
LOAN NUMBER 2430-BAN(SF)

LOAN AGREEMENT
(Special Operations)

(Emergency Assistance for Food Security Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 4 AUGUST 2008

LAS:BAN 42166

LOAN AGREEMENT (Special Operations)

LOAN AGREEMENT dated 4 August 2008 between PEOPLE'S REPUBLIC OF BANGLADESH (the "Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of part of the Project described in Schedule 1 to this Loan Agreement (the "Project"). The Project is for emergency assistance and is not a 'normal project' within the definition of the Borrower's project documentation;

(B) the Government of the People's Republic of Bangladesh (hereinafter referred to as the "Government") has also applied to the ADB for Technical Assistance in connection with the Project to strengthen the Government's institutional capacity for improving food security (the "Technical Assistance") and by a Technical Assistance letter from ADB to the Government, the ADB has agreed to provide a grant not exceeding \$600,000 for the Technical Assistance; and

(C) ADB has 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 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.

Section 1.02. The definitions set forth in the Loan Regulations are applicable to this Loan Agreement unless the context requires otherwise. In addition, the following terms have the following meanings:

(a) "affected persons" means any person whose calorie intake, financial situation, and/or livelihood activities have been or will be adversely affected by the higher food prices arising from the recent food crisis and who are considered to be poor and/or vulnerable under the Project;

(b) "Bangladesh Bank" means the central bank of the Borrower;

(c) "Eligible Items" means the goods imported under the Project as described in Attachment 2 to Schedule 3 to this Loan Agreement, the foreign exchange costs of which are

eligible for financing out of the Loan proceeds and as agreed between the Borrower and ADB from time to time;

(d) "FD" means the Finance Division of MOF;

(e) "fiscal quarter" means any three month period ending on the last day of March, June, September or December of a year;

(f) "fiscal year" or "FY" means fiscal year of the Borrower, commencing on the first day of July each year and ending on the last day of June of the following year;

(g) "FSSC" means the Emergency Assistance for Food Security Steering Committee as more fully described in Schedule 5 paragraph 2 hereto;

(h) "Goods" means the Eligible Items and includes related services such as transportation and insurance, but excluding consulting services, the costs of which are eligible for financing out of the proceeds of the Loan;

(i) "IMED" means the Implementation, Monitoring & Evaluation Division in the Borrower's Ministry of Planning;

(j) "MOF" means the Ministry of Finance of the Borrower or any successor thereto;

(k) "MoF&DM" means the Ministry of Food and Disaster Management of the Borrower or any successor thereto;

(l) "PPR" means the Public Procurement Regulations of the Borrower;

(m) "Procurement Guidelines" means ADB's Procurement Guidelines (2007, as amended from time to time);

(n) "Procurement Plan" means the procurement plan for the Project dated 7 July 2008 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, and other arrangements agreed with ADB;

(o) "Project Executing Agency" means for the purposes of, and as amended from time to time within the meaning of the Loan Regulations, the FD or any successor acceptable to ADB, which is responsible for the carrying out of the Project; and

(p) "Taka" means taka in the currency of the Borrower.

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 one hundred and four million two hundred and forty seven thousand Special Drawing Rights (SDR104,247,000).

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 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 hereto.

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 Dollars.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. The Borrower shall cause the proceeds of the Loan to be applied to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement.

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

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

Section 3.04. Withdrawals from the Loan Account in respect of Goods shall be made only on account of expenditures relating to:

- (a) Goods which are produced in and 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) Goods which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 December 2009 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, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 hereto.

Section 4.02. (a) The Borrower shall (i) maintain, or cause to be maintained, a separate account for the Project; (ii) have such account and related financial statements audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; (iii) furnish to ADB, as soon as available but in any event not later than 6 months after the end of each related fiscal year, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for imprest accounts and statement of eligible imports), all in the English language; and (iv) furnish to ADB such other information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) The Borrower shall enable ADB, upon ADB's request, to discuss the Borrower's financial statements for the Project and its financial affairs related to the Project from time to time with the auditors appointed by the Borrower pursuant to Section 4.02(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the Borrower unless the Borrower shall otherwise agree.

Section 4.03. The Borrower shall enable ADB's representatives to inspect the Project and the Goods financed out of the proceeds of the Loan, and any relevant records and documents.

