
LOAN NUMBER 2304-AFG(SF)

LOAN AGREEMENT
(Special Operations)

(Regional Power Transmission Interconnection Project)

(Afghan Component)

between

ISLAMIC REPUBLIC OF AFGHANISTAN

and

ASIAN DEVELOPMENT BANK

DATED 20 May 2007

LAS:AFG 40043

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated 20 May 2007 between ISLAMIC REPUBLIC OF AFGHANISTAN (hereinafter called the Borrower) and ASIAN DEVELOPMENT BANK (hereinafter called ADB).

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Afghan Component of the Project described in Schedule 1 to this Loan Agreement (hereinafter called the Afghan Component);

(B) the Republic of Tajikistan (hereinafter called Tajikistan) has applied to ADB for a loan for the purpose of the Tajik Component of the Project described in the Loan Agreement (Regional Transmission Interconnection Project) between ADB and Tajikistan;

(C) the Borrower shall apply to the Afghanistan Reconstruction Trust Fund (hereinafter called ARTF) or any alternative source for a financing in an amount equivalent to sixteen million five hundred thousand Dollars (\$16,500,000) for the purposes of financing of Part B of the Afghan Component on a parallel basis;

(D) the Government of the Borrower (hereinafter called the Government) has applied to ADB for technical assistance for Improving Capacity of Da Afghanistan Breshna Moassessa (DABM) (hereinafter called the TA), and by the TA Letter Agreement between the Government and ADB, ADB has agreed to provide a grant not exceeding the equivalent of one million two hundred thousand Dollars (\$1,200,000) for the TA;

(E) the Afghan Component will be carried out by DABM, and for this purpose the Borrower will make available through MEW (as defined below) to DABM the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; and

(F) ADB has agreed to make a loan to the Borrower from ADB's Special Funds resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and DABM;

NOW THEREFORE the parties hereto 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 (hereinafter called 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. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "DAB" means Da Afghanistan Bank, the central bank of the Borrower, and any successor thereof acceptable to ADB;

(b) "DABM" means Da Afghanistan Breshna Moassessa (Afghanistan Electricity Authority), and any successor thereto acceptable to ADB;

(c) "BT" means Barki Tajik of Tajikistan, and any successor thereto;

(d) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers dated April 2006, as amended from time to time;

(e) "Goods" means equipment and materials to be financed out of the proceeds of the Loan, including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;

(f) "FY" means the fiscal year of DABM and/or the Borrower, as the context may require, commencing 21 March and ending 20 March;

(g) "IEE" means the initial environmental examination prepared for the Afghan Component by the Borrower dated 19 October 2006 and agreed with ADB;

(h) "Intergovernmental Agreement" means the agreement dated 17 November 2006 between the Government and the Government of Tajikistan setting out key considerations to be reflected in the PPA;

(i) "KfW financing" means the financing provided by Kreditanstalt für Wiederaufbau (KfW) to the Government for the purposes of constructing new power facilities, including the Pul-e-Khumri substation;

(j) "kV" means kilovolt;

(k) "MEW" means the Ministry of Energy and Water of the Borrower, and any successor thereto;

(l) "MOF" means the Ministry of Finance of the Borrower, and any successor thereto;

(m) "Part" refers to a part of the Afghan Component as described in Schedule 1 to this Loan Agreement;

(n) "PIU" means the Project Implementation Unit established within MEW to administer the ongoing Power Transmission and Distribution Project financed under ADB Loan No. 2165-AFG(SF) and Grant No. 004-AFG(SF);

(o) "PPA" means a power purchase agreement as described in paragraph 4 of Schedule 5 to this Loan Agreement;

(p) "Project" means the Regional Transmission Interconnection Project comprising the Afghan Component and the Tajik Component;

(q) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means MEW, which is responsible for the carrying out of the Afghan Component;

(r) "Project facilities" means the equipment and facilities to be provided or rehabilitated under the Afghan Component;

(s) "Procurement Guidelines" means ADB's Procurement Guidelines dated April 2006, as amended from time to time;

