
LOAN NUMBER 2362-BAN(SF)

LOAN AGREEMENT
(Special Operations)

Good Governance Program

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 1 NOVEMBER 2007

LPS:BAN 37017

LOAN AGREEMENT (Special Operations)

LOAN AGREEMENT dated 1 November 2007 between PEOPLE'S REPUBLIC OF BANGLADESH ("the Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) ADB has received from the Borrower a development policy letter dated 2 September 2007 (hereinafter called the Policy Letter), setting forth certain objectives, policies and actions, described in Schedule 1 to this Loan Agreement, designed to develop the Borrower's governance sector (the Program);

(B) the Borrower has applied to ADB for a loan from its Special Funds resources for the purposes of the Program;

(C) the Borrower has likewise applied to ADB for a technical assistance grant for Supporting the Good Governance Program and by a technical assistance letter agreement of even date herewith, ADB has agreed to provide the Borrower a technical assistance grant not exceeding the equivalent of one million three hundred fifty thousand dollars (\$1,350,000);

(D) the Borrower has also applied to the Government of Denmark, through the Danish International Development Agency, for a grant in an amount equivalent to one million dollar (\$1,000,000), to be administered by ADB, to finance part of the technical assistance mentioned in Recital C; and

(E) ADB has, on the basis inter alia of the foregoing, agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Special Operations Loan Regulations of ADB, dated 1 January 2006 (the "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(24) is deleted and the following is substituted therefor:

24. The term "Program" means the program for which ADB has agreed to make the Loan, as described in the Loan

Agreement and as the description thereof may be amended from time to time by agreement between ADB and the Borrower.

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

(c) Section 2.01(26) is deleted and the following is substituted therefor:

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

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

(e) Section 6.05 (c) is deleted and the following is substituted therefor:

(c) Promptly after the closing date for withdrawals from the Loan Account, but in any event not later than three (3) months thereafter or such later date as may be agreed for this purpose between the Borrower and ADB, the Borrower shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution of the Program, including its cost, the performance by the Borrower of its obligations under this Loan Agreement and the accomplishment of the purposes of the Loan.

Section 1.02. The terms defined in the Loan Regulations are incorporated into this Loan Agreement, unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "ACC" means the Borrower's Anticorruption Commission and includes any legal successor thereto;

(b) "CD" means the Borrower's Cabinet Division and includes any legal successor thereto;

(c) "Counterpart Funds" means the Taka proceeds generated from the proceeds of the Loan and deposited by the Borrower in the Special Account, through the consolidated fund, in accordance with paragraph 13 of Schedule 5 to this Loan Agreement;

(d) "CPA" means the Chittagong Port Authority and includes any legal successor thereto;

(e) "Deposit Account" means the account referred to in paragraph 4 of Schedule 3 to this Loan Agreement;

(f) "Eligible items" means the goods imported under the Program (except those specifically excluded pursuant to Attachment 1 to Schedule 3 to this Loan Agreement), the foreign exchange costs of which are eligible for financing out of the proceeds of the Loan;

(g) "First Tranche" means the portion of the proceeds of the Loan in an amount not exceeding the equivalent of thirty two million six hundred and thirty seven thousand Special Drawing Rights (SDR32,637,000) to be initially withdrawn and utilized pursuant to and subject to the provisions of Attachment 2 of Schedule 3 to this Loan Agreement;

(h) "Implementing Agency" means each agency described in paragraph 3 of Schedule 5 to this Loan Agreement;

(i) "JSC" means the Borrower's Judicial Service Commission and includes any legal successor thereto;

(j) "MLJPA" means the Borrower's Ministry of Law, Justice and Parliamentary Affairs and includes any legal successor thereto;

(k) "MOF" means the Borrower's Ministry of Finance and includes any legal successor thereto;

(l) "NIS" means National Integrity Strategy;

(m) "PMU" means Program Management Unit established in accordance with paragraphs 4 and 5 of Schedule 5 to this Loan Agreement;

