
LOAN NUMBER 2375-BAN(SF)

TECHNICAL ASSISTANCE LOAN AGREEMENT
(Special Operations)

(Padma Multipurpose Bridge Design Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 12 DECEMBER 2007

LAS: BAN 35049

LOAN AGREEMENT (Special Operations)

LOAN AGREEMENT dated 12 December 2007 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 the Project described in Schedule 1 to this Loan Agreement;

(B) the Project will be carried out by Jamuna Multi-purpose Bridge Authority ("JMBA"), and for this purpose the Borrower will make available to JMBA the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; and

(C) 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 JMBA;

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.

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) "CE" means the checking engineer referred to in paragraph 4 of Schedule 5 to this Loan Agreement;

(b) "Consulting Guidelines" means ADB's Guidelines on the Use of Consultants by Asian Development Bank and Its Borrowers (2007, as amended from time to time);

(c) "DC" means the design consultants referred to in paragraph 3 of Schedule 5 to this Loan Agreement;

(d) "JMBA Ordinance" means Jamuna Multipurpose Bridge Authority Ordinance, 1985 (Ordinance No. XXXIV of 1985), as amended or supplemented from time to time;

(e) "Padma Multipurpose Bridge" means a bridge across the Padma River that will connect Mawa and Janjira;

(f) "Padma Multipurpose Bridge Investment Project" means a project under which Padma Multipurpose Bridge will be constructed;

(g) "PIU" means the Project Implementation Unit established for the implementation of the Project as more particularly described in paragraph 2 of Schedule 5 to this Loan Agreement;

(h) "POE" means the panel of experts referred to in paragraph 5 of Schedule 5 to this Loan Agreement;

(i) "Procurement Plan" means the procurement plan for the Project dated 9 November 2007 and agreed between JMBA and ADB, as updated from time to time in accordance with Consulting Guidelines, and other arrangements agreed with ADB;

(j) "Project Executing Agency" for the purposes of, and within the meaning of, the Loan Regulations means JMBA, which is responsible for the carrying out of the Project;

(k) "Project facilities" means the equipment and facilities to be constructed, rehabilitated or otherwise provided under the Project; and

(l) "Subsidiary Loan Agreement" means an agreement whereby the Borrower relends the proceeds of the Loan to JMBA for the purposes of execution of the Project, as more specifically described in Section 3.01 (a) of this Loan Agreement.

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 eleven million one hundred seventy-nine thousand Special Drawing Rights (SDR 11,179,000).

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 1 June and 1 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 JMBA under a Subsidiary Loan Agreement upon terms and conditions satisfactory to ADB.

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

Section 3.02. 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 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 consulting services shall be made only on account of expenditures relating to 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 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 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 31 August 2010 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement.

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

Section 4.03. The Borrower shall take all action which shall be necessary on its part to enable JMBA to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.04. (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 accomplish the purpose of the Loan.

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

ARTICLE V

Suspension; Cancellation; Acceleration of Maturity

Section 5.01. The following is specified as an additional event for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 8.01(m) of the Loan Regulations: the JMBA Ordinance or any provision thereof shall have been repealed, suspended or amended in any manner which in the reasonable opinion of ADB will or may adversely affect the carrying out of the Project 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: the event specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

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

(a) the Cabinet of the Borrower shall have approved a restructuring of JMBA whereby (i) the secretary of the bridge division under the Ministry of Communications of the Borrower dealing JMBA shall head JMBA as the executive director and (ii) a separate land acquisition, resettlement and environment unit shall have been established and supported by capable quality staff resources; and

(b) the Subsidiary Loan Agreement, in form and substance satisfactory to ADB, shall have been duly executed and delivered on behalf of the Borrower and JMBA, and shall have become effective and binding upon the Borrower and JMBA in accordance with its 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: the Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and JMBA, and is legally binding upon the Borrower and JMBA 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 JMBA 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, under paragraph 6 of Schedule 3 to 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 JMBA 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 JMBA 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 Economic Relations Division of the Borrower's Ministry of Finance 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

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

Facsimile Number:

+880 2 811 3088.

For ADB


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

Facsimile Numbers:


+63 2 636 2444
+63 2 636 2336.

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 Project

Impact and Outcome

1. The Project's impact is expected to be the preparation of the Padma Multipurpose Bridge Investment Project. The Project's outcome is expected to be completion of detailed design of the Padma Multipurpose Bridge and the auxiliary works for construction and operation of the Padma Multipurpose Bridge.