(t) "Procurement Plan" means the procurement plan for the Afghan Component dated 30 October 2006 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(u) "Pul-e-Khumri substation" means a substation in the northern part of the Borrower's territory to be constructed under the ongoing KfW financing;

(v) "Resettlement Plan" means the Resettlement Plan prepared for the Afghan Component by the Borrower dated 19 October 2006 and agreed with ADB;

(w) "Subsidiary Loan Agreement" means the agreement entered into between the Borrower and DABM referred to in Section 3.01 of this Loan Agreement;

(x) "Tajik Component" means the component of the Project to be financed under the loan to the Republic of Tajikistan as referred to in Recital (B) of this Loan Agreement;

(y) "Tajik Loan Agreement" means the agreement for the Tajik Component as referred to in Recital (B) of this Loan Agreement;

(z) "Tajik Project Agreement" means the agreement of even date with the Tajik Loan Agreement entered into between ADB and BT for the Tajik Component; and

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

ARTICLE II

The Loan

Section 2.01. ADB agrees to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to twenty three million five hundred sixty three thousand Special Drawing Rights (SDR 23,563,000).

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 01 June and 01 December in each year.

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

Section 2.05. The currency of repayment of the principal 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. (a) The Borrower shall relend the proceeds of the Loan to DABM under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB. Except as ADB shall otherwise agree, the proceeds of the Loan shall be relent to DABM on the same terms and conditions as those of the Loan, with the foreign exchange risk being borne by the Borrower.

(b) The Borrower shall cause DABM to apply the proceeds of the Loan to the financing of expenditures on the Afghan Component in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. The Goods, Works and consulting services and other items of expenditure to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories of such Goods, Works and consulting

services and other items of expenditure shall be 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. Withdrawals from the Loan Account in respect of Goods, Works and consulting services shall be made only on account of expenditures relating to

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

Section 3.04. Except as ADB may otherwise agree, all Goods, Works and consulting services 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 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 September 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 Afghan Component and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

Section 4.02. (a) The Borrower shall (i) maintain separate accounts for the Project and for its overall operations; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, and related 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; and (iii) except as ADB shall otherwise agree, furnish 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, 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 covenants of the Loan Agreement), all in the English language. The Borrower shall furnish to ADB such further 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 Borrower's financial statements and its financial affairs 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 Afghan Component, the Goods and Works financed out of the proceeds of the Loan, and any relevant records and documents.

Section 4.04. The Borrower shall take all action which shall be necessary on its part to enable DABM to perform its obligations under the Project Agreement, including the establishment and maintenance of tariffs as stipulated in paragraph 7 of Schedule 5 to this Loan Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

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

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

ARTICLE V

Suspension; Cancellation; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations:

(a) the Borrower or DABM shall have failed to perform any of their respective obligations under the Subsidiary Loan Agreement, or the Subsidiary Loan Agreement or any provision thereof shall have been transferred, assigned, amended, suspended, abrogated or waived without the prior approval of ADB;

(b) the KfW financing shall have become liable for suspension or cancellation, or any other event shall have occurred which in the reasonable opinion of ADB will or may affect timely completion of the Pul-e-Khumri substation; and

(c) DABM's organizational structure shall have been significantly altered in such a manner that in the reasonable opinion of ADB will or may adversely affect the carrying out of the Afghan Component or the operation of the Project facilities.

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

ARTICLE VI

Effectiveness

Section 6.01. The following are specified as additional conditions to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations:

(a) the Subsidiary Loan Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Borrower and DABM and shall have become fully effective and binding upon the parties in accordance with its terms, subject only to the effectiveness of this Loan Agreement; and

(b) the Tajik Loan Agreement and the Tajik Project Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the parties and shall have become fully effective and binding upon the parties thereto in accordance with their terms, subject only to the effectiveness of this Loan Agreement.

