
LOAN NUMBER 3943-NEP(COL)

LOAN AGREEMENT
(Ordinary Operations [Concessional])

(South Asia Subregional Economic Cooperation
Power Transmission and Distribution System Strengthening Project)

between

NEPAL

and

ASIAN DEVELOPMENT BANK

DATED 27 AUGUST 2020

NEP 50059

LOAN AGREEMENT
(Ordinary Operations [Concessional])

LOAN AGREEMENT dated 27 August 2020 between NEPAL ("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;

(B) the Borrower has also applied for a grant from the Government of Norway (the "Norway"), in an amount equivalent to approximately thirty-five million Dollars (\$35,000,000) to be administered by ADB (the "Grant"), and ADB has agreed to make the Grant to the Borrower for the purposes of cofinancing expenditures under Part 1 and Part 3 of the Project upon terms and conditions set forth in a grant agreement of even date herewith between the Borrower and ADB (the "Grant Agreement").

(C) the Project will be carried out by the Nepal Electricity Authority ("NEA", as defined further below), and for this purpose the Borrower shall make available to NEA the proceeds of the Loan and the Grant upon terms and conditions satisfactory to ADB; and

(D) ADB has agreed to make a concessional loan from ADB's ordinary capital resources to the Borrower upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and NEA;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All provisions of ADB's Ordinary Operations (Concessional) Loan Regulations, dated 1 January 2017 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein.

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) "Consulting Services" means consulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;

- (b) "EMP" means an environmental management plan for the Project, including any update thereto, incorporated in the IEE;
- (c) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the SPS;
- (d) "GAP" means the Gender Action Plan prepared for the Project, including any update thereto, and approved between the Borrower and ADB;
- (e) "Goods" means equipment and materials as set out in the Procurement Plan and to be financed out of the proceeds of the Loan and Grant, including any related Nonconsulting Services such as transportation, insurance, installation, commissioning, training, and initial maintenance;
- (f) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (g) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;
- (h) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (i) "MEWRI" means the Ministry of Energy, Water Resources and Irrigation of the Borrower, or any successor thereto;
- (j) "MOF" means the Ministry of Finance of the Borrower, or any successor thereto;
- (k) "NEA" means the Nepal Electricity Authority established pursuant to the Nepal Electricity Authority Act 1984 or any successor thereto acceptable to ADB;
- (l) "Nonconsulting Services" means nonconsulting services as described in the Procurement Regulations and set out in the Procurement Plan, and to be financed out of the proceeds of the Loan;
- (m) "PAM" means the project administration manual for the Project dated 24 April 2020 and agreed between the Borrower and ADB, as updated from time to time in accordance with the respective administrative procedures of the Borrower and ADB;
- (n) "Part" means each and any of Parts 1 through 3 of the Project, as described in paragraph 2 of Schedule 1 to this Loan Agreement;
- (o) "Procurement Plan" means the procurement plan for the Project dated 24 April 2020 and agreed between the Borrower and ADB, as updated

from time to time in accordance with the Procurement Policy, the Procurement Regulations, and other arrangements agreed with ADB;

- (p) "Procurement Policy" means ADB's Procurement Policy - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (q) "Procurement Regulations" means ADB's Procurement Regulations for ADB Borrowers - Goods, Works, Nonconsulting and Consulting Services (2017, as amended from time to time);
- (r) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means NEA, which is responsible for the carrying out of the Project;
- (s) "Province" means a province, as defined by schedule 4 of the Borrower's Constitution;
- (t) "RP" means the resettlement plan for the Project, including any update thereto, prepared and submitted by the Borrower and cleared by ADB;
- (u) "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 RP (as applicable), including any corrective and preventative actions;
- (v) "Services" means Consulting Services and Nonconsulting Services;
- (w) "SPS" means ADB's Safeguard Policy Statement (2009);
- (x) "Subsidiary Financing Agreement" means the Subsidiary Financing Agreement between the Borrower and NEA referred to in Section 3.01 of this Loan Agreement; and
- (y) "Works" means construction or civil works as set out in the Procurement Plan and to be financed out of the proceeds of the Loan and Grant, including any related Nonconsulting Services and project related services that are provided as part of a single responsibility or turnkey contract.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of two hundred million Dollars (\$200,000,000).

(b) The Loan has a principal repayment period of 24 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 an interest charge at the rate of 1% per annum during the grace period, and 1.5% per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 June and 15 December in each year.

Section 2.04. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal amount of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be the Dollar.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall relend the proceeds of the Loan together with other funds required for the Project, to NEA under the Subsidiary Financing Agreement upon terms and conditions satisfactory to ADB. Except as ADB shall otherwise agree, the terms for relending the proceeds of the Loan shall include a repayment period of 32 years, including a grace period of 8 years, and interest at the rate of 1% per annum during the grace period and 1.5% thereafter, inclusive of foreign exchange risk.

