
LOAN NUMBER 3329-PAK (SF)

LOAN AGREEMENT
(Special Operations)

(Second Power Distribution Enhancement Investment Program - Project 1)

between

ISLAMIC REPUBLIC OF PAKISTAN

and

ASIAN DEVELOPMENT BANK

DATED 19th November 2016

PAK 47190

**LOAN AGREEMENT
(Special Operations)**

LOAN AGREEMENT dated 19th November 2016 between the ISLAMIC REPUBLIC OF PAKISTAN ("Borrower") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by a framework financing agreement dated 13 February 2015 between the Borrower and ADB, ADB has agreed to provide a multitranche financing facility to the Borrower for purposes of financing projects under the Second Power Distribution Enhancement Investment Program;

(B) by a periodic financing request dated 19 February 2015, the Borrower has applied to ADB for (i) a loan from ADB's ordinary capital resources and (ii) a loan from ADB's Special Funds resources for the purposes of the Project described in Schedule 1 to the Ordinary Operations Loan Agreement;

(C) by an agreement between the Borrower and ADB, ADB has agreed to lend to the Borrower from ADB's ordinary capital resources an amount of three hundred eighty million Dollars (\$380,000,000) for the purposes of the Project;

(D) the Project will be implemented by the DISCO, namely, FESCO, GEPCO, HESCO, IESCO, LESCO, MEPCO, PESCO, QESCO and SEPCO, and for this purpose the Borrower will make available to IESCO and LESCO the proceeds of the Ordinary Operations Loan, and to the DISCO the proceeds of the loan provided for herein, upon terms and conditions satisfactory to ADB; and

(E) 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 the DISCO;

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 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(25) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB and the DISCO.

- (b) The term "Project Executing Agency" appearing in Sections 6.01(a), 8.01(d), 8.01(f), 8.01(k), 9.01(c) and 9.02(c) of the Loan Regulations shall be substituted by the term "DISCO".

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations and in the Ordinary Operations Loan Agreement have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:

(a) "Ordinary Operations Loan" means the loan referred to in recital (C) of this Loan Agreement;

(b) "Ordinary Operations Loan Agreement" means the agreement referred to in recital (C) of this Loan Agreement; and

(c) "Relending Agreement" means any of the agreements between the Borrower and a DISCO referred to 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 fourteen million two hundred eight thousand Special Drawing Rights (SDR 14,208,000).

Section 2.02. (a) The Borrower shall pay to ADB an interest charge at the rate of 2% per annum during the grace period and 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 subsection (a) hereinabove means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 1 to this Loan Agreement.

Section 2.03. The interest charge and any other charge on the Loan shall be payable semiannually on 15 April and 15 October 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 1 to this Loan Agreement.

Section 2.05. The currency of repayment of the principal amount 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 the DISCO under Relending Agreements upon terms and conditions satisfactory to ADB.

(b) 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 and the Project Agreement.

Section 3.02. The proceeds of the Loan shall be allocated and withdrawn in accordance with the provisions of Schedule 2 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, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 3 to this Loan Agreement.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all items of expenditure financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. Withdrawals from the Loan Account in respect of Consulting Services shall be made only on account of expenditures relating to:

- (a) 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) Consulting Services which meet such other eligibility requirements as shall have been specified by ADB from time to time.

Section 3.06. The Loan Closing Date for the purposes of Section 8.02 of the Loan Regulations shall be 30 June 2024 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 4 to this Loan Agreement and the Project Agreement.

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

Section 4.03. ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt by posting them on ADB's website.

Section 4.04. The Borrower shall take all actions which shall be necessary on its part to enable the DISCO 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 4.05. (a) The Borrower shall exercise its rights under the Relending Agreements 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 a Relending Agreement shall be assigned, amended, or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; 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 Borrower or a DISCO shall have failed to perform any of its obligations under a Relending 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: 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 an additional condition to the effectiveness of this Loan Agreement for the purposes of Section 9.01(f) of the Loan Regulations: the Ordinary Operations Loan Agreement has been duly authorized, executed and delivered on behalf of the Borrower and all conditions precedent to its effectiveness (other than a condition requiring the effectiveness of this Loan Agreement) have been fulfilled.