(n) "Policy Letter" means the development policy letter dated 2 September 2007 addressed by the Borrower to ADB and referred to in Recital (A) of this Loan Agreement;

(o) "Policy Matrix" means the policy matrix attached to the Policy Letter and agreed between the Borrower and ADB;

(p) "Program Executing Agency" or "EA" means, for the purposes and within the meaning of the Loan Regulations, (a) the Supreme Court for the Program interventions for "Strengthened Judiciary"; and (b) the Cabinet Division for all other Program interventions;

(q) "Program facilities" means facilities provided or to be provided under the Program;

(r) "Second Tranche" means the portion of the proceeds of the Loan in an amount not exceeding thirty five million nine hundred thousand Special Drawing Rights (SDR35,9000,000) to be withdrawn at any time after the withdrawal of the First Tranche pursuant to and subject to the provisions of Attachment 3 of Schedule 3 to this Loan Agreement;

(s) "Special Account" means the account referred to in paragraph 13 of Schedule 5 to this Loan Agreement;

(t) "taka" means the currency of the Borrower;

(u) "Third Tranche" means the balance of the proceeds of the Loan remaining after utilization of the First Tranche and the Second Tranche to be withdrawn

pursuant to and subject to the provisions of Attachment 4 of Schedule 3 to this Loan Agreement;

and (v) "UNCAC" means the United Nations Convention Against Corruption;

(w) "VCA" means Vulnerability to Corruption Assessment.

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to ninety seven million nine hundred and ten thousand Special Drawing Rights (SDR 97,910,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of one percent (1%) per annum during the grace period, and one and one-half percent (1.5%) per annum thereafter, on the amount of the Loan withdrawn from the Loan Account and outstanding from time to time.

(b) The term "grace period" as used in paragraph (a) of this Section means the period prior to payment of the first principal amount of the Loan on the payment date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 April and 15 October 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 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 Dollar.

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 Program in accordance with the provisions of this Loan Agreement.

Section 3.02. The proceeds of the Loan may be withdrawn from the Loan Account only for the purposes of financing foreign currency expenditures incurred for Eligible Items under the Program in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, all Eligible Items to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to this Loan Agreement.

Section 3.04. Withdrawals from the Loan Account shall be made only on account of expenditures relating to Eligible Items which:

(a) are produced in, and are supplied from, such member countries of ADB as shall have been specified by ADB from time to time as eligible sources for procurement, and

(b) meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. Except as ADB may otherwise agree, no withdrawals shall be made from the Loan Account in respect of expenditures for Eligible Items incurred more than one hundred and eighty days (180) days prior to the Effective Date.

Section 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 March 2012 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 and operation of the Program facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. (a) The Borrower shall maintain, or cause to be maintained, records and documents adequate to identify the Eligible Items financed out of the proceeds of the Loan and to record the progress of the Program.

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

Section 4.03. (a) As part of the reports and information referred to in Section 6.05 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.

(b) Without limiting the generality of the foregoing or Section 6.05 of the Loan Regulations, the Borrower shall furnish, or cause to be furnished, to ADB quarterly reports on the carrying out of the Program and on the accomplishment of the targets and carrying out of the actions set out in the Policy Letter.

ARTICLE V

Effectiveness

Section 5.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purpose of Section 9.01(f) of the Loan Regulations:

(a) the PMUs shall have been established in accordance with paragraphs 4 and 5 of Schedule 5 to this Loan Agreement; and

(b) the Program Steering Committee shall have been established in accordance with paragraph 2 of Schedule 5 to this Loan Agreement.

Section 5.02. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Secretary of the Economic Relations Division of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

Economic Relations Division
Ministry of Finance
Government of the People's Republic of Bangladesh
Sher-e-Bangla Nagar
Dhaka 1207, Bangladesh

Facsimile Number:

(8802) 8113088.

For ADB

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

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

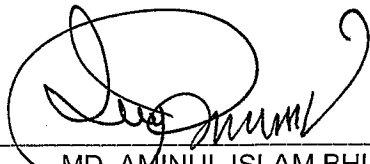
29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

(632) 636-2444
(632) 636-2337.