(b) The Borrower shall cause the proceeds of the Loan to be applied exclusively to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project 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.

Section 3.04. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2026 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV**Particular Covenants**

Section 4.01. 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 4 to this Loan Agreement and the Project Agreement.

Section 4.02. The Borrower shall enable ADB's representatives to inspect the Project, the Goods and Works, and any relevant records and documents.

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable the Project Executing Agency to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall exercise its rights under the Subsidiary Financing Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the Subsidiary Financing Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V**Suspension; Acceleration of Maturity**

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations: the Grant shall have become liable for suspension or cancellation for the reasons attributed to the Borrower's failure to perform any of its obligations under the Grant Agreement.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 8.07(d) of the Loan Regulations: the event specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI**Effectiveness**

Section 6.01. The following is specified as an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Grant Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Borrower and shall have become duly authorized or ratified by all necessary government action.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: that the Grant Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Borrower and shall have become fully effective and binding upon the Borrower in accordance with its terms, subject only to effectiveness of this Loan Agreement.

Section 6.03. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

ARTICLE VII**Miscellaneous**

Section 7.01. The Secretary of MOF is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
Singha Durbar
Kathmandu, Nepal

Facsimile Number:

977-1-421-1720

For ADB

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

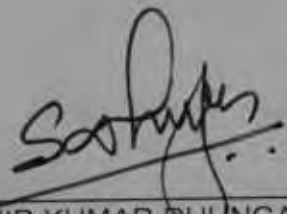
Facsimile Numbers:

(632) 8636-2444
(632) 8636-2340

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.


NEPAL

By


SISHIR KUMAR DHUNGANA
Secretary
Ministry of Finance

ASIAN DEVELOPMENT BANK

By


MUKHTOR KHAMUDKHANOV
Country Director
Nepal Resident Mission

SCHEDULE 1

Description of the Project

1. The objective of the Project is to improve access, reliability and efficiency of power supply in the territory of the Borrower.
2. The Project shall comprise the following parts:
 - (a) **Part 1: Increasing Power System Transmission Capacity**, including:
 - (i) upgrading 3 substations to 400 kV from 220 kV in Khimti 1, Barhabise, and Lapsephedi in Bagmati Province; and
 - (ii) upgrading existing 132 kV double circuit transmission lines from Pathlaiya substation to the Parwanipur substation and constructing a new 132 kV substation and associated facilities at Pokhariya in Province 2.
 - (b) **Part 2: Improving Distribution Systems in Kathmandu Valley, Bharatpur and Pokhara and Consumers' Awareness on Energy Efficiency and Safety**, including:
 - (i) constructing an approximately 12 kilometer (km) underground 132 kV double circuit transmission line from Bhaktapur substation to Koteshwor, approximately 2 km long 66 kV transmission line from Koteshwor to Baneshwor, and 2 new 132/11 kV substations with automation in Koteshwor in Bagmati Province;
 - (ii) modernizing and reinforcing approximately 9 distribution centers in Kathmandu Valley, Bharatpur distribution center in Chitwan district in Bagmati Province, and Pokhara distribution center in Kaski district in Gandaki Province; and
 - (iii) training for women and disadvantaged groups to promote awareness of electricity costs and practices for efficient electricity usage.
 - (c) **Part 3: Improving Distribution Network in Province 2 and Women's Capacity to Use Electricity for Energy-Based Enterprises** through constructing 33 kV, 11 kV, and 0.4 kV lines and substations and training programs.
3. The Project is expected to be completed by 31 December 2025

SCHEDULE 2

Amortization Schedule

<u>Date Payment Due</u>	<u>Payment of Principal (expressed in USD)*</u>
15 December 2028	4,166,667
15 June 2029	4,166,667
15 December 2029	4,166,667
15 June 2030	4,166,667
15 December 2030	4,166,667
15 June 2031	4,166,667
15 December 2031	4,166,667
15 June 2032	4,166,667
15 December 2032	4,166,667
15 June 2033	4,166,667
15 December 2033	4,166,667
15 June 2034	4,166,667
15 December 2034	4,166,667
15 June 2035	4,166,667
15 December 2035	4,166,667
15 June 2036	4,166,667
15 December 2036	4,166,667
15 June 2037	4,166,667
15 December 2037	4,166,667
15 June 2038	4,166,667
15 December 2038	4,166,667
15 June 2039	4,166,667
15 December 2039	4,166,667
15 June 2040	4,166,667
15 December 2040	4,166,667
15 June 2041	4,166,667
15 December 2041	4,166,667
15 June 2042	4,166,667
15 December 2042	4,166,667
15 June 2043	4,166,667
15 December 2043	4,166,667
15 June 2044	4,166,667
15 December 2044	4,166,667

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in USD)*
15 June 2045	4,166,667
15 December 2045	4,166,667
15 June 2046	4,166,667
15 December 2046	4,166,667
15 June 2047	4,166,667
15 December 2047	4,166,667
15 June 2048	4,166,667
15 December 2048	4,166,667
15 June 2049	4,166,667
15 December 2049	4,166,667
15 June 2050	4,166,667
15 December 2050	4,166,667
15 June 2051	4,166,667
15 December 2051	4,166,667
15 June 2052	4,166,651
TOTAL	200,000,000

* The arrangements for payment are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

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.)