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 Ordinary Operations Loan Agreement has been duly authorized, executed and delivered on behalf of the Borrower and is legally binding on the Borrower in accordance with its terms.

Section 6.03. A date 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 the DISCO as its agent for the purposes of taking any action or entering into any agreement required or permitted under Sections 3.02, 3.03 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 the DISCO 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 the DISCO 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 Secretary, Economic Affairs Division, Ministry of Finance, Revenue, Economic Affairs, Statistics and Privatization 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

Secretary
Economic Affairs Division
Ministry of Finance, Revenue, Economic Affairs, Statistics and
Privatization
Government of Pakistan
Islamabad, Pakistan

Facsimile Number:

(92-51) 920-4086

For ADB

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

Facsimile Numbers:

(632) 636-2444


(632) 636-2428.

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 as of the day and year first above written and to be delivered at the principal office of ADB.

ISLAMIC REPUBLIC OF PAKISTAN

By 
Authorized Representative

ASIAN DEVELOPMENT BANK

By 
Authorized Representative

SCHEDULE 1

Amortization Schedule

(Second Power Distribution Enhancement Investment Program - Project 1)

<u>Date Payment Due</u>	<u>Payment of Principal</u> (expressed in Special Drawing Rights)*
15 October 2020	355,200.00
15 April 2021	355,200.00
15 October 2021	355,200.00
15 April 2022	355,200.00
15 October 2022	355,200.00
15 April 2023	355,200.00
15 October 2023	355,200.00
15 April 2024	355,200.00
15 October 2024	355,200.00
15 April 2025	355,200.00
15 October 2025	355,200.00
15 April 2026	355,200.00
15 October 2026	355,200.00
15 April 2027	355,200.00
15 October 2027	355,200.00
15 April 2028	355,200.00
15 October 2028	355,200.00
15 April 2029	355,200.00
15 October 2029	355,200.00
15 April 2030	355,200.00
15 October 2030	355,200.00
15 April 2031	355,200.00
15 October 2031	355,200.00
15 April 2032	355,200.00
15 October 2032	355,200.00
15 April 2033	355,200.00
15 October 2033	355,200.00
15 April 2034	355,200.00
15 October 2034	355,200.00
15 April 2035	355,200.00
15 October 2035	355,200.00
15 April 2036	355,200.00
15 October 2036	355,200.00
15 April 2037	355,200.00
15 October 2037	355,200.00
15 April 2038	355,200.00

Schedule 1

15 October 2038	355,200.00
15 April 2039	355,200.00
15 October 2039	355,200.00
15 April 2040	355,200.00
Total	14,208,000.00

- * The arrangements for payment are subject to the provisions of Sections 3.04 and 4.03 of the Loan Regulations.

SCHEDULE 2

Allocation and Withdrawal of Loan Proceeds

General

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

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Interest Charge

3. The amount allocated to Category 10 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 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 shall be disbursed in accordance with the Loan Disbursement Handbook.

Retroactive Financing

6. Withdrawals from the Loan Account may be made for reimbursement of eligible expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with the procurement of Consulting Services, subject to a maximum amount equivalent to 20% of the Loan amount.