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

PEOPLE'S REPUBLIC OF BANGLADESH

By 
MD. AMINUL ISLAM BHUIYAN
Authorized Representative

ASIAN DEVELOPMENT BANK

By 
HUA DU
Country Director
Bangladesh Resident Mission

SCHEDULE 1**Description of the Program**

1. The principal objective of the Program is to improve governance and lessen the incidence of corruption in the public sector in Bangladesh. The scope of the Program includes (a) developing a good governance vision, strategy and procedures; (b) supporting enforcement and sanction mechanisms; and (c) developing and supporting prevention mechanisms. The Program is described in more detail in the Policy Letter. The Program will be implemented during the period until September 2011.

2. In support of the Program:

(a) the proceeds of the Loan shall be used to finance the foreign exchange costs of Eligible Items; and

(b) the Counterpart Funds shall be used to finance the local currency costs relating to the implementation of certain programs and other activities consistent with the objectives of the Program, pursuant to the provisions of paragraph 15 of Schedule 5 to this Loan Agreement.

3. The proceeds of the Loan are expected to be utilized by 30 September 2011.

SCHEDULE 2
Amortization Schedule
(Good Governance Program)

<u>Payment Due Date</u>	<u>Payment of Principal</u> (Expressed in SDR)*
15-Apr-2016	3,059,688.00
15-Oct-2016	3,059,688.00
15-Apr-2017	3,059,688.00
15-Oct-2017	3,059,688.00
15-Apr-2018	3,059,688.00
15-Oct-2018	3,059,688.00
15-Apr-2019	3,059,688.00
15-Oct-2019	3,059,688.00
15-Apr-2020	3,059,688.00
15-Oct-2020	3,059,688.00
15-Apr-2021	3,059,688.00
15-Oct-2021	3,059,688.00
15-Apr-2022	3,059,688.00
15-Oct-2022	3,059,688.00
15-Apr-2023	3,059,688.00
15-Oct-2023	3,059,688.00
15-Apr-2024	3,059,688.00
15-Oct-2024	3,059,688.00
15-Apr-2025	3,059,688.00
15-Oct-2025	3,059,688.00
15-Apr-2026	3,059,688.00
15-Oct-2026	3,059,688.00
15-Apr-2027	3,059,688.00
15-Oct-2027	3,059,688.00
15-Apr-2028	3,059,688.00
15-Oct-2028	3,059,688.00
15-Apr-2029	3,059,688.00
15-Oct-2029	3,059,688.00
15-Apr-2030	3,059,688.00
15-Oct-2030	3,059,688.00
15-Apr-2031	3,059,688.00
15-Oct-2031	3,059,672.00
TOTAL	97,910,000.00

*The figures in this column represent SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

SCHEDULE 3**Withdrawal of Loan Proceeds**

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

2. (a) Withdrawals from the Loan Account shall be made for the financing of the cost of Eligible Items.

(b) No withdrawals from the Loan Account shall be made in respect of any expenditures which have been financed by credits from official international or bilateral aid agencies or any other loans made by ADB.

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

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

(c) For the purposes of this paragraph, the term "Eligible Imports" means the total imports of the Borrower during the relevant period minus the following imports during the same period:

- (i) imports from countries which are not members of ADB;
- (ii) imports for ineligible items specified in Attachment 1 to this Schedule; and
- (iii) imports financed from credits from official international or bilateral aid agencies or any other loans made by ADB.

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

4. (a) Prior to submitting the first application to ADB for withdrawal from the Loan Account, the Borrower shall open an account (the Deposit Account) at the Bangladesh Bank into which all withdrawals from the Loan Account shall be deposited. The Deposit Account shall be established, managed and liquidated in accordance with terms and conditions satisfactory to ADB.