Section 6.02. The following is specified as an additional matter, for the purposes of Section 9.02(d) of the Loan Regulations, to be included in the opinion or opinions to be furnished to ADB: that the Subsidiary Loan Agreement has been duly authorized by or ratified by, and executed and delivered on behalf of, the Borrower and DABM, and is legally binding upon the parties in accordance with its terms, subject only to the effectiveness of this Loan Agreement.

Section 6.03. 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 VII

Delegation of Authority

Section 7.01. The Borrower hereby designates DABM its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02 and 3.05 of this Loan Agreement and under Sections 5.01, 5.02, 5.03 and 5.04 of the Loan Regulations.

Section 7.02. Any action taken or any agreement entered into by DABM pursuant to the authority conferred under Section 7.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.

Section 7.03. The authority conferred on DABM under Section 7.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VIII

Miscellaneous

Section 8.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
Pashtunistan Watt,
Kabul
Afghanistan

Facsimile Numbers:

93 -20 210 3157

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)

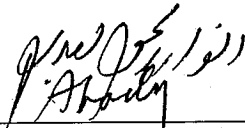
Facsimile Numbers:

(632) 636-2444
(632) 636-2426.

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.

ISLAMIC REPUBLIC OF AFGHANISTAN

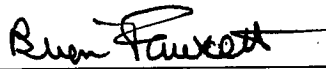
By



DR. ANWAR-UL HAQ AHADY
Authorized Representative

ASIAN DEVELOPMENT BANK

By



BRIAN D. FAWCETT
Authorized Representative

SCHEDULE 1**Description of the Project**

1. The impact of the Project will be enhanced cooperation in the energy sector between the Borrower and Tajikistan. The outcome of the Project will be (a) restored power supply and reduced cost for consumers in the territory of the Borrower; and (b) increased power export and income generation capacity of Tajikistan, through increasing the capacity of its Southern Grid hydro power plants.

2. The Project consists of the Afghan Component and the Tajik Component. The Afghan Component comprises the following parts:

Part A: **Transmission**

- (i) construction of a new 220kV double-circuit river crossing at the town of Sherkan Bandar over the Pianj River to the territory of Tajikistan; and
- (ii) construction of approximately 157 kilometers of new double-circuit 220kV transmission line from the Sherkan Bandar river border crossing to the Pul-e-Khumri substation via the substations at Kunduz and Baglan; and
- (iii) demining of the route for transmission line from Pul-e-Khumri to Sherkan Bandar.

Part B: **Substation**

- (i) construction of new 220kV switchyards at the Kunduz and Baglan substations, and supply and installation of high accuracy export/import metering equipment at the new 220kV switchgear of the Kunduz substation; and
- (ii) connection of the new 220kV transmission line at the 220kV Pul-e-Khumri substation.

3. The Afghan Component will also provide consulting services and is expected to be completed by 31 March 2009.

SCHEDULE 2

Amortization Schedule

(Regional Power Transmission Interconnection Project) (Afghan Component)

<u>Period</u>	<u>Date Payment Due</u>	<u>Payment of Principal (expressed in SDR)*</u>
1	1 June 20 15	490,896.00
2	1 December 20 15	490,896.00
3	1 June 20 16	490,896.00
4	1 December 20 16	490,896.00
5	1 June 20 17	490,896.00
6	1 December 20 17	490,896.00
7	1 June 20 18	490,896.00
8	1 December 20 18	490,896.00
9	1 June 20 19	490,896.00
10	1 December 20 19	490,896.00
11	1 June 20 20	490,896.00
12	1 December 20 20	490,896.00
13	1 June 20 21	490,896.00
14	1 December 20 21	490,896.00
15	1 June 20 22	490,896.00
16	1 December 20 22	490,896.00
17	1 June 20 23	490,896.00
18	1 December 20 23	490,896.00
19	1 June 20 24	490,896.00
20	1 December 20 24	490,896.00
21	1 June 20 25	490,896.00
22	1 December 20 25	490,896.00
23	1 June 20 26	490,896.00
24	1 December 20 26	490,896.00
25	1 June 20 27	490,896.00
26	1 December 20 27	490,896.00
27	1 June 20 28	490,896.00
28	1 December 20 28	490,896.00
29	1 June 20 29	490,896.00
30	1 December 20 29	490,896.00

* The figures in this column represents SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the present provisions of the Special Operations Loan Regulations.