Condition for Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account for any of Categories 1 to 9 unless and until ADB has received, with respect to such Category, a certified copy of the duly executed and effective Relending Agreement between the Borrower and the relevant DISCO.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Second Power Distribution Enhancement Investment Program - Project 1)				
Number	Item	Total Amount Allocated for ADB Financing (SDR)		Basis for Withdrawal from the Loan Account
		Category	Subcategory	
1	FESCO**	1,186,000		
1A	Project Preparatory Consulting Services		121,000	100% of total expenditure claimed*
1B	Project Implementation Consulting Services		1,065,000	100% of total expenditure claimed*
2	GEPCO**	1,186,000		
2A	Project Preparatory Consulting Services		121,000	100% of total expenditure claimed*
2B	Project Implementation Consulting Services		1,065,000	100% of total expenditure claimed*
3	HESCO**	1,179,000		
3A	Project Preparatory Consulting Services		114,000	100% of total expenditure claimed*
3B	Project Implementation Consulting Services		1,065,000	100% of total expenditure claimed*
4	IESCO**	2,842,000		100% of total expenditure claimed*
5	LESCO**	2,984,000		100% of total expenditure claimed*
6	MEPCO**	1,243,000		
6A	Project Preparatory Consulting Services		178,000	100% of total expenditure claimed*
6B	Project Implementation Consulting Services		1,065,000	100% of total expenditure claimed*
7	PESCO**	1,243,000		
7A	Project Preparatory Consulting Services		178,000	100% of total expenditure claimed*
7B	Project Implementation Consulting Services		1,065,000	100% of total expenditure claimed*
8	QESCO**	604,000		
8A	Project Preparatory Consulting Services		178,000	100% of total expenditure claimed*
8B	Project Implementation Consulting Services		497,000	100% of total expenditure claimed*

9	SEPCO**	604,000		
9A	Project Preparatory Consulting Services		178,000	100% of total expenditure claimed*
9B	Project Implementation Consulting Services		426,000	100% of total expenditure claimed*
10	Interest Charge	1,066,000		100% of amounts due
	Total	14,208,000		

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

** Subject to the condition for withdrawal described in paragraph 7 of Schedule 2.

SCHEDULE 3

Procurement of Consulting Services

General

1. The procurement of Consulting Services shall be subject to and governed by the Consulting Guidelines.
2. All terms used in this Schedule and not otherwise defined in this Loan Agreement have the meanings provided in the Consulting Guidelines.

Consulting Services

3. Except as ADB may otherwise agree, the Borrower shall apply quality- and cost-based selection for selecting and engaging Consulting Services.

Industrial or Intellectual Property Rights

4. 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.

ADB's Review of Procurement Decisions

5. 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 4**Execution of Project; Financial Matters**Implementation Arrangements

1. MOWP shall be the Project executing agency responsible for the overall monitoring of the Investment Program.
2. Each of IESCO and LESCO shall be an implementing agency for its respective portion of the investment component of the Project described in paragraphs 3(a) to 3(d) of Schedule 1 to the Ordinary Operations Loan Agreement.
3. Each DISCO shall be an implementing agency for its respective portion of the support component of the Project described in paragraphs 3(e) to 3(g) of Schedule 1 to the Ordinary Operations Loan Agreement.
4. The Borrower shall ensure and cause the DISCO to ensure that the Project is implemented in accordance with the detailed arrangements set forth in the FAM. Any subsequent change to the FAM shall become effective only after approval of such change by the Borrower and ADB. In the event of any discrepancy between the FAM on one hand, and this Loan Agreement, the Ordinary Operations Loan Agreement and the Project Agreement on the other, the provisions of this Loan Agreement, the Ordinary Operations Loan Agreement and the Project Agreement shall prevail.
5. The Borrower shall ensure and cause MOWP and the DISCO to ensure that all documents forming the basis for the screening, selection and processing of the Project and Project activities shall be made available by the Borrower, MOWP and the DISCO to ADB upon request. Such documents shall be kept available for a minimum period of 5 years from the date of the Project completion report.

Other Operational Covenants

6. The Borrower shall ensure and cause each DISCO to ensure that the project management unit and project implementation unit at the DISCO are adequately staffed throughout the entire life of the Project. The staff assigned shall be retained in the units for at least 3 years from the commencement of their assignment and any changes to key staff will need the prior approval of the Board of Directors of the DISCO.
7. The Borrower shall ensure and cause MOWP and the DISCO to ensure that the implementation of the Project is in compliance with all applicable laws, rules and regulations of the Borrower, including any law, rule or regulation which might require the approval of the National Electric Power Regulatory Authority for any aspect of the Project, including any change in the commercial procedures of the DISCO in connection with the implementation of the Project.
8. The Borrower shall cause the DISCO to preserve their legal, operational, and financial autonomy. The Borrower shall ensure and cause each DISCO to ensure that its Board of Directors operates effectively and discharges fully their

Schedule 4

fiduciary responsibilities in accordance with the Memorandum and Articles of Association of the DISCO.