(b) Separate accounts and records in respect of the Deposit Account shall be maintained in accordance with consistently maintained sound accounting principles. Upon ADB's request, the Borrower shall have the Deposit Account audited by independent auditors, whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with appropriate auditing standards. Promptly after their preparation but in any

event not later than six (6) months after the date of ADB's request, certified copies of such audited accounts and records shall be furnished to ADB, all in the English language.

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

5. Notwithstanding any other provisions of this Loan Agreement or the Loan Regulations and except as ADB may otherwise agree, no withdrawals shall be made from the First Tranche unless ADB shall be satisfied, after consultation with the Borrower, that (a) sufficient progress has been achieved by the Borrower in the carrying out of the Program; and, in particular, (b) the Borrower has fulfilled the conditions for the release of the First Tranche specified in Attachment 2 to this Schedule.

6. Notwithstanding any other provisions of this Loan Agreement or the Loan Regulations and except as ADB may otherwise agree, no withdrawals shall be made from the Second Tranche unless ADB shall be satisfied, after consultation with the Borrower, that (a) sufficient progress has been achieved by the Borrower in the carrying out of the Program; and, in particular, (b) the Borrower has fulfilled the conditions for the release of the Second Tranche specified in Attachment 3 to this Schedule.

7. Notwithstanding any other provisions of this Loan Agreement or the Loan Regulations and except as ADB may otherwise agree, no withdrawals shall be made from the Third Tranche unless ADB shall be satisfied, after consultation with the Borrower, that (a) sufficient progress has been achieved by the Borrower in the carrying out of the Program; and, in particular, (b) the Borrower has fulfilled the conditions for the release of the Third Tranche specified in Attachment 4 to this Schedule.

Attachment 1 to Schedule 3**List of Ineligible Items**

1. No withdrawals shall be made of the Loan Account in respect of:
- (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)

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

Conditions for Release of the First Tranche1. **Vision, Strategy and Procedures**

- (i) CD shall have approved a detailed consultation plan to seek feedback on the design of the NIS from all stakeholders across the country.
- (ii) The Ministry of Foreign Affairs shall have constituted an inter-ministerial committee with terms of reference to prepare an action plan for the implementation of UNCAC.
- (iii) The Government shall have reconstituted the ACC.
- (iv) Cabinet Division shall have approved the ACC proposed decentralized set-up as reflected in the revised organogram.
- (v) MLJPA shall have gazetted amendments to (a) the ACC Act 2004; (b) the Anticorruption Act and Rules 1957; and (c) the Criminal Law Amendment Act 1958.

2. **Enforcement and Sanctions Mechanisms**

- (i) The MLJPA shall have gazetted the April 2007 amendments to the Code of Criminal Procedure 1898, related to the separation of the judiciary.
- (ii) The Supreme Court shall have issued a directive to all judges of subordinate courts on the strict implementation of the rules on submission of declaration of assets and wealth statements to the Office of the Registrar.
- (iii) MLJPA shall have notified the approved organogram of the judicial service.
- (iv) JSC shall have completed the first departmental examination to confirm those Assistant Judges on probation.

3. **Prevention Mechanisms**

- (i) CPA shall have completed a VCA for the Chittagong Port.
- (ii) CPA shall have established a committee with terms of reference to develop a strategic plan for reforms at CPA.
- (iii) The Borrower shall have reconstituted the Public Service Commission.
- (iv) Ministry of Establishment shall have issued a circular to all public servants on the strict implementation of the rules on the submission of declaration of assets and wealth statements to their respective line agencies, with a copy to the CD.
- (v) MOF shall have issued guidelines on, and provided resources for, the strengthening of internal audits in Ministries covered under the medium term budgetary framework.
- (vi) CD shall have issued a directive to all line ministries to designate an officer as focal point for initiating grievance handling mechanisms in all government offices, for both internal and external purposes.

