
LOAN NUMBER 4010-COO

LOAN AGREEMENT
(Ordinary Operations)

(Countercyclical Support for COVID-19 Active Response and Economic Support Program)

between

HER MAJESTY THE QUEEN IN RIGHT OF
THE GOVERNMENT OF THE COOK ISLANDS

and

ASIAN DEVELOPMENT BANK

DATED 26 November 2020

COO 54289

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 26 November 2020 between HER MAJESTY THE QUEEN IN RIGHT OF THE GOVERNMENT OF THE COOK ISLANDS ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 2 October 2020 ("Policy Letter"), setting forth certain objectives, policies and actions forming the Borrower's countercyclical development expenditures in relation to COVID-19 active response, described in Schedule 1 to this Loan Agreement ("Program");

(B) the Borrower has applied to ADB for a loan under its Countercyclical Support Facility's COVID-19 Pandemic Response Option for the purposes of the Program; and

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

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of ADB's Ordinary Operations 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, subject, however, to the following modifications:

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

(d) "Banking Day" means, in respect of any Loan Currency other than Euro and New Zealand Dollar, a London Banking Day; in respect of Euro, a Target Settlement Day; and in respect of New Zealand Dollar, a Wellington Banking Day;

(b) Section 2.01(y) is deleted and the following is substituted therefor:

(y) "Funding Cost Margin" means, for any Semester, the average cost margin relative to the relevant Reference Rate achieved or determined by ADB from all borrowings and/or other amounts that have been allocated to fund loans in a Loan Currency (or Approved Currency). The Funding Cost Margin for each Loan Currency (or Approved Currency) will be announced by ADB after the end of each Semester;

- (c) A new Section 2.01(qq-1) is inserted after Section 2.01(qq):
- (qq-1) "New Zealand Dollar" or "NZ\$" each means the lawful currency of New Zealand;
- (d) A new Section 2.01(qq-2) is inserted after Section 2.01(qq-1):
- (qq-2) "New Zealand BBR" means, in respect of any Interest Period, the New Zealand bank bill rate for a period of six-months in the Loan Currency, expressed as a percentage per annum, that appears on the Relevant Telerate Page as of 11:00 a.m., Wellington time, on the Reference Rate Reset Date for said Interest Period. If such rate does not appear on the Relevant Telerate Page, ADB shall request the principal New Zealand office of each of four major banks in the New Zealand money market to provide a quotation of its bid and offered rates for bills of exchange for a period of six-months in said Loan Currency at approximately 11:00 a.m. Wellington time on the Reference Rate Reset Date for said Interest Period. If at least two sets of such quotations are provided, the rate in respect of said Interest Period shall be the arithmetic mean (as determined by ADB and rounded up, if necessary to the nearest 1/16th of one percent) of the quotations. If less than two sets of quotations are provided as requested, the rate in respect of said Interest Period shall be the arithmetic mean (as determined by ADB and rounded up, if necessary, to the nearest 1/16th of one percent) of the bid and offered rates quoted by major banks selected by ADB in the relevant Financial Center, at approximately 11:00 a.m. in said Financial Center, on the Reference Rate Reset Date for said Interest Period for bills of exchange in the Loan Currency for a period of six months. If less than two of the banks so selected are quoting such rates, New Zealand BBR in respect of said Interest Period shall be equal to New Zealand BBR in effect for the Interest Period immediately preceding said Interest Period. Notwithstanding the foregoing provisions, if ADB determines that the Reference Rate for the New Zealand Dollar is to be modified in view of changes in market practice or otherwise, the New Zealand BBR shall be modified in such manner as may be determined by ADB and notified to the Borrower;
- (e) Section 2.01(tt) is deleted and the following is substituted therefor:
- The term "Program" means the program for which ADB has agreed to make the Loan, as described in the Loan Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower;
- (f) The term "Project" wherever it appears in the Loan Regulations shall be substituted by the term "Program";

- (g) Section 2.01(vv) is deleted and the following is substituted therefor:

The term "Program Executing Agency" means the entity or entities responsible for the carrying out of the Program as specified in the Loan Agreement;

- (h) The term "Project Executing Agency" wherever it appears in the Loan Regulations shall be substituted by the term "Program Executing Agency";

- (i) Section 2.01(xx) is deleted and the following is substituted therefor:

(xx) "Reference Rate" means, in respect of any Loan Currency other than Euro and New Zealand Dollar, LIBOR; in respect of Euro, Euribor; and in respect of New Zealand Dollar, New Zealand BBR;

- (j) Section 2.01(yy) is deleted and the following is substituted therefor:

(yy) "Reference Rate Reset Date" means:

