) to the extent possible, shall maximize employment of local poor and disadvantaged persons for project construction purposes, provided that the requirements for job and efficiency are adequately met; and (e) shall encourage employment of skilled and unskilled women laborers.

Health

11. The Borrower shall cause MOTC to ensure that information on the risks of sexually transmitted diseases, including human immunodeficiency virus/acquired immunodeficiency syndrome, is disseminated to the employees of the Works contractors under the Project and to members of the local communities surrounding the Project.

Counterpart Support

12. Without limiting the generality of Section 4.02 of this Loan Agreement, the Borrower shall make available all counterpart funds required for timely and effective implementation of the Project through annual budget allocations to MOTC, and ensure that such funds are released to MOTC in a timely manner. The Borrower shall cause MOTC to ensure that it includes the updated funding requirements for implementation of the Project in its annual development programs. The Borrower covenants and agrees (i) to fund any cost overruns incurred in connection with the Project and (ii) that it shall not request ADB to provide any additional financing for cost overruns incurred in connection with the Project.

Construction Quality

Schedule 5

13. The Borrower shall cause MOTC to ensure that the Project is carried out in accordance with applicable technical specifications and design, and that the construction supervision, quality control and project management are performed in accordance with applicable standards and best international practices.

Prevention of Illegal Trafficking

14. The Borrower shall ensure that concrete and rigorous legally permissible measures to detect and prevent illegal trafficking of humans, wildlife, endangered species, and controlled substances on the Project Road are fully implemented.

Governance and Anticorruption

15. The Borrower and MOTC 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 Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

16. The Borrower shall cause MOTC to ensure that anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of all contractors, suppliers, consultants, and other service providers as they relate to the Project.