Attachment 3 to Schedule 3**Conditions for Release of the Second Tranche**

In addition to maintaining the conditions satisfied under the First Tranche, the following conditions shall be met prior to the release of the Second Tranche:

1. **Vision, Strategy and Procedures**

- (i) Cabinet shall have approved and published the NIS, including a detailed time-bound action plan, with resource allocation, for both central and local level government, to implement the NIS.
- (ii) MLJPA shall have finalized a gaps analysis of the Bangladesh legal framework vis-à-vis UNCAC.
- (iii) MLJPA or Parliament Secretariat shall have gazetted the amended ACC Act, aligned to the UNCAC.
- (iv) Cabinet Division, through MLJPA, shall have gazetted all revised ACC rules of procedure incorporating the amendments to the 2004 ACC Act.
- (v) MOF shall have increased the allocation for the development budget of ACC with sufficient funds to allow it to implement its decentralized set-up and its community outreach program.

2. **Enforcement and Sanctions Mechanisms**

- (i) The JSC shall have completed entry examinations for 100 Assistant Judges.
- (ii) All judges of subordinate courts shall have submitted a declaration of assets and wealth statement to the Office of the Registrar.
- (iii) MLJPA or Parliament Secretariat shall have gazetted legislation prescribing specific qualifications for the recruitment of Supreme Court judges.
- (iv) MOF shall have allocated sufficient budget to meet the increases in special allowances that may be recommended by the Judicial Service Pay Commission and approved by the Borrower.
- (v) MOF shall have allocated sufficient budget to meet the approved development expenditures for district courts to implement the policy of separation of the judiciary from the executive.
- (vi) The Supreme Court shall have published the 2007 *State of the Judiciary Report*, including results of annual random inspection and monitoring activities of district courts.
- (vii) MLJPA or Parliament Secretariat shall have gazetted legislation for the creation of an independent and competent prosecution (or attorney) service.

3. **Prevention Mechanisms**

- (i) Shipping Ministry shall have approved a strategic plan for reforms at CPA.
- (ii) At least 50% of line ministries shall have established easily accessible grievance handling mechanisms.
- (iii) The Public Service Commission shall have approved revised exams for civil servants that make their entry and promotion more transparent and merit-based.
- (iv) The Borrower shall have publicly announced its decision to establish a national Office of the Ombudsman.
- (v) MLJPA or Parliament Secretariat shall have gazetted the Right to Information Act.

Attachment 4 to Schedule 3**Conditions for Release of the Third Tranche**

In addition to maintaining the conditions satisfied under the First and Second Tranche, the following conditions shall be met prior to the release of the Third Tranche:

1. **Vision, Strategy and Procedures**

- (i) CD shall have published the outcomes of an independent review of NIS implementation at all levels of Government.
- (ii) CD shall have published the results of the independent expert survey and national perception survey on progress in (a) anticorruption work; and (b) UNCAC implementation.
- (iii) CD shall have published the results of an assessment of community outreach and corruption prevention activities, including partnership modalities of anti-corruption agencies with civil society.
- (iv) MOF shall have allocated sufficient budget to allow ACC to implement its approved performance management scheme.

2. **Enforcement and Sanctions Mechanisms**

- (i) MOF shall have allocated sufficient budget to meet the approved capital and operational expenditures for the full operation of the JSC.
- (ii) The JSC shall have completed entry examinations for all approved positions for Assistant Judges.

3. **Prevention Mechanisms**

- (i) Power Division, Ministry of Communications, Ministry of Education, Ministry of Health, and Shipping Ministry shall have approved corruption risk mitigation strategies in line with the NIS.
- (ii) Ministry of Shipping, through MLJPA, shall have gazetted, as required, (1) any amendments to existing rules and regulations, or (2) new rules and regulations, to reflect the approved changes in management resulting from a computerized terminal management system at Chittagong Port.
- (iii) All public sector training institutes shall have incorporated, and used, integrity and anticorruption training modules in their curricula.
- (iv) CD shall have collated and published departmental information on grievances and public complaints.
- (v) Ministry of Establishment shall have finalized a review of the existing quota system for entry into the civil service.
- (vi) All line ministries shall have established easily accessible grievance handling mechanisms.
- (vii) Line Ministries that provide utilities and basic services shall have instituted and publicized citizen report cards as a way of addressing grievances at the local level.
- (viii) MLJPA or Parliament Secretariat shall have gazetted the Whistleblower Protection Act.
- (ix) The Borrower shall have established a well-resourced Office of the Ombudsman, in line with Article 77 of the Constitution, and with provisions for regional outreach and access.