<u>Period</u>	<u>Date Payment Due</u>	<u>Payment of Principal (expressed in SDR)*</u>
31	1 June 20 30	490,896.00
32	1 December 20 30	490,896.00
33	1 June 20 31	490,896.00
34	1 December 20 31	490,896.00
35	1 June 20 32	490,896.00
36	1 December 20 32	490,896.00
37	1 June 20 33	490,896.00
38	1 December 20 33	490,896.00
39	1 June 20 34	490,896.00
40	1 December 20 34	490,896.00
41	1 June 20 35	490,896.00
42	1 December 20 35	490,896.00
43	1 June 20 36	490,896.00
44	1 December 20 36	490,896.00
45	1 June 20 37	490,896.00
46	1 December 20 37	490,896.00
47	1 June 20 38	490,896.00
48	1 December 20 38	490,888.00
	Total	<u><u>23,563,000.00</u></u>

* The figures in this column represents SDR equivalents determined as of the respective dates of withdrawal. The arrangements for payment of each maturity are subject to the present provisions of the Special Operations Loan Regulations.

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

1. The table attached to this Schedule sets forth the Categories of Goods, Works, consulting services and other items 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. Except as ADB may otherwise agree, 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 5 is for financing the interest charge on the Loan during the implementation period of the Afghan Component.

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works, consulting services, and other items of expenditures shall be disbursed in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time (ADB's Loan Disbursement Handbook).

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Regional Power Transmission Interconnection Project – Afghan Component)				
CATEGORY			PERCENTAGE OF BANK FINANCING	
Number	Item	Amount Allocated SDR	Percentage	Basis for Withdrawal from the Loan Account
1	Transmission Line	17,302,000	100	percent of total expenditure*
2	Demining	673,000	100	percent of total expenditure*
3	Incremental Administration, Training and PIU Support	1,010,000	100	percent of total expenditure*
4	Consulting Services	875,000	100	percent of total expenditure*
5	Interest During Construction	471,000	100	percent of amount due
6	Unallocated	3,232,000		
	Total	23,563,000		

* Exclusive of taxes and duties

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods and Works, and consulting services, to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.
2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

B. Procurement for Goods and Works

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

International Competitive Bidding
Limited International Bidding

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

4. Domestic Preference. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.

C. Conditions for Award of Contract

5. The Borrower shall not award any contract, except for the consulting services, until (a) the PPA has been signed as described in paragraph 4 of Schedule 5 to this Loan Agreement; and (b) the updated Resettlement Plan has been approved by ADB.

D. Recruitment of Consulting Services.

6. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for recruiting consulting services.

E. Industrial or Intellectual Property Rights

7. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether

separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph; and that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

8. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

F. ADB's Review of Procurement Decisions

9. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of the Project (Afghan Component); Financial and Other Matters

Project Executing Agency

1. MEW shall be the Project Executing Agency responsible for overall implementation of the Afghan Component and specifically for carrying out supervision of Works and issuance of permits, supervision of testing and commissioning of the Project facilities.

Implementing Agency and PIU

2. DABM shall be the project implementing agency, responsible for the operation and maintenance of the Project facilities. The Borrower shall cause MEW to use the service of the PIU for the day-to-day implementation of the Afghan Component. This shall include, among other things, the review of tender documents, the evaluation of bids, and the supervision of the installation of the Project facilities, as well as the necessary liaison among DABM, contractors, the counterpart under the Tajik Component, and ADB.

3. The Borrower shall ensure that, at all times throughout the implementation period of the Afghan Component, the PIU is headed by a full-time Project Director reporting directly to the Minister of MEW, and is adequately staffed and assisted by the consultants engaged under the Afghan Component. The Project Director shall be responsible for the overall administration of the Afghan Component and coordination of activities under the Project.