Scope

2. The Project consists of the following:
- (i) development of various scheme design options for construction and operations of the Padma Multipurpose Bridge and its auxiliary facilities;
 - (ii) study and assessment of technical and commercial aspect of the Padma Multipurpose Bridge and its auxiliary facilities;
 - (iii) selection of the most suitable scheme design and preparation of detailed engineering design; and
 - (iv) assistance to JMBA for the successful tendering of all contracts in relation to the Padma Multipurpose Bridge Investment Project, including advance procurement under Padma Multipurpose Bridge Investment Project.
3. The Project is expected to be completed by 28 February 2010.

SCHEDULE 2

Amortization Schedule

(Padma Multipurpose Bridge Design Project)

<u>Date Payment Due</u>		<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
1 June	2016	232,896
1 December	2016	232,896
1 June	2017	232,896
1 December	2017	232,896
1 June	2018	232,896
1 December	2018	232,896
1 June	2019	232,896
1 December	2019	232,896
1 June	2020	232,896
1 December	2020	232,896
1 June	2021	232,896
1 December	2021	232,896
1 June	2022	232,896
1 December	2022	232,896
1 June	2023	232,896
1 December	2023	232,896
1 June	2024	232,896
1 December	2024	232,896
1 June	2025	232,896
1 December	2025	232,896
1 June	2026	232,896
1 December	2026	232,896
1 June	2027	232,896
1 December	2027	232,896
1 June	2028	232,896
1 December	2028	232,896
1 June	2029	232,896
1 December	2029	232,896
1 June	2030	232,896
1 December	2030	232,896
1 June	2031	232,896
1 December	2031	232,896
1 June	2032	232,896
1 December	2032	232,896
1 June	2033	232,896
1 December	2033	232,896

<u>Date Payment Due</u>		<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
1 June	2034	232,896
1 December	2034	232,896
1 June	2035	232,896
1 December	2035	232,896
1 June	2036	232,896
1 December	2036	232,896
1 June	2037	232,896
1 December	2037	232,896
1 June	2038	232,896
1 December	2038	232,896
1 June	2039	232,896
1 December	2039	232,888
Total		11,179,000

* 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 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 4 is for financing the interest charge on the Loan during the implementation period of the Project.

Reallocation

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

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, in consultation with the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB and the Borrower, 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, in consultation with the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds for financing consulting services and other items 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.

Imprest Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower shall establish immediately after the Effective Date, an imprest account at the Bangladesh Bank or any

commercial bank nominated by the Bangladesh Bank or the Ministry of Finance, and acceptable to ADB. The imprest account shall be established, managed, replenished and liquidated in accordance with ADB's Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB. The currency of the imprest account shall be Dollar. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the estimated expenditure on Category 3 for the first six months of Project implementation, or (ii) the equivalent of ten (10) percent of the Loan proceeds allocated to Category 3.

(b) The statement of expenditures (SOE) procedure may be used for reimbursement of eligible expenditures for the Project and to liquidate advances provided into the imprest account, in accordance with ADB's Loan Disbursement Handbook and, if any, detailed arrangements agreed upon between the Borrower and ADB. Any individual payment to be reimbursed under the SOE procedure shall not exceed the equivalent of \$3,000.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Padma Multipurpose Bridge Design Project)			
CATEGORY			ADB FINANCING
Number	Item	Amount Allocated (SDR) Category	Percentage and Basis for Withdrawal from the Loan Account
1	Detailed Design Consultants	9,274,000	100% of total expenditure*
2	Checking Engineer and Panel of Experts	1,715,000	100 % of total expenditure*
3	Incremental Administrative Support	63,000	20% of total expenditure*
4	Financing Charges During Implementation	127,000	100% of amount due
	Total	11,179,000	

* Exclusive of local taxes

SCHEDULE 4**Procurement of Consulting Services****A. General**

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

B. Selection of Consulting Services

3. Recruitment by ADB. The Borrower and ADB agree that ADB shall carry out consultant selection process for the DC on behalf of the Borrower while the Borrower shall be responsible for final contract negotiations and contract signing.
4. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging consulting services.
5. The Borrower's Public Procurement Regulations 2003 for selecting and engaging consultants may be used for selecting and engaging individual consultants for POE subject to the modifications set out in the Procurement Plan.

C. Industrial or Intellectual Property Rights .

6. 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.

D. ADB's Review of Procurement Decisions

7. All contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

I. Project Implementation and Monitoring

Project Executing Agency

1. JMBA shall be the Project Executing Agency and, among other things, shall be responsible for withdrawal of Loan proceeds and reporting to ADB.

PIU

2. JMBA shall establish the PIU for (i) monitoring the process of day to day Project implementation, (ii) provision of assistance to the DC in carrying out the DC's tasks, (iii) coordinating Project activities and functions of the CE and the POE, (iv) processing withdrawal of Loan proceeds, (v) preparation of Project progress and status reports, and (vi) maintenance of accounts and accounting records of the Project. The PIU shall consist of a Project Director, a Deputy Project Director, Project engineers as required, a finance and accounting officer, and an administrative officer.