SCHEDULE 4

Procurement

1. Except as ADB may otherwise agree, the procedures referred to in the following paragraphs of this Schedule shall apply in the procurement of Eligible Items to be financed out of the proceeds of the Loan.

2. (a) Except as provided in subparagraph (b) of this paragraph, each contract for Eligible Items shall be awarded on the basis of either the purchaser's normal commercial procurement practices, in the case of procurement by the private sector, or the Borrower's prescribed procurement procedures, in the case of procurement by the public sector, having due regard for the principles of economy and efficiency.

(b) Each supply contract for Eligible Items which are commonly traded commodities shall be awarded on the basis of procedures appropriate to the trade and acceptable to ADB.

SCHEDULE 5**Program Management, Implementation and Other Matters****A. Program Management and Coordination**

1. There shall be two Program Executing Agencies (EAs). The Supreme Court shall be the EA for Program interventions related to strengthening the judiciary. CD shall be the EA for all other Program interventions. Each EA shall bear the overall responsibility for the timely implementation of the part of the Program for which it is the EA.

2. Both EAs shall act under the guidance of the Program Steering Committee (PSC). The PSC shall be chaired by the Cabinet Secretary. Its members shall comprise representatives, not below the rank of Joint Secretary, from the Prime Minister's Office, Office of the Registrar, ACC, JSC, MLJPA, Economic Relations Division of MOF, Finance Division of MOF, Ministry of Home Affairs, Ministry of Foreign Affairs, Ministry of Shipping, Ministry of Establishment, Ministry of Information, Implementation Monitoring and Evaluation Division, and Planning Commission. Other members such as from the Public Service Commission or from line Ministries shall be co-opted as necessary. The Program Coordinator of CD shall be the member-secretary of the PSC. The PSC shall meet whenever necessary, but in any case not less than once every quarter, to (a) provide policy support; (b) oversee Program implementation and progress; and (c) facilitate cooperation and coordination among all relevant agencies.

3. Implementing Agencies with deliverables under the Program include the Anticorruption Commission, MLJPA, Ministry of Foreign Affairs, Ministry of Shipping, Ministry of Establishment, Public Services Commission, JSC, Economic Relations Division of MOF, and other sectoral agencies, in each case as set out in Attachments 2, 3 and 4 to Schedule 3 to this Loan Agreement. The Borrower shall ensure that each such Implementing Agency shall take full responsibility for implementation of those tranche release conditions within its mandate.

4. There shall be two Program Management Units (PMUs), one at the CD, and one at the Office of the Registrar of the Supreme Court. At the CD, the PMU, which consists of the existing Governance Unit in the CD, shall be headed by a Program Coordinator at the level of an Additional Secretary or Joint Secretary. The Borrower shall assign two Deputy Program Coordinators who shall be at the level of Deputy Secretary or Senior Assistant Secretary, and one administrative officer. A full-time Program Manager, who shall be a national consultant, shall be based at the PMU to assist the Program Coordinator in the day-to-day implementation of the Program.

5. The PMU at the Supreme Court shall be headed by a Program Coordinator who shall be the Registrar of the Supreme Court. The Office of the Registrar shall appoint one Additional Program Coordinator, who shall be at the level of Additional or Deputy Registrar, and one officer to ensure necessary support services to the PMU who shall be designated as Assistant Program Coordinator. A full-time Program Manager, who shall be a national consultant, shall be based at the PMU to assist the Program Coordinator in the day-to-day implementation of the Program.