Power Purchase Agreement

4. The Borrower shall, and cause DABM to, ensure that the Intergovernmental Agreement is implemented in a timely and effective manner. Specifically, the Borrower shall cause DABM to enter into a PPA with BT for the term of twenty (20) years, and shall ensure that the PPA is approved by all necessary government action. The PPA shall include, among other things, clear provisions on (a) minimum purchase and supply obligations, (b) penalties for failure to supply and to sell, (c) the delivery point, (d) price, payment and billing procedures, (e) security of payment, (f) access to necessary property, facilities, and local labor, (g) operation of cross-border assets, (h) operation and maintenance of facilities, (j) force majeure, (k) procedures for disputes resolution, and (l) governing law and language of the agreement.

Pul-e-Khumri Substation

5. The Borrower shall take all necessary actions to ensure that, by no later than 31 March 2008, the Pul-e-Khumri substation is commissioned and operational.

Counterpart Funds and Cofinancing

6. The Borrower shall take all necessary measures for the timely mobilization of the necessary counterpart funds and cofinancing required for implementing the Project. In the event that cofinancing from the ARTF or any other source does not become available,

the Borrower and DABM shall consult ADB with a view to reducing the scope of the Afghan Component.

Tariff Adjustments and Financial Covenants

7. The Borrower shall take all necessary measures to ensure that (a) tariffs are adequately adjusted, throughout the project implementation period, to enable DABM to comply with the financial covenants set forth in paragraph 8 below; (b) a lifeline tariff subsidy is maintained during the period of 2006-2010 to provide an element of tariff subsidy to the poor; and (c) public awareness programs are conducted to educate the public on the need for a rational electricity tariff scheme and the importance of energy conservation.

8. The Borrower shall cause DABM to comply with the following requirements:

- (a) DABM shall ensure that its accounts receivable (i) from 20 September 2007, do not exceed the equivalent of the aggregate amount of six months of billings at the end of each quarter; and (ii) from 20 March 2009 onwards, are maintained at a level that does not exceed the equivalent of the aggregate amount of three months of billing;
- (b) from 20 March 2008 onwards, DABM shall maintain an operating ratio of less than ninety (90%) percent;

For the purposes of this subparagraph,

- (i) the terms "operating ratio" means operating expenses divided by operating revenues;
- (ii) the term "operating expenses" for the purposes of the definition of "operating ratio" means expenses, including taxes, depreciation, maintenance but excluding interest and charges on debt directly related to DABM's operations and services;
- (iii) the term "operating revenues" means revenues from all sources related to DABM's operations, after making adequate provisions for uncollectible debts.

9. The Borrower shall cause DABM to establish, by 31 December 2008, a separate account at a foreign bank with an initial deposited amount equivalent to the estimated payment for two-month supply of electricity under the PPA. The accumulated funds shall be operated on a revolving basis and used exclusively for payments to BT in accordance with the provisions of the PPA.

Governance, Anticorruption, and Transparency

10. The Borrower shall ensure that no material changes (either financial, structural, or operational) to, nor major asset transfer to and from, DABM are formally approved or implemented during the term of the loan, without prior ADB approval, if such changes would or are likely to affect the ability of DABM to perform its obligations under the Project Agreement and Subsidiary Loan Agreement. In the event that DABM or any part

thereof is privatized during the term of the Loan, the Borrower shall consult with ADB in order to review the terms and conditions of this Loan Agreement and of the Loan with a view to making any amendments that may be deemed necessary.

11. The Borrower shall cause DABM to have the project and corporate accounts annually audited by an independent auditor acceptable to ADB. The Borrower shall cause DABM to provide adequate funds for carrying out independent audits, as required under Section 2.09 of the Project Agreement.