(a) in respect of any Loan Currency other than Euro and New Zealand Dollar, the day two London Banking Days prior to the first day of the relevant Interest Period, or: (i) in the case of the initial Interest Period, the day two London Banking Days prior to the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided, that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the Reference Rate Reset Date shall be the day two London Banking Days prior to the date of the Loan Agreement; and (ii) if the Conversion Date of a Currency Conversion of an unwithdrawn amount of the Loan to any Approved Currency other than Euro or New Zealand Dollar falls on a day other than an Interest Payment Date, the initial Reference Rate Reset Date in respect of said Approved Currency shall be the date two London Banking Days prior to the first or fifteenth day of the month in which said Conversion Date falls, whichever day immediately precedes said Conversion Date; provided, that if said Conversion Date falls on the first or fifteenth day of such month, the Reference Rate Reset Date in respect of said Approved Currency shall be the day two London Banking Days prior to said Conversion Date;

(b) in respect of Euro, the day two Target Settlement Days prior to the first day of the relevant Interest Period, or: (i) in the case of the initial Interest Period, the day two Target Settlement Days prior to the first or fifteenth

day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided, that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the Reference Rate Reset Date shall be the day two Target Settlement Days prior to the date of the Loan Agreement; and (ii) if the Conversion Date of a Currency Conversion of an unwithdrawn amount of the Loan to Euro falls on a day other than an Interest Payment Date, the initial Reference Rate Reset Date in respect of said Approved Currency shall be the day two Target Settlement Days prior to the first or fifteenth day of the month in which said Conversion Date falls, whichever day immediately precedes said Conversion Date; provided, that if said Conversion Date falls on the first or fifteenth day of such month, the Reference Rate Reset Date in respect of said Approved Currency shall be the day two Target Settlement Days prior to said Conversion Date);

(c) in respect of New Zealand Dollar, the first day of the relevant Interest Period, or in the case of the initial Interest Period, the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided, that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the Reference Rate Reset Date shall be the date of the Loan Agreement; and

(d) notwithstanding the foregoing sub-paragraphs (a), (b), and (c), if in respect of a Currency Conversion to an Approved Currency ADB shall determine that market practice for the determination of the Reference Rate Reset Date shall be on a date other than as set forth in said sub-paragraphs, the Reference Rate Reset Date shall be such other date, as further specified in the Conversion Guidelines;

(k) Section 2.01(zz) is deleted and the following is substituted therefor:

(zz) "Relevant Telerate Page" means:

(a) with respect to LIBOR, the display page designated on the Dow Jones Telerate Service as the page for the purpose of displaying LIBOR for deposits in the Loan Currency (or such other page as may replace such page on such service, or such other service as may be selected by ADB as the information vendor, for the purpose of displaying rates or prices comparable to LIBOR);

(b) with respect to Euribor, the display page designated on the Dow Jones Telerate Service as the page for the purpose of displaying Euribor for deposits in the Loan Currency (or such other page as may replace such page on such service, or such other service as may be selected by ADB as the information vendor, for the purpose of displaying rates or prices comparable to Euribor); and

(c) with respect to New Zealand BBR, the display page designated on the Reuters Screen BKBM Page opposite the caption "FRA" as the page for the purpose of displaying New Zealand BBR for bills of exchange in the Loan Currency (or such other page as may replace such page on such service, or such other service as may be selected by ADB as the information vendor, for the purpose of displaying rates or prices comparable to New Zealand BBR);

- (l) The word "and" in Section 2.01(ggg) is deleted and a new Section 2.01(ggg-1) is inserted thereafter:

(ggg-1) "Wellington Banking Day" means any day on which commercial banks are open for general business (including dealings foreign exchange and foreign currency deposits) in Wellington; and

- (m) Section 6.01(b) is deleted.

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

- (a) "Counterpart Funds" means the local currency generated from the Loan proceeds under the Program and referred to in paragraph 4 of Schedule 4 to this Loan Agreement;
- (b) "Deposit Account" means the account referred to in paragraph 3 of Schedule 3 to this Loan Agreement;
- (c) "MFEM" means the Ministry of Finance and Economic Management of the Borrower;
- (d) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);
- (e) "Program Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means MFEM or any successor thereto acceptable to ADB, which is responsible for the carrying out of

the Program; and

- (f) "Program Implementing Agencies" means the Borrower's Ministry of Health and Ministry of Internal Affairs or any successors thereto.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of thirty million four hundred nine thousand New Zealand Dollars (NZ\$30,409,000), 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 7 years, and a grace period as defined in paragraph (c) of this Section.

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

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of:

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

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

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 1 June and 1 December in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;

- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(f) 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 for the Program in accordance with the provisions of this Loan Agreement.

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

Section 3.03. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 January 2021 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 Program, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Loan Agreement.