6. Both PMUs shall be responsible for (a) work planning, monitoring and evaluation; and (b) providing technical support to the relevant agencies, as necessary. They shall coordinate the daily activities of the various implementing agencies that shall designate a focal point to ensure close coordination on a regular basis. The PMUs shall provide secretariat services for all Program outputs, and support activities in their respective Program areas.

B. Policy Dialogue

7. The Borrower shall keep ADB informed of, and the Borrower and ADB shall from time to time exchange views on, the progress made in carrying out the Program and in the formulation and implementation of new related policies.

8. The Borrower shall promptly discuss with ADB problems and constraints encountered during the implementation of the Program and appropriate measures to overcome or mitigate such problems and constraints.

9. The Borrower shall keep ADB informed of policy discussions with other multilateral and bilateral agencies that 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 ADB's views into consideration before finalizing and implementing any such proposals.

C. Continuity and Coordination of reforms

10. The Borrower shall: (a) ensure that the objectives achieved, policies adopted, and actions taken prior to the date of this Loan Agreement, as set forth in the Policy Letter, shall continue to be in full force and effect for the duration of the Program period and subsequently; (b) carry out the policies and actions in accordance with the schedule of policy reforms contained in the Policy Letter and Policy Matrix, ensure sustainability of the reforms throughout and beyond the Program period; and (c) carry out all of its obligations as stipulated under this Schedule and the Loan Agreement, in a timely manner.

11. Notwithstanding Attachment 3 to Schedule 3 to this Loan Agreement, the Borrower ensures that all necessary measures shall be taken to ensure that the following policy action included in the Policy Matrix shall be implemented prior to the release of the Second Tranche: Power Division, Ministry of Communications, Ministry of Education, and Ministry of Health shall have completed VCAs in their respective sectors.

12. Notwithstanding Attachment 4 to Schedule 3 to this Loan Agreement, the Borrower ensures that all necessary measures shall be taken to ensure that the following policy action included in the policy matrix shall be implemented prior to the release of the Third Tranche: the Borrower shall have completed a study on the restructuring of CPA operations.

D. Counterpart Funds

13. Immediately after the Effective Date, the Borrower shall establish, in a manner satisfactory to ADB, a Special Account at the Bangladesh Bank for the specific purpose of depositing and utilizing the Counterpart Funds. Whenever the Borrower withdraws proceeds

of the Loan from the Loan Account, the Borrower shall promptly deposit into the Special Account the Taka amounts equivalent to the amount of the proceeds so withdrawn.

14. Except as ADB may otherwise agree, the Counterpart Funds shall be utilized not later than 30 September 2011, to meet the expenditures to be incurred pursuant to the provisions of paragraph 15 below.

15. The Borrower shall ensure that sufficient Counterpart Funds are made available to meet the indicative costs, on a proportional basis, associated with the implementation of the Program as set out in the Table of Supplementary Appendix G to the Report and Recommendation of the President to ADB's Board of Directors for the Program, in particular regarding: (a) the implementation of the NIS and UNCAC at all levels; (b) the operation of ACC at the central, regional, and district level; (c) the separation of the Judiciary from the Executive, including the costs for the capital expenditures flowing from such separation; (d) the implementation of the approved recommendations of the Judicial Service Pay Commission; (e) establishment and operation of independent prosecution services; (f) reforms at CPA; (g) implementation of grievance handling mechanisms, including citizen report cards and Office of the Ombudsman; (h) operation of JSC and Judicial Service Pay Commission; (i) any performance incentive schemes and human resources plans developed under the Program; (j) independent surveys on program-related interventions. Any Counterpart Funds not required for the Program shall be used for good governance interventions.

16. The Borrower shall ensure to establish a budget tracking system to track the use of the Counterpart Funds on a quarterly basis. The EA shall submit the reports generated by this to the ADB on a quarterly basis.

17. Separate accounts and records in respect of the Special Account shall be maintained in accordance with consistently maintained sound accounting principles and shall be audited annually by independent auditors acceptable to ADB in accordance with sound auditing standards. Certified copies of such audited accounts and records shall be furnished to ADB promptly after their preparation but in any event not later than six (6) months after the close of the fiscal year to which they relate, or not later than six (6) months after the date of the closing of the Loan Account, as the case may be.

