
LOAN NUMBER 2865-BAN

LOAN NUMBER 2866-BAN(SF)

PROJECT AGREEMENT

(Financing Brick Kiln Efficiency Improvement Project)

between

ASIAN DEVELOPMENT BANK

and

BANGLADESH BANK

DATED 20 JUNE 2012

BAN 45273

PROJECT AGREEMENT

PROJECT AGREEMENT dated 20 June 2012 between ASIAN DEVELOPMENT BANK ("ADB") and BANGLADESH BANK

WHEREAS

(A) by a loan agreement of even date herewith between the People's Republic of Bangladesh ("Borrower") and ADB ("Ordinary Operations Loan Agreement"), ADB has agreed to make to the Borrower a loan in the amount of thirty million Dollars (US\$30,000,000) ("Ordinary Operations Loan") on the terms and conditions set forth in the Ordinary Operations Loan Agreement;

(B) by a loan agreement of an even date herewith between the Borrower and ADB ("Special Operations Loan Agreement", and together with the Ordinary Operations Loan Agreement, "Loan Agreements"), ADB has agreed to make to the Borrower a loan in various currencies equivalent to twelve million nine hundred seventy-two thousand Special Drawing Rights (SDR12,972,000) (together with the Ordinary Operations Loan, the "Loans") on the terms and conditions set forth in the Special Operations Loan Agreement; and

(C) Bangladesh Bank, in consideration of ADB entering into the Loan Agreements with the Borrower, has agreed to undertake the obligations set forth herein;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.01. (a) Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreements and in the loan regulations applicable to the Loan Agreements have the respective meanings therein set forth.

ARTICLE II

Use of Proceeds of the Loans

Section 2.01. (a) Bangladesh Bank shall relend the proceeds of the Loans, in Taka equivalent, to the PFIs pursuant to Participation Agreements upon terms and conditions acceptable to ADB. Except as ADB may otherwise agree, each Participation Agreement shall include the provisions set out in paragraph 4 of Schedule 3 to the Special Operations Loan Agreement and any other provisions which a prudent lender would request.

(b) Except as ADB may otherwise agree, Bangladesh Bank shall ensure that the proceeds of the Loans are (i) only used for Subloans to Qualified Enterprises for Qualified Subprojects in accordance with the provisions of the Loan Agreements and this Project Agreement, and (ii) applied exclusively to the cost of Goods and Works required to carry out such Qualified Subprojects.

(c) Except as ADB may otherwise agree, Bangladesh Bank shall ensure that all Goods and Works are procured in accordance with the provisions of Schedule 2 to the Special Operations Loan Agreement.

Section 2.02. (a) Whenever Bangladesh Bank proposes that a PFI makes a Subloan exceeding the equivalent of \$2,000,000 or such other sum as shall from time to time be agreed between ADB and Bangladesh Bank, Bangladesh Bank shall submit to ADB an application for approval of such onlending. Such application shall be in a form satisfactory to ADB and shall contain a description and appraisal of the Qualified Subproject, the terms and conditions of the proposed Subloan and such other information as ADB shall reasonably request. A Subloan shall be deemed to exceed the equivalent of the amount specified in or agreed pursuant to this subsection if the amount of such Subloan, when added to the amount of any other Subloan or Subloans previously made or authorized for the same Qualified Subproject, exceeds the equivalent of the amount so specified or agreed.

Section 2.03. Without limiting the foregoing provisions of this Project Agreement and in addition to any other provisions which a prudent lender would request, Bangladesh Bank shall ensure, and require the PFIs to ensure, that each Subloan agreement includes provisions to the effect that:

- (i) the Qualified Enterprise shall carry out and operate the Qualified Subproject with due diligence and efficiency and in accordance with sound applicable technical, financial, business and development practices, including maintenance of adequate accounts and records;
- (ii) the proceeds of the Loans shall be used only for procurement in member countries of ADB, in accordance with procedures acceptable to ADB, of Goods which are produced in and supplied from, and Works which are supplied from, such countries;
- (iii) the Goods and Works shall be used exclusively in the carrying out of the Qualified Subproject;
- (iv) ADB, Bangladesh Bank and the PFI shall each have the right to inspect the Goods and Works, the Qualified Enterprise, the Qualified Subproject and any relevant records and documents;
- (v) the Qualified Enterprise shall take out and maintain with responsible insurers insurance against such risks and in such amounts as shall be consistent with sound business practice, and without any limitation upon the foregoing, such insurance shall cover hazards incident to the acquisition, transportation and delivery of Goods to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods;

- (vi) ADB, Bangladesh Bank and the PFI shall each be entitled to obtain all such information as each shall reasonably request relating to the Subloan, the Goods and Works, the Qualified Subproject, the Qualified Enterprise and other related matters; and
- (vii) the PFI shall be entitled to suspend or terminate further access by the Qualified Enterprise to the use of proceeds of the Subloan, and demand immediate repayment of any outstanding balance under the Subloan agreement, upon failure by the Qualified Enterprise to perform its obligations under its agreement with the PFI.

Section 2.04. (a) Bangladesh Bank shall promptly and effectively exercise its rights in relation to each PFI in accordance with the standards of a prudent lender and in such manner as to protect the interests of the Borrower, Bangladesh Bank and ADB.

(b) Bangladesh Bank shall cause each PFIs to promptly and effectively exercise its rights in relation to each Qualified Enterprise to which it has extended a Subloan in accordance with the standards of a prudent lender and in such manner as to protect the interests of the Borrower, Bangladesh Bank and ADB.

