
LOAN NUMBER 2333-BAN(SF)

LOAN AGREEMENT
(Special Operations)
(Sustainable Power Sector Development Project)

between

PEOPLE'S REPUBLIC OF BANGLADESH

and

ASIAN DEVELOPMENT BANK

DATED 28 JUNE 2007

LAS: BAN 36107

LOAN AGREEMENT (Special Operations)

LOAN AGREEMENT dated 28 June 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 Borrower has also applied to ADB for a loan from its Special Funds resources for the purpose of the Program described in Schedule 1 to the Program Loan Agreement referred to in Recital (D) (hereinafter called the Program);

(C) the Borrower has also applied to ADB for a loan from its ordinary capital resources for the purpose of the Project described in Schedule 1 to the Ordinary Operations Project Loan Agreement referred to in Recital (E) (hereinafter called the Ordinary Operations Project);

(D) by agreement of even date herewith between the Borrower and ADB (hereinafter called the Program Loan Agreement), ADB has agreed to lend to the Borrower from ADB's Special Funds resources an amount in various currencies equivalent to forty million four hundred fifty thousand Special Drawing Rights (SDR 40,450,000) for the purpose of the Program (hereinafter called the Program Loan);

(E) by agreement of even date herewith between the Borrower and ADB (hereinafter called the Ordinary Operations Project Loan Agreement), ADB has agreed to lend to the Borrower from ADB's ordinary capital resources an amount of four hundred million dollars (\$400,000,000) for the purpose of the Ordinary Operations Project (hereinafter called the Ordinary Operations Project Loan); and

(F) 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) "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;

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

(c) "MPEMR" means the Borrower's Ministry of Power, Energy, and Mineral Resources and any successor thereto;

(d) "Project" means project as described in Schedule 1 to this Loan Agreement;

(e) "Project Director" means the head of the PMU (defined below) as referred to in paragraph 2 of Schedule 5 to this Loan Agreement;

(f) "Project Executing Agency" for the purposes of and within the meaning of the Loan Regulations, means the Power Division of MPEMR which is responsible for the carrying out of the Project;

(g) "PMU" means the Project Management Unit as referred to in paragraph 2 of Schedule 5 to this Loan Agreement;

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

(i) "Procurement Plan" means the procurement plan for the Project dated 26 September 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.

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 three million three hundred seventy one thousand Special Drawing Rights (SDR 3,371,000).

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 February and 1 August in each year.

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

Section 2.05. The currency of repayment of the principal of the Loan and the currency of payment of the interest charge for the purposes of Sections 4.03(a) and 4.04 of the Loan Regulations shall be Dollar.

ARTICLE III

Use of Proceeds of the Loan

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

Section 3.02. The Goods, Works, 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, 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. 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 3.04. 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 consulting 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 3.05. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 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. (a) The Borrower shall (i) maintain, or cause to be maintained, separate accounts for the Project; (ii) have such accounts 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), 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, the Goods and Works financed out of the proceeds of the Loan, and any relevant records and documents.

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 shall have failed to perform any of its obligations under the Program Loan Agreement; and
- (b) the Borrower shall have failed to perform any of its obligations under the

Ordinary Operations Project Loan Agreement.

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 Program Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and all conditions precedent to its effectiveness (other than conditions requiring the effectiveness of this Loan Agreement and the Ordinary Operations Project Loan Agreement) shall have been fulfilled; and

(b) the Ordinary Operations Project Loan Agreement shall have been duly executed and delivered on behalf of the Borrower, and all conditions precedent to its effectiveness (other than conditions requiring the effectiveness of this Loan Agreement and the Program Loan Agreement) shall have been fulfilled.

Section 6.02. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 9.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Secretary, or any Additional Secretary, Joint Secretary, Deputy Secretary, Deputy Chief, Senior Assistant Secretary, Senior Assistant Chief, Assistant Secretary or Assistant Chief of Economic Relations Division, Ministry of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 11.02 of the Loan Regulations.

Section 7.02. 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

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2391.

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 _____
Authorized Representative

ASIAN DEVELOPMENT BANK

By _____

SCHEDULE 1**Description of the Project**

1. The objective of the Project is to support capacity development of power sector entities, through enhancing institutional resources of the power sector to improve utility performance and promote sustainable operations.
2. The Project consists of the preparation and implementation of a detailed capacity development program for the power sector entities including:
 - (i) corporate and financial management;
 - (ii) information and communication technology;
 - (iii) enhancement of technical expertise;
 - (iv) long-term system planning and preparation of future projects;
 - (v) good governance;
 - (vi) customer relations;
 - (vii) research and development;
 - (viii) human resource development; and
 - (ix) training and fellowships.
3. The Project is expected to be completed by 31 December 2009.