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be allocated to items of expenditure, and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest Charge

3. The amount allocated to Category "Interest Charge" is for financing the interest 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 charge.

Reallocation

4. 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, in consultation with 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, in consultation with the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

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

Retroactive Financing

6. Withdrawals from the Loan Account may be made to finance eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with Works subject to a maximum amount equivalent to 20% of the Loan amount.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS			
Number	Item	Total Amount Allocated for ADB Financing (\$)	Basis for Withdrawal from the Loan Account
		Category	
1	Turnkey Contracts – Transmission and Distribution	192,190,000	100% of total expenditure claimed*
2	Consulting Services - Project Management and Capacity Development	3,000,000	100% of total expenditure claimed*
3	Interest Charge	4,810,000	100% of amounts due
	TOTAL	200,000,000	

* Exclusive of taxes and duties imposed within the territory of the Borrower

SCHEDULE 4

Execution of Project: Financial Matters

Implementation Arrangements

1. The Borrower and NEA 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 and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Procurement

2. The Borrower and NEA shall ensure that:
- (a) the procurement of Goods, Works and Services is carried out in accordance with the Procurement Policy and the Procurement Regulations;
 - (b) Goods, Works and Services shall be procured based on the detailed arrangements set forth in the Procurement Plan, including the procurement and selection methods, the type of bidding documents, and ADB's review requirements. The Borrower may modify the detailed arrangements set forth in the Procurement Plan only with the prior agreement of ADB, and such modifications must be set out in updates to the Procurement Plan; and
 - (c) (i) all Goods and Works procured and Services obtained (including 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; and (ii) all contracts for the procurement of Goods, Works and Services contain appropriate representations, warranties and, if appropriate, indemnities from the contractor, supplier, consultant or service provider with respect to the matters referred to in this subparagraph.
3. The Borrower shall not award any Works or Nonconsulting Services contracts which involves environmental impacts until:
- (a) the Borrower's MEWRI has granted the final approval of the IEE; and
 - (b) NEA has incorporated the relevant provisions from the respective EMP into the Work contract.
4. Subject to paragraph 5 below, the Borrower shall not award any Works contract involving involuntary resettlement impacts until the Borrower has prepared and submitted to ADB the final RP for such Works contract based on the Project's detailed design, and obtained ADB's clearance of such RP.

5. The Borrower may award a Works contract involving involuntary resettlement impacts for the Project prior to a final RP for such Works contract having been submitted and cleared by ADB if the contract:

- (a) is of a "design and build" or "turnkey" type under which the design must be completed for the Works contract before the RP is finalized; and
- (b) expressly provides that the installation and construction phase (and commencement thereof) is conditional upon: (i) a final RP for the Works contract based on the Works contract's detailed design having been submitted to, and cleared by ADB; and (ii) the Borrower having notified the contractor in writing that compensation and other entitlements have been provided to affected people in accordance with the RP.

Counterpart Funds and Support

6. The Borrower shall (a) allocate adequate counterpart financing and staffing for the Project, and (b) exempt NEA from all taxes and duties on the Works and Goods contracts, except for the 1% customs duty on the imports of goods and equipment related to the Project as per the master list approved by the MEWRI. In addition to the foregoing, the Borrower shall ensure that NEA has sufficient funds to satisfy its liabilities arising from any Works, Goods and Consulting Services contract.

Operational Covenants

7. The Borrower shall ensure that final authority regarding procurement of goods, works and services under the Loan resides with NEA's Managing Director in line with Public Procurement Act of Nepal.

Financial Management

8. The Borrower and NEA shall ensure that the Financial Management Action Plan which sets forth specific actions and timelines as summarized in the PAM is implemented in accordance with its terms in close coordination with ADB.

Financial Covenants

9. The Borrower and NEA shall ensure that the following ratios are maintained: (a) by 15 July 2021, a debt service coverage ratio of at least 1.2 (with debt service being computed following generally accepted accounting principles); (b) by 15 July 2021, a debt-to-equity ratio of no more than 75:25, and (c) by 15 July 2021, a current ratio of at least 1. For the purpose of this paragraph:

- (i) the term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of NEA not allocated to cover specific liabilities;
- (ii) the term "debt" means any outstanding indebtedness of NEA, but excluding any amount due for payment within one year of that date at which this ratio is computed; and

- (iii) the term "current ratio" means the ratio of NEA's current assets to its current liabilities as of its balance sheet date.