ARTICLE V

Effectiveness

Section 5.01. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

ARTICLE VI

Miscellaneous

Section 6.01. The Secretary, or any Additional Secretary, Joint Secretary, Joint Chief, Deputy Secretary, Deputy Chief, Senior Assistant Secretary, Senior Assistant Chief, Assistant Secretary or Assistant Chief of the Economic Relations Division of MOF is designated as a 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
Sher-e-Bangla Nagar
Dhaka, Bangladesh

Facsimile Number:

(880 2) 8113088

For ADB


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

Facsimile Numbers:

(632) 636 2444
(880 2) 815 6000


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 

MONWARA BEGUM
Authorized Representative

ASIAN DEVELOPMENT BANK

By 

MD. NURUL HUDA
Officer-in-Charge
Bangladesh Resident Mission

SCHEDULE 1**Description of the Project**

1. The main objective of the Project is to urgently support efforts of the Borrower to import food and strengthen the safety net programs for affected persons in the face of rising food prices and to improve access of affected persons to food, income, and livelihood support.
2. The Project includes support for safety net programs of the Borrower including:
 - (i) Open market sales of food grains to ensure food security for about 1.1 million person-months for targeted poor and vulnerable people;
 - (ii) Food-grains transfer to ensure food security for about 5.4 million person-months for affected persons to survive short-term food deficits to be accessed through various safety net programs, such as, the vulnerable group development program, the vulnerable group feeding program, the test relief program, the gratuitous relief program, and the food assistance for Chittagong Hill Tracts tribal people and food for works program;
 - (iii) Employment guarantee schemes for the poor and vulnerable to create employment opportunities for about 1 million person-months for affected persons; and
 - (iv) Improvements to the food security monitoring system by supporting reform measures and fiduciary oversight to strengthen monitoring for increasing efficiency of ongoing safety net programs and complementing assistance by other development partners.
3. The Project is expected to be completed by 30 June 2009.

SCHEDULE 2

Amortization Schedule (Emergency Assistance for Food Security Project)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 December 2016	2,171,813
15 June 2017	2,171,813
15 December 2017	2,171,813
15 June 2018	2,171,813
15 December 2018	2,171,813
15 June 2019	2,171,813
15 December 2019	2,171,813
15 June 2020	2,171,813
15 December 2020	2,171,813
15 June 2021	2,171,813
15 December 2021	2,171,813
15 June 2022	2,171,813
15 December 2022	2,171,813
15 June 2023	2,171,813
15 December 2023	2,171,813
15 June 2024	2,171,813
15 December 2024	2,171,813
15 June 2025	2,171,813
15 December 2025	2,171,813
15 June 2026	2,171,813
15 December 2026	2,171,813
15 June 2027	2,171,813
15 December 2027	2,171,813
15 June 2028	2,171,813
15 December 2028	2,171,813
15 June 2029	2,171,813
15 December 2029	2,171,813
15 June 2030	2,171,813
15 December 2030	2,171,813
15 June 2031	2,171,813
15 December 2031	2,171,813
15 June 2032	2,171,813
15 December 2032	2,171,813
15 June 2033	2,171,813
15 December 2033	2,171,813
15 June 2034	2,171,813
15 December 2034	2,171,813
15 June 2035	2,171,813
15 December 2035	2,171,813
15 June 2036	2,171,813

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 December 2036	2,171,813
15 June 2037	2,171,813
15 December 2037	2,171,813
15 June 2038	2,171,813
15 December 2038	2,171,813
15 June 2039	2,171,813
15 December 2039	2,171,813
15 June 2040	<u>2,171,789</u>
Total	<u><u>104,247,000</u></u>

* 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

Allocation and Withdrawal of Loan Proceeds

General

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

Percentages of ADB Financing

2. The items of the Categories listed in the Table shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Interest Charge

3. The amount allocated to Category 2 is for financing the interest charge on the Loan during the implementation period of the Project.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Loan proceeds for financing Goods shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2007 (ADB's Loan Disbursement Handbook), as amended from time to time.

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

(a) Withdrawals from the Loan Account shall be made for the financing of Goods under the Project.

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

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

Imprest Account; Supporting Documentation

6. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, an imprest account at the Bangladesh Bank. The imprest account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook or as otherwise agreed upon between the Borrower and ADB. The currency of the imprest account shall be Dollars. The initial amount to be deposited into the imprest account shall be the balance of the Loan proceeds less the funds allocated for retroactive financing and the interest charges.