9. The Borrower shall ensure and cause the DISCO to ensure that any change in the ownership of the DISCO or sale, transfer, or assignment of the Borrower's interest or shares in the DISCO shall be formally approved and implemented only after consultation with ADB at least 3 months prior to the change, sale, transfer or assignment; provided that, if the change in ownership, sale, transfer or assignment is in connection with a privatization of the DISCO, then the provisions of paragraphs 12 to 14 of Schedule 4 to this Loan Agreement shall apply.

10. The Borrower shall cause the DISCO to make available and timely release the counterpart funding for its respective portion of the Project.

Policy Dialogue

11. The Borrower shall ensure and cause MOWP and the DISCO to ensure that ADB is kept informed of the Borrower's policies and programs related to the power sector, particularly those that relate to the power distribution sector, tariff rationalization, or any policy or program that could materially affect the financial viability of the DISCO or the Project.

Privatization

12. Notwithstanding any other provision of this Loan Agreement, the Borrower shall ensure that any privatization of the DISCO shall be formally approved only after consultation with ADB. The Borrower shall promptly notify ADB of any plan to privatize the DISCO and discuss the plan with ADB. As part of the discussion, the Borrower shall submit to ADB periodic updates on the progress of the privatization and allow ADB sufficient opportunity and information to consider the plan. The Borrower shall ensure that ADB's consent is obtained prior to any transfer of the business and assets of the DISCO and substitution of the DISCO as implementing agency for the Project as a result of a privatization.

13. The Borrower shall cause the DISCO to similarly comply with all of the covenants set out in the immediately preceding paragraph in the event of its privatization.

14. In case the business and assets of the DISCO are transferred as a result of its privatization, the Borrower and the DISCO shall cause the transferee to enter into a project agreement with ADB and ensure that the proceeds of the Loan are relent to the transferee on terms and conditions satisfactory to ADB. Where necessary or appropriate in connection with the relending, the Borrower shall cause the DISCO to assign or transfer its rights and obligations under its Relending Agreement to the transferee.

Safeguards

15. The Borrower shall ensure and cause the DISCO to ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

Labor Standards

16. The Borrower shall ensure and cause the DISCO to ensure that the core labor standards and the Borrower's applicable laws and regulations are complied with during Project implementation. The Borrower shall cause the DISCO to include specific provisions in the bidding documents and contracts financed under the Project requiring that the contractors, other provider of goods and services and their subcontractors: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation by providing, inter alia, equal pay for men and women or people from different ethnic groups for work of equal value, and to the extent possible, employing women and local people, including disadvantaged people, living in the Project area, provided that the requirements for efficiency are adequately met; (d) do not use forced labor; (e) allow freedom of association and effectively recognize the right to collective bargaining; and (f) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women.

17. The Borrower shall cause the DISCO to strictly monitor compliance with the labor standards and provide ADB with regular reports.

Governance and Anticorruption

18. The Borrower shall and shall cause MOWP and the DISCO to (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

19. The Borrower shall ensure and cause the DISCO to ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of the executing and implementing agencies and all contractors, suppliers, consultants, and other service providers as they relate to the Project. The Borrower shall allow and assist, and cause the DISCO to allow and assist, ADB's representatives to carry out random spot checks on the work in progress under the Project and the utilization of funds under this Loan Agreement.

20. The Borrower shall cause the DISCO to provide updated information on the Project on the DISCO's website, including information on the performance of the Project, business opportunities, bidding process and guidelines, outcome of biddings and summary progress reports.