Environment

10. The Borrower shall ensure, and cause NEA 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 IEE, the EMP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

11. The Borrower shall ensure, and cause NEA to ensure, that (a) any Works under Part 1(ii) within Parsa National Park are confined to the existing right of way from Pathlaiya substation; (b) any Works under Part 2(i) to underground feeders within the Lake Cluster of the Pokhara Valley Ramsar Site are confined to the existing road; (c) any Works in the buffer zone of the Koshi Tappu Wildlife Reserve, and in the vicinity of the proposed Ram Janaki Temple World Heritage Site, do not encroach into these sites; (d) all these Works are undertaken in accordance with detailed construction site-specific environmental management plans to be cleared by ADB before commencement of related Works; and (e) no other Works are carried out under the Project within the boundaries or buffer zones of any existing or proposed World Heritage Sites, Ramsar Sites, National Parks, Wildlife Reserves or Conservation Areas.

Land Acquisition and Involuntary Resettlement

12. The Borrower shall ensure, and cause NEA to ensure, that 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 all land acquisition and resettlement activities are implemented in compliance with: (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the respective RP, and any corrective or preventative actions set forth in a Safeguards Monitoring Report.

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

- (a) compensation and other entitlements have been provided to affected people in accordance with the RP; and
- (b) comprehensive income and livelihood restoration program has been established in accordance with the RP.

Indigenous Peoples

14. The Borrower shall ensure, and cause NEA to ensure, that the Project does not impact indigenous peoples within the meaning of the SPS. If due to unforeseen circumstances, the Project impacts indigenous peoples, the Borrower shall take all steps necessary or desirable to ensure that the Project complies with all applicable laws and regulations of the

Borrower relating to indigenous peoples and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

15. The Borrower shall make available, and NEA to make available, necessary budgetary and human resources to fully implement the EMP and the RP.

Safeguards – Related Provisions in Bidding Documents and Works Contracts

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

- (a) comply with the measures and requirements relevant to the contractor set forth in the IEE, the EMP and the RP (to the extent they concern impacts on affected people during construction), and any corrective or preventative actions set out in a Safeguards Monitoring Report;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP or the RP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) fully reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

Safeguards Monitoring and Reporting

17. The Borrower shall cause NEA to do the following:

- (a) submit semiannual Safeguards Monitoring Reports to ADB
 - (i) in respect of implementation of and compliance with Environmental Safeguards and the EMP, semiannually during construction and implementation of the Project and the EMP, and annually during operation, until the issuance of ADB's Project completion report; and
 - (ii) in respect of implementation of and compliance with Involuntary Resettlement Safeguards and the RP, semiannually during the implementation of the Project and the RP,

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 IEE, the EMP or the RP, including any changes in scope or design related to Works within or in the buffer zones as discussed in paragraph 11 above, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan to be cleared by ADB before respective Works can proceed,
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP or the RP promptly after becoming aware of the breach; and
- (d) publicly disclose safeguards assessments including the IEE, the EMP, the RP, and monitoring reports on the NEA website and through other channels in a manner consistent with ADB access to information policy.

Prohibited List of Investments

18. The Borrower shall ensure, and cause NEA to 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, Health and Safety

19. The Borrower shall ensure, and cause NEA to ensure, that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; and (e) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

20. The Borrower shall strictly monitor compliance with the requirements set forth in the paragraph above and provide ADB with regular reports.

Gender and Development

21. The Borrower shall ensure, and cause NEA to ensure, that (a) the GAP for the Project is implemented in accordance with its terms; (b) the bidding documents and contracts include relevant provisions for contractors to comply with the measures set forth in the GAP; (c) adequate resources are allocated for implementation of the GAP; and (d) progress on implementation of the GAP, including progress toward achieving key gender outcome and output targets, are monitored and reported to ADB quarterly in accordance with the project

performance and monitoring system developed for the Project.

Governance and Anticorruption

22. The Borrower and NEA 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.

23. The Borrower and NEA shall ensure that the 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 the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

Change in Ownership

24. In the event that Borrower or NEA plans to: (a) make any change in the ownership of the Project facilities or NEA; (b) sell, transfer or assign NEA's direct or indirect interest in the Project; or (c) lease or contract out, or otherwise modify NEA's responsibilities for construction, operation and maintenance of the Project, the Borrower shall at least 6 months prior to implementation of such transaction, consult with ADB and obtain ADB's consent. The Borrower shall also ensure that such transaction is implemented in a legal and transparent manner.

Visibility of Cofinancing

25. The Borrower and NEA shall ensure that cofinancing of the Project by Norway is highlighted in communication materials related to the Project.