(b) Payments from the imprest account should only be drawn for the payment of Goods. The statement of eligible imports (SOEI) may be used to liquidate advances provided into the imprest account, in accordance with detailed arrangements agreed upon between the Borrower and ADB. The agreed threshold for the SOEI is the equivalent of \$10 million. The FD shall: (i) ensure that the related supporting documents (such as contracts, invoices, import documentation, and evidence of payment) are retained and provided upon request by ADB or the auditors, and (ii) submit a report to ADB within 30 days after the end of each fiscal quarter, showing: (A) the list of Goods and details of related payments, and (B) a bank statement showing these drawdowns.

Retroactive Financing

7. (a) Withdrawals from the Loan Account may be made for reimbursement of Goods incurred under the Project before the Effective Date, in connection with Goods to be retroactively financed, subject to a maximum amount equivalent to 30 percent of the Loan amount; provided that the expenditures have been incurred and paid for, but not earlier than 1 April 2008.

(b) Reimbursement of Goods incurred shall only be approved where it is: (i) in accordance with agreed procedures, (ii) verified by ADB, and (iii) certified by the FD, and the certification is acceptable to ADB.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Emergency Assistance for Food Security Project)				
CATEGORY				ADB FINANCING
Number	Item	Amount Allocated SDR ('000s)		Percentage and Basis for Withdrawal from the Loan Account
		Category	Sub-category	
1	Goods	102,714		100 percent of total expenditure*
1a	Retroactive Financing		31,274	
1b	Quick Disbursing		71,440	
2	Interest Charge	1,533		100 percent of amount due
	Total	104,247		

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

List of Eligible Items

1. Loan proceeds will finance the foreign currency expenditures for the reasonable cost of the following imported goods required during the Project:

No.	Description
1.	Food grains (rice and wheat)

SCHEDULE 4

Procurement of Goods

A. General

1. Goods to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines, except as otherwise agreed with ADB.
2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines.

B. Procurement for Goods

3. (a) Except as ADB may otherwise agree, Goods shall only be procured on the basis of the methods of procurement set forth below:

Modified International Competitive Bidding
National Competitive Bidding
Procedures appropriate to trade

(b) For the purposes of the Retroactive Financing, the term “Eligible Items” means the total imports of Goods by the Borrower during the relevant period (not earlier than 1 April 2008) minus the following imports of Goods during the same period:

- (i) imports from countries which are not members of ADB;
- (ii) imports for ineligible items; and
- (iii) imports financed from credits from official international or bilateral aid agencies or donations from foreign governments or any other loans or grants made by ADB .

(c) The term “procedures appropriate to trade” means that Goods are procured with due consideration to economy and efficiency, in accordance with the PPR and the Borrower’s standard public procedures for emergency procurement and normal private sector commercial practices acceptable to ADB.

(d) The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

C. ADB’s Review of Procurement Decisions

4. All procurement contracts shall be subject to post review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of the Project and Financial Matters

A. Project Management

Project Executing Agency, Steering Committee, and Implementing Agency

1. Finance Division, MOF shall be the Project Executing Agency.
2. The Emergency Assistance for Food Security Steering Committee (FSSC), chaired by the Secretary, Finance Division, Ministry of Finance and including representatives from the Economic Relations Division (ERD) of MOF, Ministry of Agriculture, MoF&DM including Directorate of Relief and Rehabilitation and the Directorate of Food, Planning Commission of the Borrower, and IMED, shall be responsible for addressing the policy and governance issues addressed by the Project and for monitoring overall implementation of the Project, overseeing all Project governance-related matters, including any issues that may arise relating to any mismanagement of the Project. The FSSC shall meet at regular intervals but at least once every 60 days to review progress of the Project and to monitor the support for the safety net programs. The FSSC may, from time to time, consult with experts drawn from reputable national institutions to assist it in the discharge of its responsibilities.
3. The MoF&DM, as Project implementing agency, shall produce progress reports on the support for the safety net programs, maintain records and accounts for the Project, and report on the progress of the Project, at least once every month to the FD and FSSC.