Section 4.02. As part of the information and reports referred to in Sections 7.01 and 7.04 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB all such reports and information as ADB shall reasonably request concerning (i) the Counterpart Funds and the use thereof; and (ii) the implementation of the Program, including the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

ARTICLE V

Effectiveness

Section 5.01. A date 30 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 and Economic Management
Rarotonga
Cook Islands

For ADB

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

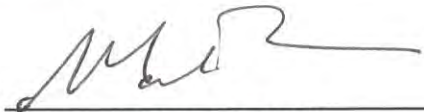
Facsimile Numbers:

(632) 8636-2444
(632) 8636-2388.

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.

HER MAJESTY THE QUEEN IN RIGHT
OF THE GOVERNMENT OF THE COOK
ISLANDS

By



MARK BROWN
Prime Minister and
Minister of Finance

ASIAN DEVELOPMENT BANK

By



LEAH GUTIERREZ
Director General
Pacific Department

SCHEDULE 1

Description of the Program

1. The principal objective of the Program is to reduce the adverse impacts of the COVID-19 restrictions on the population and business. The Program scope includes (a) strengthening the health system's COVID-19 response measures, (b) implementing social assistance compensating for economic losses borne by workers, and (c) delivering economic relief for affected businesses. The Program is described in more detail in the Policy Letter.
2. The Program is expected to be completed by 31 January 2021.

SCHEDULE 2

Amortization Schedule

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 % based on 30% annuity) |
|------------------|--|
| 1 December 2023 | 2.468849 |
| 1 June 2024 | 2.839176 |
| 1 December 2024 | 3.265053 |
| 1 June 2025 | 3.754811 |
| 1 December 2025 | 4.318032 |
| 1 June 2026 | 4.965737 |
| 1 December 2026 | 5.710598 |
| 1 June 2027 | 6.567187 |
| 1 December 2027 | 7.552266 |
| 1 June 2028 | 8.685105 |
| 1 December 2028 | 9.987871 |
| 1 June 2029 | 11.486052 |
| 1 December 2029 | 13.208960 |
| 1 June 2030 | 15.190303 |
| 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; and
- (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 2 calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.
5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3

Withdrawal of Loan Proceeds

1. Except as set out in this Schedule or as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.
2. An application for withdrawal from the Loan Account shall be submitted to ADB by the Borrower and shall be in a form satisfactory to ADB.
3. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall nominate an account (Deposit Account) at the Bank of Cook Islands into which all withdrawals from the Loan Account shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with the applicable regulations and procedures of the Borrower.

(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with accounting principles acceptable to ADB. Upon ADB's request, the Borrower shall have the financial statements for the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB. Promptly after their preparation but in any event not later than 6 months after the date of ADB's request, copies of such audited financial statements and the opinion of the auditors on the financial statements, in the English language, shall be furnished to ADB.
4. No Loan proceeds shall be withdrawn to finance any item specified in the Attachment to this Schedule.
5. The Borrower may withdraw the Loan upon effectiveness of this Loan Agreement.

Negative List

No withdrawals of Loan proceeds will be made for the following:

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

Table: Ineligible Items

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

Source: United Nations.

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

SCHEDULE 4

Program Implementation and Other Matters

Implementation Arrangements

1. The Borrower, through the Program Executing Agency, shall oversee, coordinate and regularly monitor the progress and timely implementation of the Program.
2. The Borrower shall ensure that the Program Executing Agency and Program Implementing Agencies are adequately staffed and provided with the necessary financial, technical and other resources to efficiently perform their functions and responsibilities under the Program.

Policy Dialogue

3. The Borrower shall (a) promptly inform ADB about any issues or constraints encountered during the implementation of the Program, and (b) proactively engage with ADB to adopt appropriate measures to overcome and mitigate such issues or constraints.
4. The Borrower shall keep ADB informed of policy discussions with other multilateral and bilateral aid agencies that may have implications for the implementation of the Program and shall provide ADB with an opportunity to comment on any resulting policy proposals. The Borrower shall take into account ADB's views before finalizing and implementing any such proposal.

Use of Counterpart Funds

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

Governance and Anticorruption

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

Monitoring and Review, and Reporting

7. The Borrower shall (a) monitor and evaluate achievement of the targets, including gender targets, based on periodically collected sex-disaggregated data, and objectives of the Program; and (b) until 6 months after the Loan Closing Date, provide quarterly reports to ADB within forty-five (45) days after the end of each quarter on the progress achieved and the expenditures incurred during that period on the response measures stipulated under the Program.

8. The Borrower shall, in particular, monitor, evaluate and report to ADB on areas including (a) developments in its macroeconomic and fiscal conditions, including budget execution, expenditure and flow of funds to support the Program; (b) impacts of the Program on poor and vulnerable groups, disaggregated by sex, including the number of beneficiaries under its social assistance programs; and (c) implementation of the Program.

9. Within 6 months of the Loan Closing Date, the Borrower shall submit to ADB the Program completion report.