E. Program Implementation

a. National Integrity Strategy and Governance issues

18. As soon as the draft NIS is finalized, the Cabinet Division shall widely publicize it together with its consultation plan.

19. Within two (2) months of the approval of the NIS, the Cabinet Division shall establish a broad-based and independent high level National Integrity Advisory Committee (NIAC) that shall comprise representatives from Government, civil society, academia, and think tanks, with a mandate to guide NIS implementation.

20. Within six (6) months of the approval of the NIS, and every six (6) months thereafter, the Cabinet Division shall submit reports, validated by the NIAC, on the progress of NIS implementation at all levels of Government.

21. The Borrower shall ensure that in developing automation networks between any of the implementing agencies and other complementary agencies, all necessary measures shall be taken to guarantee full respect for privacy of information.

b. Judiciary

22. The Borrower shall not intervene, directly or indirectly, in the conduct of policies or actions of the courts, particularly regarding their organizational structure, recruitment of personnel, or actions regarding their management, operational, and financial activities. The Borrower shall refrain from any action, directly or indirectly, that inhibits, curbs, or otherwise limits the independence of the judiciary.

c. Financing and staffing issues

23. The Borrower shall ensure that all Executing and Implementing Agencies are adequately staffed and provided with the necessary financial, technical and other resources, including equipment, to perform their functions under the Program.

24. The Borrower shall ensure to only allocate funds for performance management schemes, provided such scheme is part of a larger Human Resource Policy that includes (a) key job descriptions with performance targets; and (b) provisions for career development.

25. The Borrower shall ensure that for recruitment of any new staff, including but not limited to judges, investigators, and prosecutors, all necessary and appropriate measures shall be taken to attract female candidates. Equally qualified women shall be given preference over equally qualified men. The Borrower shall ensure that for all recruited staff under the Program, there shall be equal remuneration for work of equal value.

d. Legislation and action plans

26. The Borrower shall ensure that all legislation passed as part of the Program, as well as all public awareness campaigns and all action plans developed, shall be widely published in a way that ensures accessibility of information by all segments of the population, including the illiterate.

27. The Borrower shall ensure that all action plans to be prepared as part of the Program shall be fully implemented before the end of the Program and that all legislation gazetted shall have become fully effective before the end of the Program.

e. Environment and resettlement

28. The Borrower shall ensure that for any physical infrastructure built as a result of the Program, the responsible EA and Implementing Agency will comply with (i) the Borrower's laws and regulations governing land acquisition; (ii) the Borrower's laws and regulations on environment; (iii) ADB's *Involuntary Resettlement Policy* (1995); and (iv) ADB's *Environment Policy* (2002). Prior to any construction, the relevant permits and licenses shall be obtained. In the event of land acquisition and resettlement, the Borrower shall inform ADB thereof and prepare a resettlement plan in accordance with ADB's *Involuntary Resettlement Policy*. The review of such resettlement plan by ADB shall be a condition for award of civil works contracts.

F. Program Review

29. The Borrower, ADB, and relevant Development Partners shall jointly review the Program and its implementation three (3) months prior to the scheduled release of the Second and Third Tranche, to evaluate the progress of the reform measures and their impact on good governance.

30. In addition to the reviews mentioned in paragraph 30, three (3) independent reviews shall be conducted in year three (3) of Program implementation. One review shall assess the extent of implementation of the NIS at all levels of government. The second review shall consist of an expert survey and national perception survey on the performance of UNCAC and anticorruption work. The third review shall assess the extent of community outreach and corruption prevention activities, including partnership modalities of anticorruption agencies with civil society. All reviews shall be undertaken by an independent source.

G. Program Performance Management System (PPMS)

31. Within three (3) months of the Effective Date, each PMU shall have established a PPMS, including a database on the status of policy measures and Program indicators. The Borrower shall ensure that the PPMS shall be maintained throughout the entire Program period.