ARTICLE III

Particular Covenants

Section 3.01. (a) Bangladesh Bank shall carry out the Project with due diligence and efficiency and in conformity with sound applicable technical, financial, business and development practices.

(b) In the carrying out of the Project, (i) Bangladesh Bank shall perform all the obligations set forth in the Loan Agreements and this Project Agreement, and (ii) cause the PFIs to perform their obligations under the Participation Agreement.

Section 3.02. Bangladesh Bank shall at all times make adequate provision to protect itself against any loss resulting from changes in the rate of exchange between Taka and the currency or currencies in which Bangladesh Bank's outstanding money obligations will have to be met.

Section 3.03. (a) Bangladesh Bank shall not onlend any proceeds of the Loans to any PFI unless such PFI meets all the selection and eligibility criteria set out in the Special Operations Loan Agreement.

(b) Bangladesh Bank shall not approve a Subloan to a Qualified Enterprise unless the Qualified Enterprise has at its disposal, or has made appropriate arrangements to obtain as and when required, all other local currency funds, including adequate working capital, and other resources which are required for the carrying out of the Qualified Subproject in respect of which the Subloan is made.

Section 3.04. Bangladesh Bank shall maintain records and accounts adequate to record the progress of the Project, each PFI and of each Qualified Subproject (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, the operations and financial condition of Bangladesh Bank.

Section 3.05. (a) ADB and Bangladesh Bank shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) Bangladesh Bank shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations under this Project Agreement, the Administration Agreement, any Participation Agreement, or the accomplishment of the purposes of the Loan.

(c) ADB and Bangladesh Bank shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, Bangladesh Bank and the Loan.

Section 3.06. (a) Bangladesh Bank shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loans and the expenditure of the proceeds thereof; (ii) the Project; (iii) the PFIs, the Qualified Enterprises, the Qualified Subprojects and the Subloans; (iv) the administration, operations and financial condition of Bangladesh Bank and the PFIs; and (v) any other matters relating to the purposes of the Loans.

(b) Without limiting the generality of the foregoing, Bangladesh Bank shall furnish to ADB periodic reports on the execution of the Project and on the operation and management of Bangladesh Bank. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the period under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following period.

(c) Promptly after the Loan Closing Date, but in any event not later than 3 months after the said closing date or such later date as ADB may agree for this purpose, Bangladesh Bank shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the utilization of the Loans, the performance of the PFIs, the execution of the Qualified Subprojects, their costs, the performance by Bangladesh Bank of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 3.07. (a) Bangladesh Bank shall have its accounts and 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 shall, promptly after their preparation but in any event not later than 6 months after the close of the fiscal year to which they relate, furnish to ADB (i) certified copies of such audited accounts and financial statements and (ii) the report of the auditors relating thereto (including the auditors' opinion on the use of proceeds of the Loans and compliance with the financial covenants of the Loan Agreements as well as on the use of the procedures for imprest account and statement of expenditures), all in the English language.

Bangladesh Bank 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) Bangladesh Bank shall enable ADB, upon ADB's request, to discuss Bangladesh Bank's financial statements and its financial affairs from time to time with the auditors appointed by Bangladesh Bank pursuant to subsection (a) hereinabove, 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 Bangladesh Bank unless Bangladesh Bank shall otherwise agree.

Section 3.08. Bangladesh Bank shall enable, and cause the PFIs to enable, ADB's representatives to inspect any PFI, Qualified Enterprise, Qualified Subproject, the Goods and Works, and any relevant records and documents.

Section 3.09. (a) Bangladesh Bank shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its business.

(b) Bangladesh Bank shall at all times conduct its business in accordance with sound applicable technical, financial, and business practices, and under the supervision of competent and experienced management and personnel.

(c) Except as ADB may otherwise agree, Bangladesh Bank shall not sell, lease or otherwise dispose of any of its Project related assets which shall be required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Project Agreement.

Section 3.10. Except as ADB may otherwise agree, Bangladesh Bank shall duly perform all of its obligations under the Administration Agreement and the Participation Agreements, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Administration Agreement and any Participation Agreement.

Section 3.12. Bangladesh Bank shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its constitutional documents, which, if implemented, could adversely affect the carrying out of the Project or the operation of the Project facilities. Bangladesh Bank shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative action thereon.

ARTICLE IV

Effective Date; Termination

Section 4.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreement comes into force and effect. ADB shall promptly notify Bangladesh Bank of such date.

Section 4.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which both Loan Agreements shall have terminated in accordance with their terms.

Section 4.03. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreements.

ARTICLE V

Miscellaneous

Section 5.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand, mail or facsimile to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2377.

For Bangladesh Bank

Agricultural Credit and Financial Inclusion Department
Bangladesh Bank, Head Office
Motijheel C/A, Dhaka 1000

Facsimile Number:

(880) 2 7119499.

Section 5.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement by or on behalf of Bangladesh Bank may be taken or executed by its Governor or by such other person or persons as he shall so designate in writing notified to ADB.

(b) Bangladesh Bank shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, together with the authenticated specimen signature of each such person.

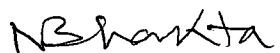
Section 5.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

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

ASIAN DEVELOPMENT BANK

By 
M. TERESA KHO
Country Director
Bangladesh Resident Mission

BANGLADESH BANK

By 
NIRMAL CHANDRA BHAKTA
General Manager