12. The Borrower shall, and cause DABM to, ensure that ADB's *Anticorruption Policy (1998, as amended to date)* is followed throughout project implementation, it being understood that ADB reserves the right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Afghan Component. The Borrower shall ensure that (a) relevant provisions of ADB's *Anticorruption Policy* are included in all bidding documents; (b) all contracts financed by ADB in connection with the project include provisions specifying the right of ADB to audit and examine the records and accounts of DABM and all contractors, suppliers, consultants and other service providers as they relate to the Afghan Component; and (c) an independent audit of procurement activities is carried out at least twice during the implementation of the Afghan Component.

13. The Borrower shall cause DABM to establish, within one (1) year from the Effective Date, a website that will present information on all externally-funded projects. With regard to the Project, the website shall provide information on, among other things, financial statements of DABM, procurement activities, including the list of participating bidders, names of the winning bidders, basic details on the adopted bidding procedures, amounts of the contracts awarded, the list of goods and/or services purchased, and their intended and actual utilization.

Environment and Safety Measures

14. The Borrower shall, and cause DABM to, ensure that the Afghan Component is carried out, and all Project facilities are designed, constructed, operated, and maintained in compliance with applicable local laws and regulations of the Borrower concerning environmental protection, ADB's *Environment Policy (2002)* and the initial environmental examination (IEE), summary IEE (SIEE), including the environmental management plan (EMP), prepared for the Afghan Component and agreed with ADB.

15. Without limiting the generality of the foregoing, the Borrower shall, and cause DABM to, ensure that (a) all mitigation and monitoring measures identified in the EMP are incorporated into the detailed design and implemented during design, construction, and operation of the Project facilities; (b) all civil works and consultant contracts under the Afghan Component contain provisions requiring compliance with these requirements; and

(c) information on the implementation of the IEE, SIEE, and EMP is included in annual progress reports to be submitted to ADB.

16. Without limiting the generality of the foregoing, the Borrower shall provide, or cause DABM to provide, on an annual basis, funds sufficient for the operation and maintenance (O&M) of the Project facilities, and shall cause DABM to operate and maintain

the Project facilities in accordance with all national safety and O&M guidelines, including safe storage of construction, rehabilitation and maintenance materials to prevent contamination of soil and water with fuel, lubricants and any hazardous materials.

Social Safeguards

17. The Borrower shall ensure and cause DABM to ensure that all activities under the Afghan Component are carried out in full compliance with all applicable laws and regulations of the Borrower, and ADB's *Policy on Involuntary Resettlement (1995)* and the Resettlement Plan (RP) updated based upon the detailed technical design and in full consultation with affected people. The updated RP shall be submitted to ADB for review and approval. The updated RP shall be disclosed to affected people prior to the submission of ADB.

18. The Borrower shall not issue any notice to proceed to a contractor until (a) the compensation program as detailed in the updated RP has been fully implemented to the satisfaction of ADB, and (b) the demining agency selected under the Project has certified that the construction site had been cleared from any unexploded ordnance.

19. The Borrower shall ensure that all contractors (i) comply with all applicable labor laws; (ii) use their best efforts to employ women and local people negatively affected by, or living in the vicinity of, the project; (iii) disseminate information at worksites on the risks of sexually transmitted diseases and HIV/AIDS for those employed during construction, (iv) are required not to differentiate between men and women's wages or benefits for work of equal value; and (v) abstain from using child labor.

Performance Monitoring and Progress Review

20. The Project Executing Agency shall establish, within six (6) months of the Effective Date, a comprehensive project performance management system, within the PIU, to monitor and evaluate the implementation progress, including review and assessment of progress towards achieving the Project outcome and delivering Project outputs under the Afghan Component.

21. ADB together with the Borrower, DABM, and the cofinancier, as appropriate shall undertake an in-depth midterm review in year 2008. Representatives of the project executing agency for the Tajik Component shall be invited to participate in the midterm review. The review shall focus on relevant institutional, administrative, organizational, technical, environmental, social, economic, financial and other aspects that may have an impact on the performance of the Project and its continuing viability. The midterm review shall include a review of progress in the regional power trade activities.