B. Project Implementation

Policy Issues

4. Within 6 months of the Effective Date, the Borrower shall ensure that MoF&DM improves its implementation of the public food distribution strategy of the Borrower by enhancing the public food procurement procedures and upgrading the management, distribution, and storage systems for public food, including upgrading the computer systems for food management.
5. Within 6 months of the Effective Date, the Borrower shall ensure that MoF&DM, in coordination with the relevant agencies of the Borrower, improves the efficiency and effectiveness of the Borrower's safety net programs by integrating improved mechanisms to reach really needy vulnerable groups of affected persons in the remote areas and including specific anti-corruption and good governance measures.
6. The Borrower shall undertake dialogue and continue to review the options to address the sustainability of various subsidies affecting the agriculture sector with the assistance of ADB, other development partners and relevant stakeholders.
7. The Borrower shall ensure that urgent measures are undertaken to approve and implement the plan of action that has been developed to implement the Borrower's national food policy 2006 within 26 identified areas of interventions, with the assistance of ADB and other development partners.

Reporting and Auditing

8. Without limiting the generality of Section 4.02 of this Loan Agreement, the Borrower shall cause the FD to submit quarterly progress reports to the FSSC and ADB on the status and progress of the Project-related safety net programs no later than three weeks after the end of each fiscal quarter, throughout the Project implementation period and a final completion report, based on the progress reports.

9. The Office of the Director of Accounts (or an officer with equivalent functions) in the FD shall be responsible for coordinating all Project account activities and ensuring compliance with the ADB's audit and accounting requirements.

10. The Borrower shall ensure that: (a) an independent annual financial audit(s) is conducted during Project implementation to determine the degree to which Project funds were utilized observing standard financial propriety, practices and regularity; and (b) other audits are undertaken, as required under ADB's *Disaster and Emergency Assistance Policy* including a special audit involving a performance evaluation of the safety net programs supported by the Project, focusing on governance, financial accountability (e.g. certification of accounts), and transparency, which shall be undertaken soon after completion of the Project, on the terms to be agreed with ADB.

Achieving Good Governance

11. Consistent with its commitment to good governance, accountability and transparency, ADB reserves the right to investigate any possible financial or management impropriety in conducting the Project. The Borrower shall cooperate with any such investigation and extend all necessary assistance, including access to all relevant books and records as well as agree to the engagement of independent experts that may be needed for satisfactory completion of such investigations. All external costs related to such investigations shall be borne by the Project.

Project Performance Monitoring and Evaluation

12. Within three months of the Effective Date, the Borrower, through the FD, shall finalize and adopt a project performance and monitoring system acceptable to ADB, based on indicators and procedures agreed between the Borrower and ADB. The FD, through IMED, shall: (a) monitor the indicators according to the agreed framework on a quarterly basis to determine the efficiency and effectiveness of the Project; (b) provide to ADB quarterly monitoring reports from the commencement of Project implementation until completion; and (c) use the baseline data already available in documented form and acceptable to ADB for Project performance monitoring.

13. The Borrower shall ensure that the Project performance evaluation of the Project supported safety net programs and other Project services are undertaken by IMED and the inspection report submitted to the FSSC and ADB not later than 6 months after the completion of the Project. The Borrower shall keep ADB informed of any concerns raised by any development partners in monitoring the Project supported safety net programs.

Anticorruption Measures

14. The Borrower shall: (a) undertake necessary measures to create and sustain a corruption-free environment for activities under the Project; and (b) ensure that its anticorruption laws and regulations and ADB's *Anticorruption Policy* (1998) are strictly enforced and are being complied with during Project implementation, and, where appropriate, that relevant provisions of ADB's *Anticorruption Policy* (1998) are included in all bidding documents for the Project.

Focal Point to Handle Complaints

15. The Borrower shall ensure that: (a) a focal point is appointed in each of the respective agencies of the Borrower which are responsible for the safety net programs supported under the Project, to address any public complaints on financial irregularities in procurement and distribution of food grains and other services; (b) appropriate grievance procedures are effectively implemented; and (c) the FD provides a bi-annual review and report to the FSSC and ADB on all relevant complaints received and resolutions undertaken.

Gender and Employment

16. The Borrower shall ensure that, in accordance with ADB's *Policy on Gender and Development* (1998): (a) Project interventions take into account the different impacts and needs of women and men; (b) special features are built into the safety net programs supported under the Project to facilitate and encourage women's involvement and to ensure tangible benefits to women; (c) specific women-related interventions include activities that uplift women from situations of vulnerability to positions of stability; and (d) Project reporting reflects how gender-related needs are being addressed by the safety net programs supported under the Project, and details the successes encountered, constraints met, and measures adopted to overcome them.