DC

3. JMBA shall engage a team of consultants as the DC for preparation of scheme designs, implementation of technical studies, development of detailed engineering design and tender documents for the Padma Multipurpose Bridge Investment Project. In addition, the DC shall assist JMBA in undertaking tender actions including contractors' prequalification, preparation of selection criteria, tender evaluation and final contract documentation.

CE

4. JMBA shall engage a team of consultants independent of the PIU as the CE and cause the CE to ensure compliance of the design criteria, specifications, drawings and other related documents with the Project objectives. The terms of reference of the CE shall be developed by the DC and the qualification of the candidates of the CE shall be reviewed by the POE.

POE

5. JMBA shall establish the POE outside the PIU to independently monitor and provide advice and guidance on Project implementation. POE shall consist of internationally recognized individual experts/consultants with such skills as bridge engineering, structural engineering, highway engineering, and structuring and financing concessions. JMBA shall select such experts/consultants from a short list prepared by JMBA and approved by ADB..

II. Social and Environmental Issues

Environment

6. The Borrower shall ensure that JMBA shall prepare, with adequate public consultation with affected people, an environmental impact assessment (EIA), which shall include an environmental management plan (EMP), in accordance with the environmental assessment requirements of the Borrower and ADB. The Borrower shall ensure that the environmental concerns of affected people will be addressed in the Project design.

Resettlement and Land Acquisition

7. The Borrower shall ensure that a resettlement plan for Padma Multipurpose Bridge Investment Project shall be prepared based on detailed design of the Project and in accordance with the requirements of ADB's Policy on Involuntary Resettlement (1995) and Policy on Indigenous Peoples (1998), and laws and regulations of the Borrower. The Borrower shall also prepare a land acquisition plan. The resettlement plan and land acquisition plan shall be submitted to ADB for approval.

8. The Borrower shall ensure that land acquisition and resettlement for the Padma Multipurpose Bridge Investment Project shall be implemented in accordance with the requirements of ADB's Policy on Involuntary Resettlement (1995) and Policy on Indigenous Peoples (1998), and laws and regulations of the Borrower, as set out in the resettlement plan and/or the land acquisition plan agreed upon between ADB and the Borrower, which shall include (a) compensation and entitlements to affected people, (b) timely provision of funds and disbursements to affected people, (c) adequate supervision, monitoring, and reporting by the JMBA, (d) adequate information dissemination and consultation with affected people, (f) regular reporting of progress to ADB and (g) establishment of a grievance redress committee in each union where land acquisition will take place. A grievance redress committee shall consist of (i) a representative from JMBA at the level of deputy/assistant director, (ii) the area manager of nongovernmental organization concerned, (iii) the Chairperson of the Union Parishad where the complaint is registered, (iv) a representative from affected people, (v) a woman member of the Union Parishad, (vi) a representative from concerned deputy commissioner's office, and (vii) a headmaster of local high/primary school. The grievance redress committee shall be entitled to give a verdict regarding a Project specific definition of entitlements and entitled persons.

Other Social Issues

9. The Borrower shall ensure that all civil works procurement documents to be prepared under the Project shall incorporate provisions and budget to the effect that contractors (a) comply with all applicable labor laws and related international treaty obligations; (b) do not employ child labor, as defined under Bangladesh laws; (c) provide safe and proper working conditions for male and female workers; (d) do not differentiate between wages of male and female workers for work of equal value, (e) implement the provisions set forth in the Gender Action Plan prepared for the Project; and (f) carry out HIV/AIDS and human trafficking awareness campaigns in the campsites and corridors of influence.

III. Other Issues

Construction Supervision

10. The Borrower shall adopt Fédération Internationale des Ingénieurs-Conseils (FIDIC) mechanism for construction supervision. All design and construction contracts shall adopt standard FIDIC forms of contract to be applied without modifying normal responsibilities of contract parties.

Operation and Maintenance Scheme

11. The Borrower shall develop a technically and financially sustainable operation and maintenance scheme applicable to major bridges including the Padma Multipurpose Bridge.

Accounts and Audit

12. Without prejudice to Section 2.09 of the Project Agreement, consolidated accounts for the Project and related financial statements shall be audited annually by private sector auditors acceptable to ADB in addition to audits conducted by the Borrower's comptroller and the auditor general.

Reports

13. JMBA shall submit or cause to submit monthly progress reports including the status of land acquisition and resettlement, and other activities that will take place concurrently with the Project implementation.

Project Reviews

14. ADB shall conduct periodic reviews and a midterm review early 2009 to review the progress of the Project and undertake any necessary midcourse corrections. In addition, ADB shall conduct special reviews as appropriate. The Borrower shall give all possible assistance for carrying out such reviews.