SCHEDULE 2

Amortization Schedule (Sustainable Power Sector Development Project)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
01-Feb-2015	70,229.00
01-Aug-2015	70,229.00
01-Feb-2016	70,229.00
01-Aug-2016	70,229.00
01-Feb-2017	70,229.00
01-Aug-2017	70,229.00
01-Feb-2018	70,229.00
01-Aug-2018	70,229.00
01-Feb-2019	70,229.00
01-Aug-2019	70,229.00
01-Feb-2020	70,229.00
01-Aug-2020	70,229.00
01-Feb-2021	70,229.00
01-Aug-2021	70,229.00
01-Feb-2022	70,229.00
01-Aug-2022	70,229.00
01-Feb-2023	70,229.00
01-Aug-2023	70,229.00
01-Feb-2024	70,229.00
01-Aug-2024	70,229.00
01-Feb-2025	70,229.00
01-Aug-2025	70,229.00
01-Feb-2026	70,229.00
01-Aug-2026	70,229.00
01-Feb-2027	70,229.00
01-Aug-2027	70,229.00
01-Feb-2028	70,229.00
01-Aug-2028	70,229.00
01-Feb-2029	70,229.00
01-Aug-2029	70,229.00
01-Feb-2030	70,229.00
01-Aug-2030	70,229.00
01-Feb-2031	70,229.00
01-Aug-2031	70,229.00
01-Feb-2032	70,229.00
01-Aug-2032	70,229.00
01-Feb-2033	70,229.00
01-Aug-2033	70,229.00
01-Feb-2034	70,229.00
01-Aug-2034	70,229.00

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
01-Feb-2035	70,229.00
01-Aug-2035	70,229.00
01-Feb-2036	70,229.00
01-Aug-2036	70,229.00
01-Feb-2037	70,229.00
01-Aug-2037	70,229.00
01-Feb-2038	70,229.00
01-Aug-2038	<u>70,237.00</u>
TOTAL	<u><u>3,371,000.00</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, Works, 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 3 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, 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.

Disbursements

5. Except as ADB may otherwise agree, disbursements for financing all Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be in accordance with ADB's "Loan Disbursement Handbook" dated January 2001, as amended from time to time, and ADB's commitment letter and direct payment procedures shall be used for disbursement of payments.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Sustainable Power Sector Development Project)			
CATEGORY			ADB FINANCING
Number	Item	Amount Allocated [SDR] Category	Percentage and Basis for Withdrawal from the Loan Account
1	Equipment	337,000	100 percent of foreign expenditure
2	Training/Fellowships and Consulting Services	2,629,,000	100 percent of foreign expenditure
3	Interest Charge	41,000	100 percent of amount due*
4	Unallocated	364,000	
	Total	3,371,000	

*Exclusive of local taxes and duties

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods, 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

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

International Competitive Bidding
National Competitive Bidding

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.

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.
5. National Competitive Bidding. No NCB procurement activity may be undertaken unless ADB and the Borrower have agreed in writing on any necessary modifications or clarifications to the Borrower's Public Procurement Regulations 2003 to ensure consistency with ADB's Procurement Guidelines. Any such modifications or clarifications shall be subsequently reflected in the Procurement Plan and are hereby incorporated by reference to this Loan Agreement.

C. Selection 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 selecting and engaging consulting services.

D. 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.

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.

E. 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 Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Other Matters

Project Implementation Arrangement

1. Power Division of the Borrower's Ministry of Power, Energy and Mineral Resources (MPEMR) shall be the Project Executing Agency.
2. The Borrower shall cause MPEMR to establish a Project Management Unit (PMU) headed by a full-time Project Director. The Project Director shall be directly responsible for (a) coordination of the activities under the Project; and (b) overall Project implementation, monitoring, supervision and reporting. The Project Director shall report to MPEMR. The Project Director shall be supported by a team including, at least, a procurement specialist, a transmission specialist, a distribution specialist, a generation specialist and sufficient administrative staff. The team shall be supplemented by consultants as required.

Counterpart Funds

3. The Borrower shall ensure that throughout the implementation of the Project, adequate allocations of the required counterpart funds are made, approved and released in a timely manner in order to ensure proper implementation of the Project.

Needs Assessment

4. Within four months of the Effective Date, the Borrower shall cause MPEMR to prepare and submit to ADB the needs assessment as referred to in Schedule 1 to this Loan Agreement. MPEMR shall incorporate ADB's comment to the design of the capacity development program and shall start the implementation of the Project following the areas of priority identified in the needs assessment.

Gender

5. The Borrower shall ensure that women participants are included in all training and fellowship courses financed by the Project.

Project Performance Management System (PPMS)

6. Within six months the Effective Date, the Borrower shall cause MPEMR to establish comprehensive PPMS acceptable to ADB. The PPMS shall carry out performance monitoring and reviews during Project implementation, to evaluate the scope, implementation arrangements, benefit monitoring, progress, and achievement of the objectives of the Project. PPMS indicators shall serve as a basis for reports on Project implementation.

Project Monitoring

7. MPEMR shall prepare quarterly progress reports to be submitted to ADB within 20 days at the end of each quarter. Such progress report shall include a financial account for the Project.

Project Review

8. ADB shall review the implementation and operation of the Project based on the MPEMR quarterly progress reports. ADB and MPEMR shall jointly undertake semiannual reviews of the Project to discuss implementation progress. Within twenty-four months of the Effective Date, MPEMR and ADB shall undertake a midterm review of the Project. During the midterm review, ADB and MPEMR shall (i) review the scope, design, and implementation arrangements of the Project; (ii) identify changes needed since the time of the Project appraisal; (iii) assess implementation performance against Project performance indicators; (iv) review and establish compliance with legal covenants; and (v) identify problems and constraints. The results of the midterm review shall be discussed by MPEMR and ADB and if required, appropriate corrective measures shall be formulated to ensure successful Project implementation and achievement of the Project objectives.